

Falls Church, Virginia 22041

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File: D2005-072

Date: FEB 21 2006

In re: VIRGINIA GAGO, ACCREDITED REPRESENTATIVE

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Esquire

ON BEHALF OF DHS: Rachel A. McCarthy, Associate Ethics Officer

ORDER:

PER CURIAM. On December 13, 2005, the respondent pled guilty to petit larceny in the District Court of Nassau County-Hempstead, New York.

Consequently, the Office of the Chief Counsel at the Department of Homeland Security office in Burlington, Vermont, filed a Petition for Immediate Suspension with the Board on December 30, 2005. On January 12, 2005, the Office of General Counsel for the Executive Office for Immigration Review initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts, in addition to the suspension from practice *before the DHS* being sought by the DHS in their Petition for Immediate Suspension filed December 30, 2005. Therefore, on February 2, 2006, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline but has failed to do so. *See* 8 C.F.R. § 1003.105(c)(1). The record before us contains proof that service of process of the notice of the intent to discipline was completed on January 3, 2006. Accordingly, an answer was due no later than February 2, 2006. The record before us shows that a response from the petitioner was received at the Board on February 3, 2006, which was untimely. The respondent's failure to file a response within the time period prescribed in the Notice constitutes an admission of the allegations therein, and the respondent is now precluded from requesting a hearing on the matter. 8 C.F.R. § 1003.105(d)(1), (2).

The Notice recommends that the respondent be expelled from practicing before the DHS. The EOIR General Counsel asks that we extend that discipline to practice before the Board and the Immigration Courts as well. Because the respondent has failed to file a timely answer, the regulations direct us to adopt the recommendation contained in the Notice, unless there are considerations that compel us to digress from that recommendation. 8 C.F.R. § 1003.105(d)(2). We will honor that recommendation.

Accordingly, the respondent is hereby expelled from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our February 2, 2006, order of suspension, we will deem the respondent's expulsion to have commenced on that date. The respondent is instructed to maintain compliance with the directives set forth in our prior order. The respondent is also instructed to notify the Board of any further civil, criminal, or disciplinary action against her.

After 1 year from the effective date of the respondent's expulsion, the respondent may be reinstated to practice before the Board, the Immigration Courts, and the DHS, provided that the respondent meets the definition of a representative set forth in 8 C.F.R. § 1001.1(j). 8 C.F.R. § 1003.107(b). Therefore, should the respondent seek reinstatement, the recognized organization for which the respondent works must submit a request for full or partial accreditation of the respondent, with all supporting documents, as if it were the first such request file. In particular, proof would have to be provided of the respondent's good moral character at that time. We will consider the respondent for reinstatement once the respondent demonstrates by clear, unequivocal, and convincing evidence that she possesses the moral and professional qualifications required to appear before the Board, the Immigration Courts, the DHS, or all three, and that the respondent's reinstatement will not be detrimental to the administration of justice. 8 C.F.R. § 1003.107(b)(1).



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FOR THE BOARD