

Falls Church, Virginia 22041

---

---

File: D2001-005

Date: APR 11 2001

In re: MACKSON P. MCDOWELL, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

ON BEHALF OF SERVICE: Javier Balasquide, Appellate Counsel

ORDER:

PER CURIAM. On December 27, 2000, the Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department, suspended the respondent from the practice of law in that state for a period of two years.

Consequently, on February 23, 2001, 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. On March 1, 2001, the Immigration and Naturalization Service asked that the respondent be similarly suspended from practice before that agency. Therefore, on March 8, 2001, we suspended the respondent from practicing before the Board, the Immigration Courts, and the Service 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. § 3.105(c)(1). 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. § 3.105(d)(1), (2).

The Notice recommends that the respondent be suspended from practicing before the Board and the Immigration Courts, for a period of two years. The Service asks that we extend that discipline to practice before it as well. Because the respondent has failed to file an 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. § 3.105(d)(2). Since the recommendation is appropriate in light of the sanctions imposed by the Supreme Court of the State of New York, we will honor that recommendation.

Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the Service for a period of two years. As the respondent is currently under our March 8, 2001, order of suspension, we will deem his suspension 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 disciplinary action against him.

After one year from the effective date of the respondent's suspension, the respondent may be reinstated to practice before the Board, the Immigration Courts, and the Service, provided that he meets the definition of an attorney or representative set forth in 8 C.F.R. § 1.1(f) and (j). See 8 C.F.R. § 3.107(b). Therefore, should the respondent seek reinstatement, he must notify the Board of his bar standing and his ability to practice law in the state of New York. We will consider the respondent for reinstatement once he demonstrates by clear, unequivocal, and convincing evidence that he possesses the moral and professional qualifications required to appear before the Board, the Immigration Courts, the Service, or all three, and that his reinstatement will not be detrimental to the administration of justice. 8 C.F.R. § 3.107(b)(1).

Finally, given the reciprocal nature of the discipline we impose, we advise the respondent that, should he be reinstated to practice in New York prior to completion of his period of suspension, we may entertain a request for reinstatement before Board, the Immigration Courts, and the Service if that request complies with the instructions set forth above.



---

FOR THE BOARD