

Falls Church, Virginia 22041

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File: D2006-002

Date: September 25, 2006

In re: MITCHELL L. SINGER, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF DHS: Rachel A. McCarthy, Ethics Counsel

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Bar Counsel

ORDER:

PER CURIAM. On November 26, 2002, the respondent was immediately suspended from the practice of law, by the New York Supreme Court, Appellate Division, First Judicial Department. On October 26, 2004, the same court disbarred the respondent. The respondent was subject to "automatic disbarment" based on his conviction of a felony on August 7, 2003 (grand larceny).

Moreover, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) alleges, the respondent violated 8 C.F.R. § 1292.3(b), as set forth in 8 C.F.R. §§ 1003.102(c) and 1003.102(f)(1), by making false statements about his qualifications. That is, beginning November 26, 2002, the respondent filed numerous Notices of Appearance with the DHS, in which he claimed to be an attorney in good standing in New York, in order to establish his eligibility to appear before the agency.

Consequently, on January 25, 2006, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. On February 2, 2006, the Office of General Counsel for the Executive Office for Immigration Review (EOIR) asked that the respondent be similarly suspended from practice before EOIR, including the Board and immigration courts. Therefore, on February 13, 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); 1292.3(e)(3)(ii). 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. § 1292.3(e)(3)(ii).

The Notice recommends that the respondent be expelled from practice before the DHS. The Office of General Counsel of EOIR asks that we extend that discipline to practice before the Board and immigration courts as well. As the respondent 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); 1292.3(e)(3)(ii). The recommendation is appropriate in light of the fact that the respondent was disbarred in New York, in violation of 8 C.F.R. § 1292.3(b), as set forth in 8 C.F.R. § 1003.102(e)(1), and also violated 8 C.F.R. § 1292.3(b), as set forth in 8 C.F.R. §§ 1003.102(c) and 1003.102(f)(1), by making false statements about his qualifications to practice. Accordingly, we hereby expel the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our February 13, 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 disciplinary action against him.

The respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. § 1003.107(b). In order to be reinstated, the respondent must demonstrate that he meets the definition of an attorney or representative, as set forth in 8 C.F.R. §§ 1001.1(f) and (j). *Id.* Therefore, the respondent must show that he has been reinstated to practice law in New York before he may be reinstated by the Board. *See* 8 C.F.R. § 1001.1(f) (stating that term "attorney" does not include any individual under order suspending him from the practice of law).



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FOR THE BOARD