

Falls Church, Virginia 22041

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File: D2008-164

Date:

MAY 14 2009

In re: JOSEPH M. CARREIRO, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Scott Anderson, Deputy Disciplinary Counsel

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for 2 years.

On June 5, 2008, the Supreme Judicial Court for Suffolk County, Massachusetts issued an order temporarily suspending the respondent from the practice of law as of the date of the order, pending further order of the court. Consequently, on July 17, 2008, the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The DHS then asked that the respondent be similarly suspended from practice before that agency. Therefore, on August 1, 2008, the Board suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. On February 4, 2009, the Supreme Judicial Court for Suffolk County, Massachusetts issued an order suspending the respondent from the practice of law for 2 years.

The respondent filed a timely answer to the allegations contained in the Notice of Intent to Discipline on April 6, 2009. *See* 8 C.F.R. § 1003.105(c)(1). The respondent "concur[s] with the allegations as stated..." The answer argues that the respondent's suspension should run concurrently with the discipline imposed in Massachusetts on February 4, 2009. That is, the respondent argues that his suspension should be retroactive to June 5, 2008, the date of his temporary suspension in Massachusetts. The respondent did not request a hearing on the charges.

Under revised regulations, where a respondent, as in this case, is subject to summary disciplinary proceedings based on suspension from the practice of law, the Board "shall retain jurisdiction over the case and issue a final order", where the respondent does not show that there is a material issue of fact in dispute. *See* 73 Fed. Reg. 76914, 76925 (December 18, 2008)(to be codified at 8 C.F.R. § 1003.106(a)); Disciplinary Counsel's "Motion for Summary Adjudication". As there is no material issue of fact in dispute, and as the Disciplinary Counsel's proposed sanction of 2 years is appropriate, in light of the respondent's suspension in Massachusetts, the Board will honor that proposal.

Further, after consideration of the respondent's answer, as well as the government's response, the Board will deem the suspension to have commenced on August 1, 2008, the date of the Board's immediate suspension order. The respondent makes no claim that he notified EOIR concerning his suspension under 8 C.F.R. § 1003.103(c). See Disciplinary Counsel's "Motion for Summary Adjudication", at 2. The Disciplinary Counsel argues that "[i]t is inappropriate to retroactively give Respondent credit for time that he did not serve when he failed to inform EOIR ... of his suspension." Disciplinary Counsel's "Motion for Summary Adjudication", at 2; citing 73 Fed. Reg. 76914, 76920-21 (December 18, 2008). See also 8 C.F.R. § 1003.103(a)(2)(if final administrative decision includes a period of suspension, time spent under immediate suspension order "may be credited toward the period of suspension imposed under the final administrative decision").

ORDER: The Disciplinary Counsel's "Motion for Summary Adjudication" is granted.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 2 years.

FURTHER ORDER: 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.

FURTHER ORDER: 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).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. See 73 Fed. Reg. 76914, 76925 (December 18, 2008)(to be codified at 8 C.F.R. § 1003.105(d)(2)).



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FOR THE BOARD