

Falls Church, Virginia 22041

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File: D2008-263

Date: **FEB 24 2009**

In re: IHAB TARTIR, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

ON BEHALF OF EOIR: Jennifer J. Barnes, Disciplinary Counsel

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

On October 14, 2008, in the United States District Court for the Southern District of New York, the respondent was found guilty of a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h), relating to his immigration law practice. That is, the respondent was convicted of two counts of conspiracy to commit immigration fraud and one count of aiding and abetting immigration fraud, in violation of 18 U.S.C. §§ 371, 1325(c) and 2.

Consequently, on October 27, 2008, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. The Disciplinary Counsel for the Executive Office for Immigration Review then asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts. Therefore, on November 13, 2008, 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. *See* 8 C.F.R. §§ 1003.105(c)(1); 1292.3(e)(3)(ii). The respondent filed a "Motion To Extend Time to Answer" on November 14, 2008. The respondent stated that he would be sentenced for his crime on January 16, 2009, and might thereafter have further facts to present in his answer. On November 25, 2008, the Board granted an extension of time until January 30, 2009, to file an answer. We cautioned that a failure to file an answer within the time period would constitute an admission of the allegations in the Notice of Intent to Discipline. 8 C.F.R. § 1003.105(d)(1).

The respondent's failure to file a response within the time period prescribed in the Notice, as extended, 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); 1292.3(e)(3)(ii).

The Notice proposes that the respondent be expelled from practice before the DHS. The Disciplinary Counsel for 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 proposed sanction contained in the Notice, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. §§ 1003.105(d)(2); 1292.3(e)(3)(ii).


Since the proposed sanction is appropriate in light of the respondent's serious crime, we will honor it. Accordingly, we hereby expel the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our November 13, 2008, order of suspension, we will deem the respondent's expulsion to have commenced on that date.

ORDER: The Board hereby expels the respondent from practice before the Board, the Immigration Courts, and the DHS.

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