

**NOT FOR PUBLICATION**

U.S. Department of Justice  
Executive Office for Immigration Review  
Board of Immigration Appeals

---

MATTER OF:

Michael JOFFE, D2018-0012

Respondent

---

**FILED**

JAN 31 2024

ON BEHALF OF EOIR: Paul A. Rodrigues, Disciplinary Counsel

ON BEHALF OF DHS: Toinette M. Mitchell, Disciplinary Counsel

ON BEHALF OF RESPONDENT: Pro se

IN PRACTITIONER DISCIPLINARY PROCEEDINGS  
On Motion from a Decision of the Board of Immigration Appeals

Before: Malphrus, Deputy Chief Appellate Immigration Judge; Clark, Appellate Immigration Judge; Liebowitz, Appellate Immigration Judge

Opinion by Liebowitz, Appellate Immigration Judge

LIEBOWITZ, Appellate Immigration Judge

The respondent was suspended from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (“DHS”) for 2 years, effective April 18, 2018. On November 17, 2022, we denied his first motion seeking reinstatement to practice because he had not met his burden of establishing that he had complied with the terms of his suspension. We also extended his suspension for 6 months given his noncompliance.

On June 29, 2023, the respondent filed a second motion seeking reinstatement. The Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for DHS oppose the respondent’s motion for reinstatement.<sup>1</sup> After considering the arguments and evidence from both parties, we will deny the respondent’s second motion for reinstatement.

On January 4, 2018, the Appellate Division of the Supreme Court for the First Judicial Department in the State of New York issued an order suspending the respondent from the practice of law in New York for 2 years, effective 30 days from the date of its order. The suspension was based on the respondent’s misconduct concerning immigration clients.

---

<sup>1</sup> The Disciplinary Counsels’ motion to accept late-filed brief is granted. Further, all references in this decision to Disciplinary Counsels or the Government are references to the Disciplinary Counsels for EOIR and DHS.

The Disciplinary Counsel for DHS petitioned for the respondent's immediate suspension from practice before that agency on April 2, 2018. The Disciplinary Counsel for EOIR asked that the respondent be similarly suspended from practice before the Board and the Immigration Courts. We granted the petition on April 18, 2018. Further, because the respondent did not file a timely answer to the allegations contained in the Notice of Intent to Discipline and because the proposed sanction of a 2-year suspension was appropriate considering his suspension in New York, our May 21, 2018, final order suspended the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for 2 years, effective April 18, 2018.

In a motion filed on August 1, 2022, the respondent asked to be reinstated to practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. He claimed that he has been reinstated to the practice of law in New York and that he met the definition of attorney contained in 8 C.F.R. § 1001.1(f). *See* 8 C.F.R. § 1003.107(a)(1) (discussing requirements for reinstatement). In support of his motion, he presented evidence that he had been reinstated to the practice of law in New York (Respondent's Mot., Exh. 1, August 1, 2022). *See* 8 C.F.R. § 1003.107(a)(1).

The Disciplinary Counsels for EOIR and DHS did not dispute that the respondent met the definition of attorney set forth in 8 C.F.R. § 1001.1(f). The Disciplinary Counsels, however, opposed the respondent's motion for reinstatement on the ground that he had not complied with his period of suspension. *See* 8 C.F.R. § 1003.107(a)(3) (indicating that, if a practitioner failed to comply with the terms of his or her suspension, the Board shall deny the motion for reinstatement).

In particular, the Disciplinary Counsels maintained that the respondent had practiced before EOIR and DHS while suspended. The Disciplinary Counsels described 2 instances in which the respondent submitted Notices of Entry of Appearance and falsely stated that he was not subject to any suspension order and 1 instance in which the respondent was listed as the preparer and attorney on certain forms even though he was suspended at the time the forms were filed. The Disciplinary Counsels also listed 3 instances in which the respondent's name and address were listed as the "in care of" address for a petitioner during the respondent's period of suspension. Finally, the Disciplinary Counsels noted that the respondent appeared in Immigration Court in New York on behalf of a client on March 23, 2022, and did not inform the Immigration Judge that he was suspended. The Disciplinary Counsels submitted evidence to support these allegations (Joint Opp. to Mot., Attachment 1-8, July 25, 2022).

On August 19, 2022, the respondent submitted an answer to the Disciplinary Counsels' opposition to his motion for reinstatement. In the answer, the respondent claimed that he did not violate this Board's suspension order. In particular, he contended that, in the first two violations alleged by the Disciplinary Counsels, he signed the forms before he was suspended and the clients filed the forms, without his knowledge, after the suspension took effect (Respondent's Answer at 1, August 19, 2022). In addition, he maintained that he did not represent or perform any legal work for the individuals who listed his address as an "in care of" address on their immigration forms (Respondent's Answer at 1-2, August 19, 2022).

The respondent further admitted that he submitted a Notice of Entry of Appearance (Form G-28) prematurely for a client in December 2021, but he claimed that he did not perform any legal work for this client until after he was reinstated to practice in New York (Respondent's Answer at 2, August 19, 2022). Finally, the respondent stated that he appeared on behalf of a client in Immigration Court after he had been reinstated in New York because he believed his reinstatement in New York allowed him to represent clients before EOIR and DHS (Respondent's Answer at 3, August 19, 2022).

We found the respondent's explanations were not sufficient to establish that the respondent did not violate the terms of his suspension before the Board of Immigration Appeals, the Immigration Courts, and DHS as the Disciplinary Counsels alleged. We accordingly denied the respondent's motion for reinstatement on November 17, 2022, and ordered that he remain suspended for an additional 6 months, effective immediately. 8 C.F.R. § 1003.107(a)(3).

On June 23, 2023, after this additional 6 months of suspension had expired, the respondent filed a second motion for reinstatement. In his second motion, the respondent argues that he continues to meet the definition of attorney contained in 8 C.F.R. § 1001.1(f), that he has complied with our November 17, 2022, order, and that he is entitled to reinstatement to practice before the Board, the Immigration Courts, and DHS. The Disciplinary Counsels for EOIR and DHS, however, again oppose the respondent's motion for reinstatement.

In their opposition, the Disciplinary Counsels admit that the respondent meets the definition of attorney contained in 8 C.F.R. § 1001.1(f) and that he has completed the additional 6 months of suspension we imposed on November 17, 2022 (Joint Opp. at 2, July 13, 2023). The Disciplinary Counsels nevertheless contend that the respondent continued to practice law in violation of our November 17, 2022, order extending his suspension for 6 months, and they provide two examples of this supported by evidence (Joint Opp. at 2-3 and Attachments 1 and 2, July 13, 2023). The Disciplinary Counsels further argue that the respondent now has violated two suspension orders and should be disbarred (Joint Opp. at 3, July 13, 2023).

On August 14, 2023, the respondent filed a response to the Disciplinary Counsels' opposition in which he explains that the filings referenced by the Disciplinary Counsels do not evidence violations of our November 17, 2022, order. The respondent asserts that he completed and signed the preparer portion of the first application referenced by the Disciplinary Counsels in February 2022, not in November 2022 after the Board's order denying his motion for reinstatement. He further contends that his client did not file the form until November 2022 because she could not afford the fee and that, when she did file, he told her he could not represent her and she retained a different attorney to oversee the case (Respondent's Response at 3, August 14, 2023).

In reference to the second filing cited by the Disciplinary Counsels, the respondent notes that he did not sign the preparer portion of the form and that he told this client that he could not represent him due to his suspension. The respondent states that he did allow the client to use his office address as the client's contact information because the client lived with several roommates and was concerned that he would not receive items mailed to his address (Respondent's Response at 3-4, August 14, 2023). The respondent further explains that he allowed several individuals

to use his office address, phone number, and email as their contact information because the individuals either moved frequently or did not have secure ways to receive correspondence. The respondent contends that he did not engage in the practice of law in these situations (Respondent's Response at 1-2, August 14, 2023).

The respondent is correct that the form submitted as Attachment 1 to the Disciplinary Counsel's opposition to his motion for reinstatement does not establish that he practiced law after receiving our November 17, 2022, order extending his suspension for an additional 6 months. The respondent signed the form as preparer on February 11, 2022, well before we issued our November 17, 2022, order (Joint Opp, Attachment 1, July 13, 2023). Further, the record does not contain evidence to contradict the respondent's statement that his client, not he, filed the form in November 2022, that he told this client of his suspension at that time, and that the client retained a different attorney to represent her before the U.S. Citizenship and Immigration Services ("USCIS"). In particular, the record does not contain a Notice of Entry of Appearance (G-28) signed by the respondent for this case, and the respondent has explained why his address is the return address on the mailing envelope. The form in Attachment 1 to the Disciplinary Counsel's opposition to the respondent's current motion accordingly does not establish that the respondent practiced law after our November 17, 2022, order.

The form, however, does provide proof of an additional violation of our April 18, 2018, order imposing suspension. The respondent claims that he completed this form after he had been reinstated to the practice of law in New York, but he was not reinstated in New York until February 15, 2022 (Respondent's Answer at 3, August 14, 2023; Respondent's Mot, Exh. B, June 23, 2023). The respondent signed the form as preparer on February 11, 2022. The respondent also indicated on the form that he was an attorney and that his representation extended beyond preparation of the form (Joint Opp, Attachment 1, July 13, 2023). The form therefore shows that the respondent committed an additional violation of his order of suspension. The respondent did not admit this violation in either motion for reinstatement. The respondent instead stated in an affidavit in support of his first motion that he had complied with the directives of the Board (Respondent's Mot. at 2, August 1, 2022). This lack of transparency is concerning as is the additional violation of our April 18, 2018, order.

The Form N-400 included in Attachment 2 to the Disciplinary Counsel's opposition also raises concerns. The respondent is correct that he did not sign the document as preparer (Joint Opp, Attachment 2, July 13, 2023). The respondent nevertheless is listed as preparer, which raises questions as to whether he completed the form and engaged in the practice of law on or before November 21, 2022, the date the applicant signed the form (Joint Opp, Attachment 2, July 13, 2023).<sup>2</sup> The respondent further did not deny that he prepared the form (Respondent's Response at 3, August 14, 2023).

---

<sup>2</sup> The respondent has explained why the form includes his information as contact information. For purposes of this decision, we accept the respondent's explanations. However, his conduct raises questions of propriety, and we caution the respondent to refrain from any conduct which is, or could be construed as, practicing law or improper preparation of documents. See 8 C.F.R. § 1.2 (continued...)

Overall, the evidence reveals that the respondent at the least committed an additional violation of our April 18, 2018, order that he did not admit in either motion he filed seeking reinstatement. The evidence also suggests that he prepared a form and possibly engaged in the practice of law with a client while his first motion for reinstatement was pending. Given this additional evidence of noncompliance with our April 18, 2018, continuing order of discipline, we deny the respondent's motion for reinstatement. 8 C.F.R. § 1003.7(a)(3).

The Disciplinary Counsels claim that the respondent should be disbarred for his continued disregard for our suspension orders. We instead order that the respondent must wait 6 months from the date of this order to seek reinstatement to practice before the Board, the Immigration Courts or DHS.

ORDER: The respondent's motion for reinstatement is denied.

FURTHER ORDER: The respondent remains suspended from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and DHS.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior orders. The respondent must notify the Board of any further disciplinary action against him.

FURTHER ORDER: The contents of the order shall be made available to the public, including at the Immigration Courts and appropriate offices of DHS.

FURTHER ORDER: The respondent may not petition this Board for reinstatement to practice before the Board, the Immigration Courts, and DHS under 8 C.F.R. § 1003.107 until 6 months after the date of this order.

---

(defining "practice" before DHS); 8 C.F.R. § 1003.102(m) (the practice of law before EOIR means those engaging in practice or preparation, as defined in 8 C.F.R. § 1001.1(i) and (k)).

**NOT FOR PUBLICATION**

U.S. Department of Justice  
Executive Office for Immigration Review  
Board of Immigration Appeals

---

MATTER OF:

Michael JOFFE, D2018-0012

Respondent

---

**FILED**  
NOV 17 2022

ON BEHALF OF EOIR: Paul A. Rodrigues, Disciplinary Counsel

ON BEHALF OF DHS: Toinette M. Mitchell, Disciplinary Counsel

IN PRACTITIONER DISCIPLINARY PROCEEDINGS  
Notice of Intent to Discipline Before the Board of Immigration Appeals

Before: Malphrus, Deputy Chief Appellate Immigration Judge, Creppy, Appellate Immigration Judge, Liebowitz, Appellate Immigration Judge

Opinion by Malphrus, Deputy Chief Appellate Immigration Judge

MALPHRUS, Deputy Chief Appellate Immigration Judge

The respondent was suspended from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security ("DHS") for 2 years, effective April 18, 2018. On August 1, 2022, he filed a motion seeking reinstatement to practice. The Disciplinary Counsel for the Executive Office for Immigration Review ("EOIR") and the Disciplinary Counsel for DHS oppose the respondent's motion for reinstatement. The respondent's motion for reinstatement will be denied.

On January 4, 2018, the Appellate Division of the Supreme Court for the First Judicial Department in the State of New York issued an order suspending the respondent from the practice of law in New York for 2 years, effective 30 days from the date of its order. The suspension was based on the respondent's misconduct concerning immigration clients.

The Disciplinary Counsel for DHS petitioned for the respondent's immediate suspension from practice before that agency on April 2, 2018. The Disciplinary Counsel for EOIR asked that the respondent be similarly suspended from practice before the Board and the Immigration Courts. We granted the petition on April 18, 2018. Further, because the respondent did not file a timely answer to the allegations contained in the Notice of Intent to Discipline and because the proposed sanction of a 2-year suspension was appropriate considering his suspension in New York, our May 21, 2018, final order suspended the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for 2 years, effective April 18, 2018.

The respondent now asks to be reinstated to practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. He claims that he has been reinstated to the practice of law in New York and that he meets the definition of attorney contained in 8 C.F.R. § 1001.1(f).

*See* 8 C.F.R. § 1003.107(a)(1) (discussing requirements for reinstatement). In support of his motion, he has presented evidence that he has been reinstated to the practice of law in New York (Respondent's Mot, Exh. 1). *See* 8 C.F.R. § 1003.107(a)(1).

The Disciplinary Councils for EOIR and DHS do not dispute that the respondent meets the definition of attorney set forth in 8 C.F.R. § 1001.1(f). The Disciplinary Councils, however, oppose the respondent's motion for reinstatement on the ground that he has not complied with his period of suspension. *See* 8 C.F.R. § 1003.107(a)(3) (indicating that, if a practitioner failed to comply with the terms of his or her suspension, the Board shall deny the motion for reinstatement).

In particular, the Disciplinary Councils maintain that the respondent has practiced before EOIR and DHS while suspended. The Disciplinary Councils describe 2 instances in which the respondent submitted Notices of Entry of Appearance and falsely stated that he was not subject to any suspension order and 1 instance in which the respondent was listed as the preparer and attorney on certain forms even though he was suspended at the time the forms were filed. The Disciplinary Councils also list 3 instances in which the respondent's name and address were listed as the "in care of" address for a petitioner during the respondent's period of suspension. Finally, the Disciplinary Councils note that the respondent appeared in Immigration Court in New York on behalf of a client on March 23, 2022, and did not inform the Immigration Judge that he was suspended. The Disciplinary Councils have submitted evidence to support these allegations (Joint Opposition to Mot., Attachment 1-8).

On August 19, 2022, the respondent submitted an answer to the Disciplinary Councils' opposition to his motion for reinstatement. In the answer, the respondent claims that he did not violate this Board's suspension order. In particular, he contends that, in the first two violations alleged by the Disciplinary Councils, he signed the forms before he was suspended and the clients filed the forms, without his knowledge, after the suspension took effect (Respondent's Answer at 1). In addition, he maintains that he did not represent or perform any legal work for the individuals who listed his address as an "in care of" address on their immigration forms (Respondent's Answer at 1-2).

The respondent further admits that he submitted a Notice of Entry of Appearance (Form G-28) prematurely for a client in December 2021, but he claims that he did not perform any legal work for this client until after he was reinstated to practice in New York (Respondent's Answer at 2). Finally, the respondent states that he appeared on behalf of a client in Immigration Court after he had been reinstated in New York because he believed his reinstatement in New York allowed him to represent clients before EOIR and DHS (Respondent's Answer at 3). The respondent has not requested a hearing.

The respondent's explanations, which are not supported by an affidavit or other evidence such as statements from clients, are not sufficient to establish that the respondent did not violate the terms of his suspension before the Board of Immigration Appeals, the Immigration Courts, and DHS as the Disciplinary Councils allege. The respondent's claim that his clients filed forms without his knowledge is not persuasive. There is no explanation as to why the clients would have waited months to make the filings and then not communicated with the respondent or any

explanation as to why the respondent would not have learned of the filings through some communication from the United States Citizenship and Immigration Services. Further the respondent admittedly and knowingly filed a Form G-28 before he was reinstated in New York, and our May 21, 2018, order suspending the respondent informed the respondent of the process for reinstatement. We accordingly deny the respondent's motion for reinstatement. 8 C.F.R. § 1003.107(a)(3). Further, because it appears that the respondent violated the terms of his suspension on several occasions and did not admit to these violations in his motion for reinstatement, the respondent shall remain suspended for an additional 6 months, effective immediately upon issuance of this order.

ORDER: The respondent's motion for reinstatement is denied.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS for 6 months, effective immediately upon issuance of this order.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior orders in his proceedings. The respondent must notify the Board of any further disciplinary action against him.

FURTHER ORDER: The contents of this order shall be made available to the public, including at the Immigration Courts and appropriate offices of the DHS.

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, the Immigration Courts, and the DHS under 8 C.F.R. § 1003.