

Falls Church, Virginia 22041

File: D2005-226

Date: MAR 15 2006

In re: CLARO L. MAMARIL, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

ORDER:

PER CURIAM. On October 19, 2005, the Office of General Counsel for the Executive Office for Immigration Review ("OGC") instituted disciplinary proceedings against the respondent, based on his August 27, 2002, conviction for unlawfully supplementing the salary of a federal employee, in violation of federal law.¹ See 8 C.F.R. § 1003.102 (b)(discipline may follow after respondent "bribes, attempts to bribe, coerces, or attempts to coerce, by any means whatsoever, any person ... to commit any act or to refrain from performing any act in connection with any case").

On October 28, 2005, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that the respondent be similarly disciplined from practicing before the DHS.

The OGC notified the Board in an "Amended Notice of Service" that the respondent was served with the Notice of Intent to Discipline, on November 1, 2005. The respondent therefore had until December 1, 2005, to file an answer to the allegations contained in the Notice of Intent to Discipline. See 8 C.F.R. § 1003.105(c)(1). The respondent submitted a "Motion For Extension of Time To Answer" on December 1, 2005. The respondent cited a medical condition, and need to recreate files relevant to his defense. On December 20, 2005, we granted the respondent's request that he be granted until February 28, 2006, 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 filed an answer with the Board on March 1, 2006. 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).

¹The OGC did not petition for the respondent's immediate suspension from practice pending final disposition of this proceeding, under 8 C.F.R. § 1003.103(a).

The Notice recommends that the respondent be expelled from practicing before the Board and the Immigration Courts. The DHS asks that we extend that discipline to practice before it as well. Because the respondent has 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). The OGC argues that the respondent's "misconduct involves a violation of federal law and amounts to an egregious abuse of this country's immigration process and procedures", given that the respondent's conviction stemmed from his payment to an officer of the then-Immigration and Naturalization Service to expedite processing of immigration forms for his clients. The recommendation is appropriate, and we will honor it. Accordingly, we hereby expel the respondent from practice before the Board, the Immigration Courts, and the DHS.

The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been expelled from practicing before these bodies. The respondent shall maintain records to evidence compliance with this order. Moreover, we direct that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS. 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).



FOR THE BOARD