

Falls Church, Virginia 20530

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File: D2014-049

Date:

**MAY 13 2014**

In re: WILFREDO PESANTE, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

ON BEHALF OF DHS: Diane H. Kier  
Associate Legal Advisor

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

On November 3, 2011, the respondent was disbarred by consent from the practice of law in the District of Columbia, by the District of Columbia Court of Appeals. On December 13, 2012, the respondent was disbarred by the Appellate Division of the Supreme Court of the State of New York, Third Judicial Department. Consequently, on March 21, 2014, the Disciplinary Counsel for the Executive Office for Immigration Review 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 April 9, 2014, 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 (2013). 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. § 1003.105 (2013).

The Notice proposes that the respondent be disbarred from practicing before the Board and the Immigration Courts. Because the respondent has failed to file an answer, the regulations direct the Board 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 (2013).

The proposed sanction is appropriate, in light of the fact that the respondent was disbarred by consent from the practice of law in the District of Columbia, by the District of Columbia Court of Appeals, and was disbarred by the Appellate Division of the Supreme Court of the State of New York, Third Judicial Department. As the respondent is currently under our April 9, 2014, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

ORDER: The Board hereby disbars 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 (2013).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. 8 C.F.R. § 1003.105(d)(2)(2013).



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FOR THE BOARD