

Falls Church, Virginia 22041

File: D2015-0280

Date: APR 21 2016

In re: JAMES D. BARDING, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF DHS: Catherine M. O'Connell
Disciplinary Counsel

ON BEHALF OF EOIR: Jennifer J. Barnes
Disciplinary Counsel

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

On October 19, 2015, the Supreme Court of Missouri suspended the respondent from the practice of law in that state pending the final disposition of any disciplinary proceedings. Consequently, on January 11, 2016, the Disciplinary Counsel for the Department of Homeland Security (DHS) petitioned for the respondent's immediate suspension from practice before that agency. The Disciplinary Counsel for the Executive Office of Immigration Review (EOIR) then asked that the respondent be similarly suspended from practice before the Board of Immigration Appeals and the Immigration Courts. We granted the petition on February 10, 2016.

On August 4, 2015, in the United States District Court for the Western District of Missouri, the respondent pled guilty to conspiracy to commit an offense against the United States in violation of 18 U.S.C. § 371. The court issued a judgment on January 25, 2016, finding the respondent guilty of this offense on the basis of his plea. Consequently, the Disciplinary Counsel for the DHS filed a Notice of Intent to Discipline on March 4, 2016.

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. 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.

The Notice of Intent to Discipline proposes that the respondent be disbarred from practicing before the DHS. The Disciplinary Counsel for the EOIR asks the Board to extend that discipline to practice before the Board and 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.

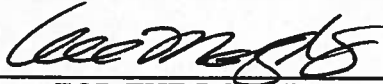
The proposed sanction is appropriate, in light of the respondent's conviction of a serious crime. Further, as the respondent is currently under our February 10, 2016, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

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, the Immigration Courts, and the DHS under 8 C.F.R. § 1003.107.

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).

A handwritten signature in black ink, appearing to read 'C. M. Smith', is written above a horizontal line.

FOR THE BOARD