

Falls Church, Virginia 22041

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File: D2005-216

Date: APR 20 2006

In re: STEPHEN J. ALEXANDER, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Bar Counsel

ORDER:

PER CURIAM. On April 22, 2005, in the United States District Court for the Central District of California (Western Division), the respondent was found guilty of subscribing to a false tax return, in violation of 26 U.S.C. § 7106(1). The crime is a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). On May 18, 2005, the review department of the State Bar Court suspended the respondent from the practice of law.

Consequently, on September 8, 2005, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service), initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. On September 12, 2005, the Office of General Counsel for the Executive Office for Immigration Review (EOIR) asked that the respondent be similarly suspended from practice before EOIR, including the Board and immigration courts. Therefore, on September 16, 2005, 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(c)(1); 1292.3(e)(3)(ii). 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. § 1292.3(e)(3)(ii).

The Notice recommends that the respondent be expelled from practice before the DHS. The Office of General Counsel of 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 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); 1292.3(e)(3)(ii).

On November 8, 2005, the Board declined to issue a final order of discipline. We noted that a pertinent regulation, 8 C.F.R. § 1292.3(c)(3) states that "... any such [summary disciplinary proceeding based on a respondent's criminal conviction] shall not be concluded until all direct appeals from an underlying criminal conviction have been completed." *See also* 8 C.F.R. § 1003.103(b). Docket entries concerning the respondent's crime indicated that the case was on direct appeal to the United States Court of Appeals for the Ninth Circuit. We declined to issue a final order of discipline until the respondent's direct appeal of his conviction had been resolved. The DHS has now presented evidence that the respondent's conviction has been affirmed by the Ninth Circuit.

Since the recommended discipline of expulsion is appropriate in light of the respondent's criminal conviction, 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 September 16, 2005, order of suspension, we will deem the respondent's expulsion to have commenced on that date. 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.

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). In order to be reinstated, the respondent must demonstrate that he meets the definition of an attorney or representative, as set forth in 8 C.F.R. §§ 1001.1(f) and (j). *Id.*

  
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FOR THE BOARD