

Falls Church, Virginia 22041

File: D2005-251

Date:

NOV 10 2010

In re: GAETANELLA MOLININI-RIVERA, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

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

On October 13, 2005, the respondent was suspended from the practice of law for a period of five years, effective November 14, 2005, by the New York Supreme Court, Appellate Division, First Judicial Department.

Consequently, on November 14, 2005, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. The Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) then asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts.

Therefore, on December 2, 2005, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

On May 29, 2008, the Board granted the DHS' request that we administratively close the proceedings until that office was able to effect service on the respondent. The DHS filed a "Motion to Recalendar Administratively Closed Proceeding" on September 27, 2010. The DHS states that it has served the respondent with a revised Notice of Intent to Discipline. 8 C.F.R. § 292.3(e)(1)(2010). The "Motion to Recalendar Administratively Closed Proceeding" will be granted.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline (Revised). *See* 8 C.F.R. §§ 1003.105(c)(1); 1292.3(e)(3)(ii).¹ 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).

¹ The DHS has filed a Notice of Intent to Discipline (Revised), with adequate proof of service on the respondent on September 22, 2010. 8 C.F.R. § 292.3(e)(1)(2010).

The Notice of Intent to Discipline (Revised) proposes that the respondent be suspended from practice before the DHS, for five years. The Disciplinary Counsel for 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 proposed sanction contained in the Notice, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. §§ 1003.105(d)(2); 1292.3(e)(3)(ii).

Since the proposed sanction is appropriate in light of the respondent's suspension in New York, we will honor it. Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS, for five years. As the respondent is currently under our December 2, 2005, order of suspension, we will deem the respondent's suspension to have commenced on that date.

ORDER: The "Motion to Recalendar Administratively Closed Proceeding" is granted.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for five years.

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 her.

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(b).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. *See* 8 C.F.R. § 1003.105(d)(2)(2010); *Matter of Kronegold*, 25 I&N Dec. 157, 163 (BIA 2010).



FOR THE BOARD