

Falls Church, Virginia 20530

File: D2014-219

Date:

OCT 06 2014

In re: HOCK LOON YONG, 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

ON BEHALF OF RESPONDENT: Robert G. Berke, Esquire

The respondent filed a motion to set aside the Board's immediate suspension order on September 7, 2014. The motion is opposed by the Department of Homeland Security (the "DHS"), and will be denied. Further, the respondent will be disbarred from practice before the Board, Immigration Courts, and the DHS.

On October 27, 2009, the respondent was disbarred from the practice of law in California, by the Supreme Court of California. Consequently, on July 22, 2014, 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. We granted the petition for immediate suspension on August 6, 2014.

An immediate suspension order may be set aside "[u]pon good cause shown... when it appears in the interest of justice to do so". 8 C.F.R. § 1003.103(a)(4)(2013); *Matter of Rosenberg*, 24 I&N Dec. 744, 745 (BIA 2009).

The respondent admits that he has been disbarred in California, and admits that the conduct that resulted in the disbarment was "egregious" (Respondent's Mot. at 3). He argues that we should set aside the immediate suspension order, because he is still licensed to practice law in New York. He also argues that his clients "will be placed at a greater than normal risk of harm" as a result of needing new counsel. The respondent contends that many of his clients are being represented pro bono, and are able to communicate with him, and few other attorneys, in Chinese. The motion also contends that the Los Angeles Immigration Court will be inconvenienced by the immediate suspension order, as dates will need to be rescheduled due to the respondent's suspension. *Id.* at 3-4.

Despite the respondent's arguments, and as noted in the DHS' response, only attorneys and certain non-attorneys may represent individuals before the DHS, and "no other person or persons shall represent others in any case." 8 C.F.R. §§ 292.1(a)(1), (e); *see also* 8 C.F.R. § 1292.1(a), (e) (regarding representation of individuals before EOIR). An "attorney" who may represent individuals is defined at 8 C.F.R. § 1.2. *See* 8 C.F.R. § 292.1(a). The regulation states that:

The term attorney means any person who is eligible to practice law in, and is a member in good standing of the bar of, the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.

8 C.F.R. § 1.2. The respondent does not show that he meets this regulatory definition, as the DHS has presented evidence that he has been disbarred from the practice of law in California. Therefore, we will not vacate the immediate suspension order in this case.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline. 8 C.F.R. § 1003.105 (2013); 8 C.F.R. § 292.3(e). 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); 8 C.F.R. § 292.3(e). Moreover, as argued by the DHS, the respondent's motion to set aside the immediate suspension order does not make a prima facie showing that there are any material issues of fact in dispute with regard to the basis for discipline, or with one or more of the exceptions to reciprocal discipline. *See* 8 C.F.R. §§ 1003.106(a)(2013), 292.3(c)(3).

The Notice of Intent to Discipline proposes that the respondent be disbarred from practice before the DHS, and 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(2013); 8 C.F.R. § 292.3(e).

Because the proposed sanction is appropriate, in light of the respondent's disbarment from the practice of law by the Supreme Court of California, the Board will honor that proposal. As the respondent is currently under our August 6, 2014, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

ORDER: The respondent's request to set aside the August 6, 2014, immediate suspension order is denied.

FURTHER 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).



FOR THE BOARD