

Falls Church, Virginia 22041

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File: D2016-0311

Date: FEB 22 2017

In re: GNOLEBA REMY SERI a.k.a. Gnolebi Seri, 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: Pro se

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

On October 28, 2016, the respondent was convicted, on the basis of a guilty plea, of fraud and misuse of visas, permits, and other documents, in violation of 18 U.S.C. § 1546(a) & (2), in the United States District Court for the Southern District of New York. The respondent was sentenced to time served, followed by supervised release for two years.

The Disciplinary Counsel for the DHS petitioned for the respondent's immediate suspension from practice before that agency on December 6, 2016. The Disciplinary Counsel for the Executive Office for Immigration Review ("EOIR") then asked that the respondent be similarly suspended from practice before the Board and the Immigration Courts. We granted the petition for immediate suspension on December 21, 2016.

The respondent filed a timely answer to the Notice of Intent to Discipline. The respondent denies that he was convicted of a serious crime, within the meaning of 8 C.F.R. § 1003.102(h), which makes him subject to summary disciplinary proceedings under 8 C.F.R. § 1003.106(a). The Disciplinary Counsel for the DHS thereafter filed a "Motion for Summary Adjudication."

The statute under which the respondent was convicted, 18 U.S.C. § 1546(a), is entitled "Fraud and Misuse of Visas, Permits, And Other Documents." The statute makes it a crime to (1) knowingly forge, counterfeit, alter, or falsely make any visa or other document, or use such document knowing it to be false, or to have falsely obtained such a document; (2) knowingly and without permission possess a plate for the printing of visas or other documents; (3) impersonate another when applying for a visa or other document; or (4) knowingly make an oath that is untrue concerning a document or application required by the immigration laws.

The respondent's conviction under 18 U.S.C. § 1546(a) was for a serious crime within the meaning of 8 C.F.R. § 1003.102(h), as it is a felony. Disciplinary Counsel for the DHS' "Motion for Summary Adjudication" at 1. In addition, the crime involved immigration-related fraud, an offense that "strikes at the heart of the country's immigration laws and undermines the integrity of the entire system." *Matter of Krivonos*, 24 I&N Dec. 292, 293 (BIA 2007); *see also* 8 C.F.R. § 1003.102(h) (indicating that felonies as well as lesser offenses involving fraud or interference with the administration of justice constitute "serious crimes"); Disciplinary Counsel for the DHS' "Motion for Summary Adjudication" at 2.

The regulations make a practitioner subject to summary disciplinary proceedings under 8 C.F.R. § 1003.106(a) where, like the respondent, he has been convicted of a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). Where a respondent is subject to summary disciplinary proceedings based on pleading guilty to a serious crime, the regulations provide that the attorney "must make a prima facie showing to the Board in his or her answer that there is a material issue of fact in dispute with regard to the basis for summary disciplinary proceedings, or with one or more of the exceptions set forth in 8 C.F.R. § 1003.103(b)(2)(i) through (iii)." *See* 8 C.F.R. § 1003.106(a). Where no such showing is made, the Board is to retain jurisdiction over the case, and issue a final order. *Id.*; *Matter of Salomon*, 25 I&N Dec. 559, 560 (BIA 2011).

The respondent in his answer does not make a prima facie showing that there is a material fact in dispute with regard to the basis for summary disciplinary proceedings. The respondent argues that these disciplinary proceedings are "premature" until the disciplinary authorities in New York determine whether to take disciplinary action against him.<sup>1</sup> Respondent's Answer at 2. However, these disciplinary proceedings are based on the respondent's conviction for a serious crime within the meaning of the regulations, so it would not be appropriate to hold the respondent's proceedings in abeyance until disciplinary proceedings are concluded in New York. Disciplinary Counsel for the DHS' "Motion for Summary Adjudication" at 1; 8 C.F.R. §§ 1003.102(h); 1003.106(a). The regulations instruct the DHS to "promptly" initiate summary disciplinary proceedings against practitioners like the respondent. *See* 8 C.F.R. § 1003.103(b).

As to the "exception" set forth in 8 C.F.R. § 1003.103(b)(2)(iii), to the extent that it is relevant when a respondent has been convicted of a serious crime, the presumption is that discipline by the Board should follow, unless it would result in "grave injustice." *See Matter of Kronegold*, 25 I&N Dec. 157, 160-61 (BIA 2010). The respondent argues that he has not previously faced disciplinary action, has acknowledged his mistake, and has "paid dearly for the mistake." Respondent's Answer at 2. However, the hardships and difficulties attendant to disbarment do not equate to grave injustice. *See Matter of Kronegold, supra*, at 162; *Matter of Salomon, supra*, at 562.

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<sup>1</sup> The New York disciplinary authorities have initiated a complaint and investigation concerning the respondent's professional conduct. Respondent's Answer, Exh. B.

As explained above, the respondent has not established that there is a material issue of fact in his case, and his request for a hearing in this matter is denied. We agree that disbarment is an appropriate sanction, in light of the respondent's conviction of a serious crime, within the meaning of 8 C.F.R. § 1003.102(h). Accordingly, we disbar the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our December 21, 2016, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

Under the terms of 8 C.F.R. § 1003.107(b), the respondent may petition for reinstatement after one year has passed, provided that he meets the regulatory definition of attorney and shows by clear and convincing evidence that he possesses the moral and professional qualifications required to appear before the Board, the Immigration Courts, and the DHS, and that his reinstatement would not be detrimental to the administration of justice.

ORDER: The Disciplinary Counsel for the DHS' "Motion for Summary Adjudication" is granted.

FURTHER ORDER: We disbar the respondent from practice before the Board, the Immigration Courts, and the DHS. The disbarment is deemed to have commenced on December 21, 2016.

FURTHER ORDER: The respondent must notify the Board of any further disciplinary action against him.

FURTHER ORDER: The contents of this notice shall be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

FURTHER ORDER: As discussed, the respondent may petition for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. § 1003.107(b).



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FOR THE BOARD