U.S. Department of Justice
Executive Office for Immigration Review

Falls Church, Virginia 22041

Decision of the Board of Immigration Appeals

File: D2010-303

Date: FEB 3 2011

In re: RONALD S. SALOMON, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Scott Anderson, Deputy Disciplinary Counsel

ON BEHALF OF DHS: Eileen M. Connolly
Chief, Immigration Court Practice Section - East

ON BEHALF OF RESPONDENT: Chris McDonough, Esquire

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

On October 14, 2010, the United States Court of Appeals for the Second Circuit issued an order suspending the respondent from the practice of law for three months, effective 28 days from the date of that order. Consequently, on November 1, 2010, the Disciplinary Counsel for the Executive Office for Immigration Review petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The DHS then asked that the respondent be similarly suspended from practice before that agency. Therefore, on November 23, 2010, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The respondent filed a timely answer to the allegations contained in the Notice of Intent to Discipline. *See* 8 C.F.R. § 1003.105(c)(1).

The respondent does not dispute the allegations in the Notice of Intent to Discipline, and does not seek a hearing. The respondent objects only to the imposition of a six-month suspension, rather than a three-month suspension. Respondent's Answer, at ¶ 2. We therefore find it appropriate to issue a final order on the government's charges. 8 C.F.R. § 1003.106(a)(2010); 73 Fed. Reg. 76914, 76925 (December 18, 2008)(in summary disciplinary proceedings, Board may issue a final order when the respondent's answer does not make a prima facie showing that there are any material issues of fact in dispute); EOIR Disciplinary Counsel "Motion For Summary Adjudication" (EOIR Mot.) at 2, 10-11.

The Board agrees that the EOIR Disciplinary Counsel's proposed non-identical reciprocal discipline of six months' suspension is justified under the totality of the circumstances. That is, the Board considers that the respondent has been subject to disciplinary proceedings in three different jurisdictions.

On March 7, 2007, the respondent was admonished by the New York Supreme Court, Appellate Division, First Judicial Department Departmental Disciplinary Committee (EOIR Mot., Att. 1). The committee determined that the respondent had neglected legal matters of three immigration clients.

On October 28, 2010, the respondent was censured by the New York Supreme Court, Appellate Division, First Judicial Department for neglecting immigration matters and engaging in conduct adversely reflecting on his fitness to practice law, although the Hearing Panel had recommended a three-month suspension (EOIR Mot., Att. 3, Respondent's Answer, Exh. B).

On January 28, 2009, the respondent received an informal admonition from the EOIR Disciplinary Counsel (Notice of Intent to Discipline, Att. B). With regard to six immigration cases, the respondent was found to have engaged in frivolous behavior, in violation of 8 C.F.R. § 1003.102(j), and was found to have made reckless false statements, in violation of 8 C.F.R.§ 1003.102(c).

The respondent received another informal admonition from the EOIR Disciplinary Counsel on May 10, 2010, relating to four immigration clients (Notice of Intent to Discipline, Att. A). The respondent was found to have engaged in frivolous behavior, in violation of 8 C.F.R. § 1003.102(j), was found to have repeatedly failed to appear at scheduled hearings without good cause, in violation of 8 C.F.R. § 1003.102(l), and also was found to have violated 8 C.F.R.§ 1003.102(c).

As discussed, on October 14, 2010, the Second Circuit suspended the respondent for three months (Petition for Immediate Suspension, Att. 1). The court adopted the August 5, 2009, Report and Recommendation of the United States Court of Appeals for the Second Circuit Committee on Admissions and Grievances (Notice of Intent to Discipline, Att. C; Respondent's Answer, Exh. A). This report found, at p. 7, that the respondent displayed "a pattern of neglect of client matters, primarily through persistent disregard of briefing schedules."

The Second Circuit stated, at p. 6, that "we find the persistence of Salomon's misconduct throughout the pendency of this disciplinary proceeding to be disturbing", and "suspension is warranted by the magnitude of Salomon's misconduct, the likelihood that a number of his clients were prejudiced, and his continued failure to abide by this Court's scheduling orders." The court accepted the Committee's finding that the respondent had defaulted in approximately 125 cases out of 190 cases between 2005 and 2008.

On November 22, 2010, the Board reopened proceedings in a case involving one of the respondent's clients (EOIR Mot. at 17-18, Att. 4). The Board found that the immigration client had "properly asserted her claim of ineffective assistance of counsel" and had presented "a substantial amount of evidence that [the respondent] failed to adduce relevant to the [client's] claim." *Id.*

The EOIR Disciplinary Counsel also presents evidence that the respondent has violated the Board's November 23, 2010, immediate suspension order in this case (EOIR Supp). That is, the respondent signed a motion for a continuance before the Boston Immigration Court, which contained a certificate of service dated December 13, 2010. *Id.*, Att. 1. Given that the respondent has been suspended from practice, the filing was rejected. Although the respondent claims that he made a "ministerial error in referencing himself as counsel of record", Respondent's Opposition to Motion For Summary Adjudication (Respondent's Opp.), at 11, the evidence presented by the EOIR Disciplinary Counsel indeed shows that the respondent violated the immediate suspension order.

The Board considers, and rejects, the respondent's argument that applying the proposed six months' suspension would constitute a "grave injustice." 8 C.F.R. §§ 1003.106(a)(2010); 1003.103(b)(2)(iii); Respondent's Opp. at 2-3. The Board considers the respondent's contention that he is a zealous advocate and performs a "great service" for his clients, many of whom are West African immigrants claiming persecution. *Id.* at 2-4, 8. The Board takes into account that the respondent "does not deny his misconduct as alleged." *Id.* at 3. The respondent argues that the reciprocal discipline should not be increased, given that the New York Supreme Court, Appellate Division, First Judicial Department on October 28, 2010, censured him rather than imposing greater discipline. *Id.* at 4.

The respondent argues that he had undergone surgical procedures affecting his practice. *Id.* at 6, 9. Yet the August 5, 2009, Report and Recommendation of the United States Court of Appeals for the Second Circuit Committee on Admissions and Grievances (Notice of Intent to Discipline, Att. C, at 6; Respondent's Answer, Exh. A), found that the respondent's medical problems were "at most a minor contributing factor to Salomon's defaults."

The respondent argues that he was represented before the First Judicial Department, and called witnesses, while he appeared as pro se before the Second Circuit. Respondent's Opp. at 6. The respondent argues that the New York First Judicial Department recognized changes made to his practice. *Id.* at 7. The respondent argues that cases included in EOIR admonitions occurred in the past or during the period of time considered by either the New York First Judicial Department, or the Second Circuit, or were isolated incidents. *Id.* at 7-8.

The respondent argues that his suspension will harm his law practice, and he has a family to support. *Id.* at 8-9. However, as the EOIR Disciplinary Counsel argues, such hardships are not grounds for reducing a suspension. EOIR Mot. at 18; *Matter of Kronegold*, 25 I&N Dec. 157, 162 (BIA 2010).

As the EOIR Disciplinary Counsel argues, the Board is in a unique position to review the respondent's misconduct across three jurisdictions (EOIR Mot. at 15). After considering all of the respondent's wide-ranging misconduct, and discipline in multiple jurisdictions, the Board finds that, despite the respondent's contentions, the proposed non-identical reciprocal discipline would not amount to a "grave injustice", but rather is warranted. The Board has, in appropriate circumstances, imposed such non-identical reciprocal discipline. *Matter of Krivonos* , 24 I&N Dec. 292 (BIA 2007)(reinstatement of practitioner denied, where person had been reinstated to practice law, but had engaged in fraud concerning immigration matters); *Matter of Jean-Joseph*, 24 I&N Dec. 294 (BIA 2007)(increasing reciprocal discipline, based on misconduct before EOIR). The Board finds that non-identical reciprocal discipline is warranted in this case, and it will be ordered.

ORDER: The EOIR Disciplinary Counsel's "Motion For Summary Adjudication" is granted.

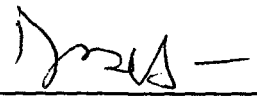
FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for six months.

FURTHER ORDER: As the respondent is currently under our November 23, 2010, order of suspension, we will deem the respondent's suspension to have commenced on that date.

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(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, supra*, at 163.



FOR THE BOARD