

**NOT FOR PUBLICATION**

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

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MATTER OF:

Egon MITTELMANN, D2021-0114

Respondent

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**FILED**  
**OCT 15 2021**

ON BEHALF OF EOIR: Paul A. Rodrigues, Disciplinary Counsel

ON BEHALF OF DHS: Catherine M. O'Connell, Disciplinary Counsel,

IN PRACTITIONER DISCIPLINARY PROCEEDINGS  
Notice of Intent to Discipline before the Board of Immigration Appeals

Before: Malphrus, Deputy Chief Appellate Immigration Judge  
Creppy, Appellate Immigration Judge; Liebowitz, Appellate Immigration Judge

Opinion by Deputy Chief Appellate Immigration Judge Malphrus

MALPHRUS, Deputy Chief Appellate Immigration Judge

The respondent will be disbarred from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (DHS), effective 15 days from the issuance of this order.

On July 22, 2021, the Disciplinary Counsel for the Executive Office of Immigration Review (EOIR) and the Disciplinary Counsel for the DHS filed a Joint Notice of Intent to Discipline. This Joint Notice of Intent to Discipline charged the respondent with engaging in the unauthorized practice of law, making false or misleading communications about his qualifications in violation of 8 C.F.R. § 1003.102(f)(1), and engaging in conduct prejudicial to the administration of justice in violation of 8 C.F.R. § 1003.102(n).

In support of these charges, the Disciplinary Councils allege that, on February 7, 2020, the respondent was ordered inactive in California and therefore was ineligible to practice law in that state (Notice of Intent to Discipline at 1). The Disciplinary Councils further allege that, on October 1, 2020, the respondent was administratively suspended in California for failure to pay his licensing fees. The Disciplinary Councils state that the respondent remains ineligible to practice law in California. *Id.*

In spite of his ineligibility in California, the Disciplinary Councils maintain that the respondent filed 7 Forms G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, and accompanying requests for benefits, with the United States Citizenship and Immigration Services (USCIS) between April 2020 and August 2020 (Notice of Intent to Discipline at 1-4). The Disciplinary Councils note that the respondent indicated on each Form G-28 that he was an



attorney in good standing and that the respondent did not mention his ineligibility in California. *Id.*

In addition, the Disciplinary Councils allege that, on July 27, 2020, the respondent filed a motion to reopen and reissue before the Board of Immigration Appeals. The respondent did not submit a Form EOIR-27, Notice of Entry of Appearance before the Board, but the noncitizen did submit a declaration stating that the respondent was his lawyer (Notice of Intent to Discipline at 4).

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. The respondent's failure to file a response within the time period prescribed in the Notice of Intent to Discipline constitutes an admission of the allegations therein, and no further evidence need be adduced. 8 C.F.R. § 1003.105(d)(1). Also, given this failure to respond, the respondent is precluded from requesting a hearing in the matter. 8 C.F.R. § 1003.105(d)(2).

The Disciplinary Councils have moved for the entry of a final order of discipline. In their motion, the Disciplinary Councils state that they served the respondent with the Notice of Intent to Discipline by certified mail at his addresses of record with EOIR and the State Bar of California (Motion for Entry of Final Order at 1). The Disciplinary Councils have attached proof of a certified mailing to their motion (Motion for Entry of a Final Order, Attachments 1).

If the respondent has been properly served with the Notice of Intent to Discipline and fails to respond, the regulations state that this Board "shall issue a final order adopting the proposed disciplinary sanctions in the Notice of Intent to Discipline unless to do so would foster a tendency toward inconsistent dispositions for comparable conduct or would otherwise be unwarranted or not in the interests of justice." 8 C.F.R. § 1003.105(d)(2). The Disciplinary Councils argue that the proposed sanction of disbarment is appropriate given the respondent's ongoing unauthorized practice of law, his misrepresentation of his qualification to practice law, and his disregard of the California State Bar's order of ineligibility. The Disciplinary Councils cite Standard 7.1 (disbarment) and Standard 9.0 (aggravation and mitigation) of the American Bar Association's Standards for Imposing Lawyer Sanctions (ABA Standards) in support of their argument.

According to Standard 7.1, disbarment is generally appropriate "when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another and causes serious or potentially serious injury to a client, the public or the legal system." ABA Standards at 341. Further, prior disciplinary violations may be considered as aggravating factors that justify an increase in the discipline imposed. ABA Standards at 418-23.

We agree that disbarment is appropriate in this case. The respondent's continued claim on Forms G-28 that he is not subject to any order restricting his right to practice law when he, in fact, is subject to both administrative and disciplinary sanctions in California, is a serious violation that undermines the integrity of the legal system. The respondent has not made any claim that his statements were unknowing or unintentional. Further, he has not denied that he filed a motion before the Board of Immigration Appeals without acknowledging that he was the attorney of



record, a situation that allowed him to avoid having to attest that he was not subject to restrictions on his eligibility to practice law. Finally, the respondent has a prior record of discipline that included failing to inform a client that the Board of Immigration Appeals had dismissed his appeal. Due to this error, the client missed the opportunity to file a petition for review with a federal court (Notice of Intent to Discipline at 6).

Based on the foregoing, we will honor the proposed discipline and will order the respondent disbarred from practice before the Board of Immigration Appeals, the Immigration Courts, and the DHS. Because the respondent currently is not subject to an order of suspension before EOIR or the DHS, the order of disbarment will become effective 15 days from the issuance of this order. 8 C.F.R. § 1003.105(d)(2).

ORDER: The Board hereby disbars the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and the DHS, effective 15 days from the issuance of this order.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior order. The respondent must notify the Board of any further disciplinary action against him.

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

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, the Immigration Courts, and the DHS under 8 C.F.R. § 1003.107.