

NOT FOR PUBLICATION

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

MATTER OF:

Arthur ARCADIAN, D2023-0031

Respondent

FILED
SEP 21 2023

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

ON BEHALF OF DHS: Toinette M. Mitchell, Disciplinary Counsel

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

Before: Clark, Appellate Immigration Judge; Creppy, Appellate Immigration Judge¹ Liebowitz,
Appellate Immigration Judge¹

Opinion by Creppy, Appellate Immigration Judge

CREPPY, 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 April 27, 2023.

On February 28, 2023, the Board denied the Joint Petition for Immediate Suspension filed by the Disciplinary Counsels for the Executive Office for Immigration Review and the Department of Homeland Security ("DHS"). On March 29, 2023, the Disciplinary Counsels moved to withdraw a previously filed Joint Notice of Intent to Discipline and to amend the Joint Petition for Immediate Suspension. We did not receive a response from the respondent addressing the Disciplinary Counsels' motions. We granted the Disciplinary Counsels' motions, and granted the Joint Petition for Immediate Suspension on April 27, 2023.

On August 1, 2023, the Disciplinary Counsels filed a Joint Notice of Intent to Discipline based on the respondent's criminal proceedings in the U.S. District Court, Southern District of New York. In support of the Joint Notice of Intent to Discipline, the Disciplinary Counsels submitted a copy of a transcript, certified as true and accurate by the U.S. District Court Official Court Reporter, of the respondent's January 25, 2023, plea hearing in which he pled guilty to conspiracy to commit immigration fraud, in violation of 18 U.S.C. § 371 (Respondent's Plea Hearing, pp. 3, 13-16, 28-40). The Disciplinary Counsels also submitted a copy of the criminal judgment, dated May 31, 2023, that showed that the respondent pled guilty to count one of the indictment,

¹ Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. See 8 C.F.R. § 1003.1(a)(4)

adjudicated guilty of the conspiracy to commit immigration fraud under 18 U.S.C. § 371, and sentenced to a term of imprisonment of six months (Judgment in a Criminal Case, pp. 1-2). The Disciplinary Counsels allege that the respondent's conviction constitutes a "serious crime" as defined in 8 C.F.R. § 1003.102(h) and subjects him to summary discipline. 8 C.F.R. §§ 1003.103(b), 1003.106(a).

The respondent was required to file a timely answer to the allegations contained in the Joint 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 prescribed in the Joint Notice of Intent to Discipline 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(d)(1).

The Joint Notice of Intent to Discipline proposes that the respondent be disbarred from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. Because the respondent has failed to file an answer, the regulations direct us to adopt the proposed sanction contained in the Joint Notice of Intent to Discipline, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. § 1003.105(d)(2).

The proposed sanction is appropriate in light of the respondent's conviction for a serious crime as defined in 8 C.F.R. § 1003.102(h) that involved immigration fraud. *See Matter of Krivonos*, 24 I&N Dec. 292, 293 (BIA 2007) (holding that a violation of 18 U.S.C. §371, involving immigration-related fraud, is a "serious crime" within the meaning of 8 C.F.R. §1003.102(h)). Further, we have no evidence to indicate that the respondent has filed or will file a direct appeal from his federal conviction. *See* 8 C.F.R. § 1003.103(b) (stating that summary proceedings shall not be concluded until all direct appeals from an underlying criminal conviction have been completed). We therefore will honor the proposed discipline and will order the respondent disbarred from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. Because the respondent remains suspended under our April 27, 2023, order of immediate suspension, his disbarment will be effective as of that date.

ORDER: The Board hereby disbars the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS, effective April 27, 2023.

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 DHS.

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