

Falls Church, Virginia 22041

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File: D2011-443

Date: MAR 01 2012

In re: JOHN K. DVORAK, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF DHS: Rachel A. McCarthy, Disciplinary Counsel

ON BEHALF OF EOIR: Scott Anderson, Deputy Disciplinary Counsel

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

On December 28, 2011, the DHS filed a Notice of Intent to Discipline in this case.<sup>1</sup> The Board granted the DHS' motion to make corrections to the Notice on January 12, 2012.

The DHS alleged that disciplinary sanctions are warranted under 8 C.F.R. § 292.3(b), and brought three charges. First, the DHS alleged, since December 20, 2000, the respondent failed to provide competent representation to clients concerning fourteen Form I-140 immigrant petitions. Notice of Intent to Discipline at 3, Exh. 1. Second, the DHS alleged concerning the immigrant petitions, the respondent failed to act with reasonable diligence and promptness by failing to control and manage his workload so that each matter could be handled competently. *Id.* Third, the DHS alleged that between November 8, 2001 and December 19, 2002, the respondent misled, misinformed, or deceived the then-Immigration and Naturalization Service when he filed the immigrant petitions, by not providing accurate information and documentation. *Id.*

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 (2012); 8 C.F.R. § 292.3(e). *See* 77 Fed. Reg. 2011, 2014-15 (Jan. 13, 2012). 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(2012); 8 C.F.R. § 292.3(e). *See* 77 Fed. Reg. 2011, 2014-15 (Jan. 13, 2012).

The Notice of Intent to Discipline proposes that the respondent be suspended from practice before the DHS for three years. The Disciplinary Counsel for EOIR asks that we extend that discipline to practice before the Board and Immigration Courts as well.

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<sup>1</sup>The DHS did not petition for the respondent's immediate suspension from practice pending final disposition of this proceeding, under 8 C.F.R. § 1003.103(a); 77 Fed. Reg. 2011, 2014 (Jan. 13, 2012).

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(2012); 8 C.F.R. § 292.3(e). *See* 77 Fed. Reg. 2011, 2014-15 (Jan. 13, 2012).

The proposed sanction is appropriate, considering the DHS' charges of unethical or unprofessional conduct, which the respondent does not dispute. 8 C.F.R. § 292.3(b); Notice of Intent to Discipline, at 3, 4 (citing and applying American Bar Association "Standards For Imposing Lawyer Sanctions" in proposing the sanction). Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS, for three years.

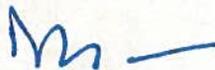
ORDER: The respondent is suspended from practice before the Immigration Courts, Board of Immigration Appeals, and DHS, for a period of three years, effective 15 days from this date. 8 C.F.R. § 1003.106(c).

FURTHER ORDER: The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been suspended from practicing before these bodies.

FURTHER ORDER: The respondent shall maintain records to evidence compliance with this order.

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

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(2012); 77 Fed. Reg. 2011, 2015 (Jan. 13, 2012).



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FOR THE BOARD