

Falls Church, Virginia 20530

File: D2014-029

Date:

MAR 24 2014

In re: EDWARD WILLIAM HAASE, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Jennifer J. Barnes, Disciplinary Counsel

ON BEHALF OF DHS: Diane H. Kier
Associate Legal Advisor

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for 60 days, effective fifteen days from the date of this order.

On December 9, 2013, the respondent was suspended from the practice of law for two years, stayed, with an actual suspension of 60 days, and probation for two years, by the Supreme Court of California. Consequently, on February 4, 2014, 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.

The respondent filed an "Opposition To Immediate Suspension (Alternatively Petition For Reinstatement)" on March 7, 2014. Given the contents of the filing, we will consider the document to be an answer to the allegations contained in the Notice of Intent to Discipline, and the answer will be construed as being timely filed. 8 C.F.R. § 1003.105(c)(1)(2013).¹

The respondent acknowledges that he is subject to discipline by the Board. Respondent's "Opposition To Immediate Suspension (Alternatively Petition For Reinstatement)" at 2. He argues that he should nevertheless not be disciplined by the Board, or alternatively that his suspension by the Board should be deemed to have commenced on the date of his suspension by the Supreme Court of California. He states that he did not practice before any court, including before EOIR, during the California suspension period.

¹As this is the final order in this case, it is not necessary for the Board to rule on the EOIR Disciplinary Counsel's request that the respondent be immediately suspended pending a final decision concerning the respondent.

As there is no material issue of fact in dispute, and as the EOIR Disciplinary Counsel's proposed discipline of 60 days is appropriate, in light of the respondent's suspension by the Supreme Court of California, Notice of Intent to Discipline at 2, the Board will honor that proposal. Further, after consideration of the respondent's "Opposition To Immediate Suspension (Alternatively Petition For Reinstatement)", as well as the government's response, the Board will deem the suspension to commence fifteen days from the date of this order. See 8 C.F.R. § 1003.106(c) (2013) (final order imposing discipline shall not become effective sooner than fifteen days from the date of the order, unless the Board has issued an immediate suspension order); EOIR Disciplinary Counsel's "Response to Practitioner's Opposition to Immediate Suspension And Request To Issue Final Order of Discipline", at 2.

In attorney discipline cases where a respondent is placed under an immediate suspension order by the Board, pursuant to 8 C.F.R. § 1003.103(a)(2013), we typically deem the respondent's final discipline to have commenced as of the date of such immediate suspension order. However, some respondents request that the final Board discipline instead run concurrently with the discipline imposed by their state bars, or other authorities.

The EOIR Disciplinary Counsel argues that the respondent's request for the Board's final discipline to be imposed nunc pro tunc to the Supreme Court of California's discipline is not warranted, where the respondent did not comply with 8 C.F.R. § 1003.103(c)(2013)(EOIR Disciplinary Counsel's "Response to Practitioner's Opposition to Immediate Suspension And Request To Issue Final Order of Discipline", at 2).² This regulation provides that a practitioner has a duty to notify the EOIR Disciplinary Counsel, within 30 days, when he has been suspended from the practice of law by the highest court of any state. In this case, the respondent did not timely notify the EOIR Disciplinary Counsel of his suspension by the Supreme Court of California, as required by 8 C.F.R. § 1003.103(c)(2013).

The regulation does not specifically say that a failure to timely notify the government requires that the Board's final suspension must be deemed to have started on the date of the Board's immediate suspension order, or as in this case, fifteen days from the date of the Board's final order. However, the Board finds that the respondent's failure to meet the notice requirement under 8 C.F.R. § 1003.103(c)(2013) raises a non-conclusive presumption that the Board's final discipline should be effective fifteen days from the date of the Board's final order, rather than the (earlier) date of the Supreme Court of California's suspension. After considering the circumstances raised in the respondent's situation, we find that the presumption is not rebutted in this case.

The respondent does not claim that he notified the EOIR Disciplinary Counsel concerning his suspension under 8 C.F.R. § 1003.103(c)(2013), and he therefore did not comply with his duty under that regulation. EOIR Disciplinary Counsel's "Response to Practitioner's Opposition to Immediate Suspension And Request To Issue Final Order of Discipline", at 2.

We further note that the EOIR Disciplinary Counsel presents evidence it previously instituted disciplinary proceedings against the respondent, and as a result the respondent was previously publicly censured by an adjudicating official on September 5, 2006. Thus, as the EOIR

²The EOIR Disciplinary Counsel acknowledges that the respondent has been reinstated to the practice of law in California.

Disciplinary Counsel argues, "Response to Practitioner's Opposition to Immediate Suspension And Request To Issue Final Order of Discipline", at n.2, the respondent should have been familiar with the self-reporting requirement of 8 C.F.R. § 1003.103(c)(2013).

The respondent contends that the California suspension has "decimated" his ability to earn a living and has seriously inconvenienced his clients. Respondent's "Opposition To Immediate Suspension (Alternatively Petition For Reinstatement)", at 2-3. However, the respondent does not show that imposing identical reciprocal discipline in this case would result in "grave injustice", or would result in "grave injustice" if the period of discipline does not run concurrently with his suspension in California. *See* 8 C.F.R. § 1003.106(a)(2013); 8 C.F.R. § 1003.103(b)(2)(iii)(2013).

After consideration of all relevant factors, therefore, the Board will deem the suspension to have commenced 15 days from this date. 8 C.F.R. § 1003.106(c)(2013).

ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 60 days, effective 15 days from this date. 8 C.F.R. § 1003.106(c)(2013).

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

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 (2013).



FOR THE BOARD