**UNITED STATES DEPARTMENT OF JUSTICE**
**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**
**IMMIGRATION COURT**
**NEW YORK, NEW YORK**

File No. D2001-065

Date: November 20, 2001

In the Matter of )
)
**Julia A. SOININEN,** )
)
Respondent )

**IN ATTORNEY DISCIPLINARY PROCEEDINGS**



**CHARGE**: 8 C. F. R. §3.102(e)(1)–Subject to a final order of disbarment or suspension in the jurisdiction of any state, possession, territory, commonwealth, or the District of Columbia.

8 C.F.R. §3.102(f)-- Knowingly or with reckless disregard makes a false or misleading communication about his or her qualifications or services.

8 C.F.R. §3.102(h)-- Has been found guilty of, or pleaded guilty or *nolo contendere* to, a serious crime, in any court of the United States, or of any state, possession, territory, commonwealth, or the District of Columbia.

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## DECISION AND ORDER OF THE IMMIGRATION JUDGE

On May 24, 1999, the Respondent pled guilty in the General District Court, Fairfax County, Virginia to the charge of driving while intoxicated, a Class 1 misdemeanor. She was

sentenced to pay a fine of $1,000 and serve 90 days in jail, with execution of the prison sentence suspended. The following day, she pled guilty in the same court to the charges of theft and possession of a Schedule III controlled substance not obtained from or pursuant to a valid prescription. She was sentenced to 90 days imprisonment and a fine of $100 for each offense.

On September 9, 1999 the Court of Appeals, District of Columbia entered an order suspending the Respondent from the practice of law, and directing the Board of Professional Responsibility to institute formal proceedings to determine the nature of the final discipline to be imposed. The Court of Appeals' decision was based solely upon the criminal convictions.

On June 12, 2001, the Office of General Counsel, Executive Office for Immigration Review ("EOIR") filed a petition with the Board of Immigration Appeals ("BIA") requesting the respondent's immediate suspension from practice before the BIA and the Immigration Courts. The petition was based not only on the criminal convictions of the respondent, but also charged the Respondent with improperly filing notices of appearance with the Immigration Court or the BIA in at least five cases during her period of interim suspension by the D.C. Appellate Court. In each of the five notices of appearance, the Respondent falsely signed and submitted a form claiming that she was a member in good standing of the D.C. Court of Appeals, and that she was not under a court or administrative agency order suspending, enjoining, disbarring or otherwise restricting her in practicing law.

In support of the petition for disciplinary action, the EOIR General Counsel attached copies of the criminal arrest and conviction record, the suspension order of the D.C. Court of Appeals, and each of the five signed notices of appearance.

On June 18, 2001, counsel for the Immigration and Naturalization Service ("INS") filed a motion to join in the petition and to seek suspension of the respondent from practicing law before the INS as well as EOIR.

On July 6, 2001, the BIA granted the petition and entered an order suspending the Respondent from practicing law before the BIA, the Immigration Courts and the INS.

On August 1, 2001 Respondent's counsel filed an Answer to the Notice of Intent to Discipline. In it, she admitted to the arrests and convictions, and admitted her suspension from the D.C. Bar. She denies the allegations as to four of the five notices of appearance filed within her period of suspension only as to their claim that her name, address and good standing with the D.C. Bar were written in by hand by respondent after her suspension. In her answer, the respondent alleges that such information was in fact filled in by the respondent in advance of her suspension and photocopied by her office staff. The answer does not deny the allegation that the forms were actually executed (i.e. signed) and filed with EOIR by the respondent after the period of her suspension.

In her August 1 answer, the respondent further admitted to knowingly completing and filing her notice of appearance with knowledge that she was misstating her Bar status to EOIR in the fifth case cited in the complaint. However, the answer claims that the respondent felt that her

ethical obligation "not to endanger her client's cause" by "essentially abandoning" her outweighed her responsibility to provide full and complete information to any court.

In the same answer, the respondent denies that she knowingly provided false information as to the first four notices of appearance, and also she admitted to the same charges in the fifth instance, argued that such action was justified by her obligation to her client.

In the same document, the respondent requests this court to adopt the same disciplinary action as that to be adopted by the District of Columbia, and urges this court to deny the harsher penalty of expulsion from practice before EOIR and the INS as sought in the complaint.

On August 3, 2001, the respondent filed a motion to amend and supplement her prior answer. The new submission included a recommendation by the Board on Professional Responsibility of the District of Columbia Court of Appeals recommending 30-day suspension from the practice of law.

On August 16, 2001 EOIR received a letter from respondent's counsel that she was not requesting a hearing before this court.

II. Analysis

A. suspension

Pursuant to 8 C.F.R. §3.103, an adjudicating official or the BIA may impose disciplinary sanctions against an attorney if it finds it to be in the public interest to do so. 8 C.F.R. §3.101 (2001). It will be in the public interest to impose disciplinary sanctions against a practitioner who is authorized to practice before the BIA and the Immigration Courts when such person has engaged in criminal, unethical or unprofessional conduct, or in frivolous behavior, as set forth in 8 C.F.R. §3.102. Id.

It is deemed to be in the public interest to impose disciplinary sanctions against an attorney who has been found guilty of, or pleaded guilty to, a serious crime, in any court of the United States, or of any state, possession, territory, commonwealth, or the District of Columbia. 8 C.F.R. §3.102(h) (2001); as well as against an attorney who knowingly or with reckless disregard makes a false or misleading communication about his or her qualifications or services. 8 C.F.R. §3.102(f).

A practitioner will be informed of any complaint leading up to the commencement of disciplinary proceedings against him in the form of a Notice of Intent to Discipline served by the Office of General Counsel of EOIR. 8 C.F.R. §3.105(a) (2001). After service of the Notice of Intent to Discipline, the practitioner may file an answer and a request for a hearing. 8 C.F.R. §3.105(c)(2) (2001). If no request for a hearing is made, the opportunity for such will be deemed waived. Id.

A copy of the Notice of the Intent to Discipline shall be forwarded to the Office of

General Counsel of the INS. That office may submit a written request to the BIA or the adjudicating official requesting that any discipline imposed upon a practitioner which restricts his or her authority to practice before the BIA and the Immigration Courts also apply to the practitioner's authority to practice before the INS. 8 C.F.R. §3.105(b) (2001).

In the instant case, this court has been presented with a copy of the conviction record indicating that the Respondent in fact pleaded guilty in the Fairfax County General District Court, State of Virginia to the theft charge. Furthermore, in her Answer to the Notice of Intent to Discipline, the Respondent admitted to pleading guilty to the two Class 1 misdemeanors (theft and unlawful possession of a Schedule III controlled substance). Based on these admissions, the conviction record and the nature of the crimes, I find that allegation under 8 C.F.R. §3.102(h) has been established by clear, convincing and unequivocal evidence.

The Respondent has also admitted in her answer to having been suspended on an interim basis from practice by the District of Columbia Court of Appeals, and this Court has been presented with a copy of that Court's order of suspension dated September 9, 1999. Accordingly, the charge under 8 C.F.R. §3.102(e)(1) has been established by clear, convincing and unequivocal evidence.

As to the allegation pursuant to 8 C.F.R. §3.102(f), the respondent has admitted in her Answer to the Notice of Intent to Discipline to filing a Notice of Appearance on form EOIR-28 with the Immigration Court on January 8, 2001, during the effective period of her interim suspension in the District of Columbia, in which she knowingly misstated her standing to practice law in the in the District of Columbia. The respondent's explanation that she employed extremely flawed logic, without bothering to consult an attorney or the ethics panel of the D.C. Bar, before knowingly committing such fraud does not in any way excuse her of responsibility for such action. Accordingly, I find that the latter charge has been established by clear, convincing and unequivocal evidence as well.

Accordingly, all three charges are sustained.

B. term of suspension

In the Notice of Intent to Discipline, the EOIR General Counsel requests that this court impose the sanction of permanent expulsion. In her Answer, the Respondent urges this Court to adopt the period of suspension recommended by the Board of Professional Responsibility of the District of Columbia Court of Appeals. (In spite of the passage of over three months, this Court has not been informed of the entry of a final order of suspension by the D.C. Court of Appeals).

The Respondent's recommendation will be rejected. In reaching its recommendation of a one month period of suspension, the Board of Professional Responsibility discusses only the issue of the criminal convictions. The Board makes no mention of, and is presumably unaware of, the respondent's subsequent actions in knowingly misrepresenting her bar status before the Immigration Court.

The Board of Professional Responsibility emphasizes that their recommendation for such a short suspension is predicated on the facts that the Respondent was forthcoming about the disqualifying conviction, that her actions were committed while under the influence of alcohol, and that she had no other incidents of misconduct. However, before this court, the Respondent has now committed a second breach; refuses to accept responsibility for her knowing misrepresentation before the Immigration Court, and has not indicated that this second action was in any way influenced by chemical dependency.

I would therefore agree with the statement of the EOIR General Counsel that the latter offense warrants a more severe sanction than that recommended to the D.C. Court. However, I disagree that the offense is egregious enough to warrant a lifetime expulsion from practice before EOIR and the INS. It is this Court's finding that a suspension from practice for a period of one year is appropriate under the present facts.

C. reinstatement

Upon notice to the BIA, a practitioner who has been suspended will be reinstated to practice once the period of suspension has expired, provided that he or she meets the definition of attorney or representative as set forth in §1.1(f) and (j). 8 C.F.R. §3.107(a) (2001). In the case of a suspension of one year or longer, the practitioner may file a petition for reinstatement directly with the BIA after one half of the suspension period has expired or after one year has passed, whichever is greater, provided that he or she meets the definition of attorney or representative. 8 C.F.R. §3.107(b). If a practitioner cannot meet the definition of attorney, the Board shall decline to reinstate the practitioner. Id.

D. appeal

Either party or both parties may appeal this decision to the BIA to request a *de novo* hearing before that tribunal. Such appeal must be filed on form EOIR-45, accompanied by any required fee, and must be received by the BIA no later than 30 days from the date of this order. Appeals must comply with all pertinent provisions for appeals to the Board as set forth in 8 C.F.R. Part 3. 8 C.F.R. §3.106(c).

**ORDER**

It is HEREBY ORDERED that the Motion of the INS to Join in Disciplinary Action be, and hereby is, GRANTED.

It is FURTHER ORDERED that the Respondent be SUSPENDED from practice before all Immigration Courts, the Board of Immigration Appeals, and the Immigration and Naturalization Service for a period of one year from the date of this order.

**JEFFREY S. CHASE**
**U.S. Immigration Judge**