

Falls Church, Virginia 22041

File: D2012-004

Date: FEB 22 2012

In re: RONALD S. SALOMON, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

PETITION FOR IMMEDIATE SUSPENSION

ON BEHALF OF EOIR: Paul A. Rodrigues
Associate General Counsel

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

ON BEHALF OF RESPONDENT: Richard M. Maltz, Esquire

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

On December 1, 2011, the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, suspended the respondent from the practice of law in New York for six months, effective December 31, 2011, and until further order of the Court.

Consequently, on January 12, 2012, 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. 8 C.F.R. § 1003.103(a)(2012); 77 Fed. Reg. 2011, 2014 (Jan. 13, 2012)(Board shall immediately suspend from practice individual who has been suspended by the highest court of a state). The DHS then asked that the respondent be similarly suspended from practice before that agency.

The respondent made a filing on January 31, 2012, arguing that an immediate suspension order should not issue. Cf. 8 C.F.R. § 1003.103(a)(4)(2012); Fed. Reg. 2011, 2014 (Jan. 13, 2012) (immediate suspension order may be set aside "[u]pon good cause shown... when it appears in the interest of justice to do so"); *Matter of Rosenberg*, 24 I&N Dec. 744, 745 (BIA 2009). The EOIR Disciplinary Counsel responded to the filing on February 9, 2012.

The respondent's case presents "unique factual circumstances", EOIR Disciplinary Counsel's "Response to Respondent's Opposition To The Issuance of an Immediate Suspension Order" at 4; Respondent's Opp. at 2. That is, on February 3, 2011, the Board issued a final order in different proceedings, suspending the respondent from practice before the Board, Immigration Courts, and the DHS. *Matter of Salomon*, 25 I&N Dec. 559 (BIA 2011). The suspension was predicated on the respondent's October 14, 2010, suspension by the United States Court of Appeals for the Second Circuit, and other aggravating factors. *Id.* On June 28, 2011, the respondent was reinstated to practice by this Board.

As noted, on December 1, 2011, the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, suspended the respondent from the practice of law in New York for six months, effective December 31, 2011, and until further order of the Court. The discipline was based on the October 14, 2010, Second Circuit suspension order, and noted this Board's prior discipline of the respondent.

The respondent argues that it would be in the interest of justice not to immediately suspend him in these proceedings, as he has already been disciplined by the Board based on the misconduct which led to the Second Circuit's suspension order (Respondent's Opp. at 3). The respondent also notes that he is a currently a member in good standing of the Second Circuit (Respondent's Opp. at 6).

However, given the respondent's suspension from the New York bar, he is not eligible to practice before the Board, Immigration Courts, or DHS, regardless of his status before the Second Circuit. As the EOIR Disciplinary Counsel argues, EOIR Disciplinary Counsel's Resp. at 2-4, under the regulations, only attorneys and certain non-attorneys may represent individuals before EOIR, and "no other person or persons shall represent others in any case." See 8 C.F.R. §§ 1292.1(a), (e); see also 8 C.F.R. §§ 292.1 (a)(1), (e)(regarding representation of individuals before the DHS). An "attorney" who may represent individuals is defined at 8 C.F.R. § 1001.1(f). See 8 C.F.R. § 1292.1(a). The regulation states that:

The term attorney means any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law.

8 C.F.R. § 1001.1(f). The respondent does not meet this regulatory definition, as he is not a member in good standing of the bar of New York, and is under a suspension order in that state. He is therefore "not qualified to appear as an attorney before the Board, the Immigration Courts, or the DHS", EOIR Disciplinary Counsel's Resp. at 2, 4, and the respondent's argument that it is nevertheless in the public interest to allow him to practice is without merit. Respondent's Opp. at 6. See *Matter of Rosenberg, supra*, at 746 (practitioner suspended by the Ninth Circuit did not meet definition of attorney under 8 C.F.R. § 1001.1(f), although he was still licensed to practice in California); *Matter of Kronegold*, 25 I&N Dec. 157, 162 n. 2 (BIA 2010)(attorney must meet regulatory definition); EOIR Disciplinary Counsel's Resp. at 3.

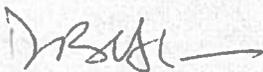
Moreover, the respondent's argument that his suspension will harm his law practice or his ability to earn a living, Respondent's Opp. at 4, is also not a basis for the Board to refrain from issuing an immediate suspension order. "The usual hardships that accompany a suspension from practice (e.g., loss of income, duty to complete pending cases) are generally not sufficient to set aside an immediate suspension order." Board of Immigration Appeals Practice Manual, Chapter 11.7(a)(ii); *Matter of Kronegold, supra*; *Matter of Salomon, supra*, at 562; EOIR Disciplinary Counsel Resp. at 3. The Board will, therefore, grant the government's request that the respondent be immediately suspended from practice.

ORDER: The petition is granted, and the respondent is hereby suspended from the practice of law before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. 8 C.F.R. § 1003.103(a)(2012); 77 Fed. Reg. 2011, 2014 (Jan. 13, 2012).

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.

A handwritten signature in dark ink, appearing to be "D. R. Smith", written above a horizontal line.

FOR THE BOARD