

Falls Church, Virginia 22041

File: D2008-245

Date: JUN 06 2012

In re: DAVID AGATSTEIN, 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 disbarred from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS").

On March 30, 2012, in the United States District Court for the District of Maryland, the court entered a judgment in which the respondent pled guilty to a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). That is, the respondent pled guilty to conspiracy to commit an offense, in violation of 18 U.S.C. § 371.

Consequently, on April 11, 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. The DHS then asked that the respondent be similarly suspended from practice before that agency.

Therefore, on April 19, 2012, the Board suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The respondent filed a timely answer to the allegations contained in the Notice of Intent to Discipline on May 7, 2012. 8 C.F.R. § 1003.105(c)(1). The respondent admits the allegations in the Notice of Intent to Discipline. He states that he was convicted of a misdemeanor, rather than a felony, as set out in the Board's April 19, 2012, decision.¹ The respondent did not request a hearing.

In light of the respondent's filing, we find it appropriate to issue a final order on the government's charges. 8 C.F.R. § 1003.106(a)(1); 77 Fed. Reg. 2011, 2015 (Jan. 13, 2012) (in summary disciplinary proceedings, Board may issue a final order when the respondent's answer does not make a prima facie showing that there are any material issues of fact in dispute); *Matter of Salomon*, 25 I&N Dec. 559, 560 (BIA 2011); EOIR Disciplinary Counsel's "Motion For Summary Adjudication".

¹The DHS does not dispute that the respondent's conviction was for a misdemeanor, and not a felony.

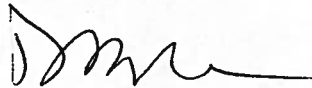
The respondent fails to show that there is any material issue of fact in dispute in this matter. EOIR Disciplinary Counsel's "Motion For Summary Adjudication". Since the proposed sanction of disbarment is appropriate in light of the respondent's conviction of a "serious crime involving immigration related fraud", Notice of Intent to Discipline, at 2, we will honor it. As the respondent is currently under our April 19, 2012, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

ORDER: The Board hereby disbars the respondent from practice before the Board, the Immigration Courts, and the DHS.

FURTHER ORDER: The respondent is instructed to maintain compliance with the directives set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him.

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).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. 8 C.F.R. § 1003.105(d)(2)(2012); 77 Fed. Reg. 2011, 2015 (Jan. 13, 2012).



FOR THE BOARD