

Falls Church, Virginia 22041

File: D2009-236

Date:  JAN 13 2010

In re: KAREN JAFFE

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Scott Anderson, Deputy Disciplinary Counsel

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

ON BEHALF OF RESPONDENT: Linda F. Fedrizzi, Esquire

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

On October 19, 2009, the United States Court of Appeals for the Second Circuit removed the respondent from the bar of that court for conduct unbecoming a member of the bar. The Second Circuit had, on April 2, 2008, referred the respondent to the court's Committee on Attorney Admissions and Grievances for investigation and a recommendation (Second Circuit's order, at 2). The respondent was represented by counsel before the Committee and testified at a hearing. *Id.* The Committee found that the respondent failed to comply with the Second Circuit's scheduling orders; engaged in dishonesty; filed deficient briefs; aided in the unauthorized practice of law; and neglected client matters. *Id.* at 3-4. The Second Circuit adopted the factual findings of the Committee but declined to adopt the recommendation that the respondent be allowed to voluntarily withdraw from the bar of the court. *Id.* at 5. The Second Circuit fully considered the respondent's arguments and concluded that "[a]lthough we agree with the Committee that various mitigating factors are present, the totality of Jaffe's conduct leaves us without assurance that she can conform her future conduct in this Court to all professional and ethical norms." *Id.* at 18.

Consequently, on November 6, 2009, 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 November 17, 2009, the Board suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The Notice of Intent to Discipline was served on the respondent on November 6, 2009. The Notice plainly stated that "[t]he Rules provide that Respondent shall file **with the Board** a written answer to the Notice of Intent to Discipline within 30 days of the date stated on the Proof of Service attached to this notice." Notice of Intent to Discipline, at 2 (emphasis in original); 8 C.F.R. § 1003.105(c)(1). An answer was therefore due at the Board by December 7, 2009. Rather, the respondent did not file her answer until December 10, 2009. No reason was provided for the lateness of the answer. Therefore, the untimely answer will not be considered by the Board. 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(d)(1), (2).

The Notice of Intent to Discipline proposed that the respondent be indefinitely suspended from practicing before the Board and the Immigration Courts. The DHS asked that the Board extend any discipline imposed to practice before it as well. As the respondent failed to submit a timely answer, this recommended sanction should be adopted unless "to do so would foster a tendency toward inconsistent dispositions for comparable conduct, or would otherwise be unwarranted or not in the interest of justice." 8 C.F.R. § 1003.105(d)(2). *See also* 8 C.F.R. § 1003.103(b)(2)(final order of disbarment creates a rebuttable presumption that disciplinary sanctions should follow, and such a presumption can be rebutted only upon a showing that the underlying disciplinary proceeding resulted in a deprivation of due process, that there was an infirmity of proof establishing the misconduct, or that discipline would result in grave injustice); *Matter of Kronegold*, 25 I&N Dec. 157 (BIA 2010).

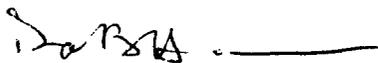
Since the proposed sanction is appropriate, given the Second Circuit's order concerning the respondent, which resulted after proceedings in which the respondent was permitted to be represented by counsel, and heard, the Board will honor the proposed discipline. Accordingly, the Board hereby indefinitely suspends the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our November 17, 2009, order of suspension, we will deem the respondent's suspension to have commenced on that date.

ORDER: The Board hereby indefinitely suspends 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 her.

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(b).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. *See* 8 C.F.R. § 1003.105(d)(2)(2010); *Matter of Kronegold, supra*, at 163.



FOR THE BOARD