

Falls Church, Virginia 20530

File: D2001-130

Date: DEC 05 2013

In re: BORIS A. KRIVONOS

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

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

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

The respondent, who has been expelled from practice before the Board, Immigration Courts, and the Department of Homeland Security (the "DHS"), has for the third time sought reinstatement to practice. The respondent's request for reinstatement to practice will be granted.

On September 20, 2002, the respondent pled guilty to one count of conspiracy to defraud the United States, in violation of 18 U.S.C. § 371, in connection with his handling of one or more diversity immigrant visa matters, in the United States District Court, Eastern District of New York. The respondent admitted that he and others knowingly and intentionally filed multiple diversity lottery entries for the same applicant in order to fraudulently increase the applicant's chance of winning the diversity visa lottery. The crime is a felony and therefore is a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). On January 30, 2003, the Board issued a final order, expelling the respondent from practice. The Board noted that the respondent could seek reinstatement under appropriate circumstances.

The respondent on November 13, 2006, filed a motion seeking to be reinstated to practice before the Board, the Immigration Courts, and the DHS. *See* 8 C.F.R. § 1003.107. The Board denied this motion in a December 5, 2006, decision that was later published at *Matter of Krivonos*, 24 I&N Dec. 292 (BIA 2007).

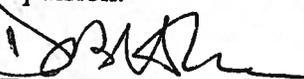
In denying the first reinstatement motion, the Board considered that the respondent met the regulatory definition of an attorney, in that he had been reinstated to practice law in the State of New York and before the United States District Court for the Southern District of New York. *Id.* at 293. However, the Board stated, in order to be reinstated, a party bears the burden of showing that he possesses the moral and professional qualifications required to appear before the Board and the Immigration Courts or the DHS, and must show that reinstatement would not be detrimental to the administration of justice. *Id.*; 8 C.F.R. § 1003.107(b)(1). The Board concurred with the government's position that "immigration-related fraud strikes at the heart of the country's immigration laws and undermines the integrity of the entire system," and that despite the respondent's remorse, given the serious nature of his crime, he should not be reinstated. *Id.* A second motion seeking reinstatement was denied by the Board on March 6, 2009.

The respondent has filed a third motion seeking reinstatement. The Disciplinary Counsel for the Executive Office for Immigration Review (EOIR), who initiated these proceedings, does not oppose the petition for reinstatement. The EOIR Disciplinary Counsel observes that "the respondent appears to meet the definition of attorney as provided at 8 C.F.R. § 1101.1(f)", and notes that the respondent has been expelled from practice by the Board for more than 10 years. The respondent will be reinstated to practice.

ORDER: The respondent is reinstated to practice before the Board, the Immigration Courts, and the DHS, as of the date of this order.

FURTHER ORDER: Because the respondent has been reinstated, public notices regarding the respondent's expulsion should reflect this reinstatement.

FURTHER ORDER: If the respondent wishes to represent a party before the DHS or Board, he must file a Notice of Appearance (Form G-28 or Form EOIR-27), including any case in which he was formerly counsel, prior to his expulsion.



FOR THE BOARD