

Falls Church, Virginia 22041

File: D2006-001

Date:

NOV 19 2009

In re: PAUL M. NGOBENI, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Scott Anderson, Deputy Disciplinary Counsel

ON BEHALF OF DHS: Rachel A. McCarthy, Bar Counsel

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

On February 3, 2006, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS, based on the respondent's suspension from the practice of law in Connecticut. The Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) then asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts. Therefore, on February 24, 2006, the Board suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

On January 18, 2008, we granted the DHS' request that proceedings be administratively closed, and did not vacate the immediate suspension order. On September 24, 2009, the Board granted a "Motion to Recalendar" filed by the EOIR Disciplinary Counsel. The Board acknowledged that the EOIR Disciplinary Counsel sought to initiate new disciplinary charges against the respondent, based on the respondent's January 31, 2008, disbarment in New York, and a February 24, 2009, order of the United States Court of Appeals for the First Circuit striking his name from the roll of attorneys allowed to practice in that court. The Board stated that an answer to the Notice of Intent to Discipline was due within 30 days of service of the Notice of Intent to Discipline.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline but has failed to do so. *See* 8 C.F.R. § 1003.105(c)(1). 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 proposes that the respondent be indefinitely suspended from practicing before the Board and the Immigration Courts. The DHS asks that the Board extend that discipline to practice before it as well. Because the respondent has failed to file an answer, the regulations direct the Board to adopt the proposed sanction contained in the Notice, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. § 1003.105(d)(2).

Since the proposed sanction is appropriate, in light of the respondent's disbarment in New York, and because he has been stricken from the roll of attorneys allowed to practice before the First Circuit, the Board will honor that proposal. As the respondent is currently under our February 24, 2006, order of suspension, we will deem the respondent's indefinite 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 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(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* 73 Fed. Reg. 76914, 76925 (December 18, 2008)(to be codified at 8 C.F.R. § 1003.105(d)(2)).

A handwritten signature in cursive script that reads "Frederick D. Hess". The signature is written in black ink and is positioned above a horizontal line.

FOR THE BOARD