

Falls Church, Virginia 22041

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File: D2009-229

Date: NOV 19 2009

In re: UCHENNA SAMUEL OGBU-NWOBODO, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for 60 days.

On September 9, 2009, the respondent was suspended from the practice of law for 6 months, stayed, with an actual suspension of 60 days, and probation for 1 year, by the Supreme Court of California. Consequently, on October 22, 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 4, 2009, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline. See 8 C.F.R. § 1003.105(c)(1). The respondent submitted a timely answer on November 10, 2009. The respondent does not dispute the allegations in the Notice of Intent to Discipline, and does not seek a hearing. We therefore find it appropriate to issue a final order on the government's charges. See 73 Fed. Reg. 76914, 76925 (December 18, 2008)(to be codified at 8 C.F.R. § 1003.106(a)(1)); EOIR "Motion for Summary Adjudication", at ¶ 3 (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). As there is no material issue of fact in dispute, and as the Disciplinary Counsel's proposed sanction of 60 days is appropriate, in light of the respondent's suspension in California, the Board will honor that proposal.

Further, after consideration of the respondent's answer, as well as the government's response, the Board will deem the suspension to have commenced on November 4, 2009, the date of the Board's immediate suspension order. The respondent makes no claim that he notified EOIR concerning his suspension under 8 C.F.R. § 1003.103(c). See EOIR Disciplinary Counsel's "Motion for Summary Adjudication", at ¶ 4. The Disciplinary Counsel correctly argues that "[i]t is inappropriate to retroactively give Respondent credit when he failed to inform EOIR Disciplinary Counsel of his suspension." *Id.*; citing 73 Fed. Reg. 76914, 76920-21 (December 18, 2008); see 8 C.F.R. § 1003.103(a)(2)(if final administrative decision includes a period of suspension, time spent under immediate suspension order "may be credited toward the period of suspension imposed under the final administrative decision").

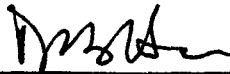
ORDER: The Disciplinary Counsel's "Motion for Summary Adjudication" is granted.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 60 days.

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)).



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FOR THE BOARD