

Falls Church, Virginia 22041

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File: D2008-063

Date: ~~\_\_\_\_\_~~ **MAY 25 2010**

In re: PATRICK G. TZEUTON, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

ON BEHALF OF RESPONDENT: Brian W. Stolarz, Esquire

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

On February 11, 2009, in the United States District Court for the District of Maryland, the respondent was found guilty of a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h), relating to his immigration law practice. That is, the respondent was convicted of 9 felony counts in the indictment. These included one count of conspiracy; seven counts of knowingly presenting to the DHS, United States Citizenship and Immigration Services, an application, affidavit, or other document required by the immigration laws and regulations which contained a false statement with respect to a material fact and which failed to contain any reasonable basis in law and fact; and one count of corruptly obstructing, influencing and impeding an official proceeding before the DHS, in violation of 18 U.S.C. § 371, 18 U.S.C. § 1546(a) and 2 and 18 U.S.C. §§ 1512(c)(2) and 2.

Consequently, on March 4, 2009, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. 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 March 11, 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. 8 C.F.R. §§ 1003.105(c)(1); 1292.3(e)(3)(ii). Rather, on March 13, 2009, the respondent sought to have the immediate suspension order set aside. The respondent argued that he had filed a post-trial motion in his criminal case, and if the motion was unsuccessful, he planned to file a direct appeal to the United States Court of Appeals for the Fourth Circuit. The Board on April 14, 2009, denied the respondent's request to set aside the immediate suspension order. Further proceedings concerning the government's Notice of Intent to Discipline were stayed "until the conclusion of the direct appeal of the respondent's criminal convictions," 8 C.F.R. § 1292.3(c)(3).

The DHS has now filed a "Motion for Summary Adjudication", and presents evidence that the respondent's conviction has been affirmed by the Fourth Circuit, and the respondent has been disbarred in New York.

As the DHS notes, DHS "Motion for Summary Adjudication", at ¶ 7, the respondent did not submit a proper answer to the Notice of Intent to Discipline, as required by the regulations. Rather, the respondent submitted a letter with his March 13, 2009, request to set aside the immediate suspension order, which merely concluded with the statement that the respondent "respectfully den[ies] all allegations of misconduct set forth in the Notice of Intent to Discipline. Mr. Tzeuton reserves the right to present a full and fair defense to your agency's proceedings after his post-trial Motion and appellate process have concluded."

We find it appropriate to issue a final order on the government's charges. See 73 Fed. Reg. 76914, 76925 (December 18, 2008); codified at 8 C.F.R. § 1003.106(a)(1)(2010); DHS "Motion for Summary Adjudication", at ¶ 11 (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). The respondent fails to show that there is any material issue of fact in dispute in this matter. As the DHS' proposed sanction of expulsion is appropriate, in light of the respondent's criminal record, and disbarment in New York, DHS "Motion for Summary Adjudication", at ¶ 12, the Board will honor that proposal.

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

FURTHER ORDER: The Board hereby expels 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 8 C.F.R. § 1003.105(d)(2)(2010); *Matter of Kronegold, supra*, at 163.



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FOR THE BOARD