

Falls Church, Virginia 20530

File: D2014-033

Date:

APR - 9 2014

In re: KAREN CACO, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF DHS: Catherine M. O'Connell, Disciplinary Counsel

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

ON BEHALF OF RESPONDENT: Pro se

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

On December 2, 2013, in the United States District Court for the Middle District of Florida, Fort Myers Division, the respondent pled guilty to a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). That is, the respondent pled guilty to the felony of one count of possession of an immigration document, knowing it to have been procured by means of a false claim or statement, in violation of 18 U.S.C. § 1546(a). The court entered its judgment on December 4, 2013. Consequently, on February 6, 2014, 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 February 25, 2014, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. The respondent has made a filing which we will treat as a timely answer to the Notice of Intent to Discipline. The DHS thereafter submitted a "Motion for Summary Adjudication."

Where a respondent is subject to summary disciplinary proceedings based on having pled guilty to a serious crime, the regulations provide that the attorney "must make a prima facie showing to the Board in his or her answer that there is a material issue of fact in dispute with regard to the basis for summary disciplinary proceedings, or with one or more of the exceptions set forth in 8 C.F.R. § 1003.103(b)(2)(i) through (iii)." See 8 C.F.R. §§ 1003.106(a)(2013), 292.3(c)(3). Where no such showing is made, the Board is to retain jurisdiction over the case, and issue a final order. *Id.*; DHS "Motion for Summary Adjudication", at ¶¶ 6-7; *Matter of Salomon*, 25 I&N Dec. 559, 560 (BIA 2011).

We agree with the DHS Disciplinary Counsel that there are no material issues of fact at issue. DHS "Motion for Summary Adjudication", at ¶7. The respondent raises legal issues that may be addressed by the Board. We find it appropriate to issue a final order on the government's charges.

The respondent does not deny that she pled guilty to the felony of one count of possession of an immigration document, knowing it to have been procured by means of a false claim or statement, in violation of 18 U.S.C. § 1546(a). This is a serious crime within the meaning of 8 C.F.R. § 1003.102(h), as it is a felony, and involves misrepresentation and fraud.

The respondent requests that the Board defer a final order in her case, until the Supreme Court of Florida issues a final order in its disciplinary proceedings. Respondent's Answer, at ¶ 4. As the DHS argues, however, these disciplinary proceedings are based on the respondent's felony conviction, so there is no reason to delay a final order in this case. DHS "Motion for Summary Adjudication", at ¶ 3.

The respondent argues that disbarment is not warranted, despite her felony conviction. Respondent's Answer, at ¶ 2. She contends that she did not intend to mislead the DHS, and had no dishonest or selfish motive in the submission of the petition.

The respondent's plea agreement states that:

Karen Caco, herself an immigrant from Canada, at all times relevant to the charges in this case, was an attorney licensed to practice law in the State of Florida since 2002. Ms. Caco, who specialized in immigration law, operated her own law firm, International Immigration Services, PA, in Naples, Florida, hereafter referred to as "IIS". . . On or about September 24, 2009, B.M., as purported director of immigration services at IIS, filed a form I-129 Petition with supporting documents for Non-Immigrant Worker on behalf of [Caco], seeking continuation of previously approved employment without change with the same employer for an H1B visa. The petition and supporting documentation fraudulently represented that Ms. Caco was continuing in her employment with IIS as a senior attorney on an "at will" basis with "a yearly base salary of \$106,787" and that B.M. was then "Director, Immigration Services," when in fact B.M. was not "Director, Immigration Services," but rather was then a contract paralegal, working with IIS primarily from California. B.M. had by then completed law school but was not then a member of a State Bar. Ms. Caco was 100% owner of IIS and was paid according to Florida Department of Revenue - wage reports, etc. \$57,326.90 in 2009. Ms. Caco thereafter possessed such approved H-1B visa (I-797A, Notice of Action) issued by USCIS from shortly after its issuance on October 1, 2009, until its expiration on September 30, 2012.

The respondent pled guilty to possessing the approved H-1B visa, knowing that it was procured by a false claim or statement, in violation of law. As noted in *Matter of Krivonos*, 24 I&N Dec. 292 (BIA 2007), "immigration-related fraud strikes at the heart of the country's immigration laws and undermines the integrity of the entire system." DHS "Motion for Summary Adjudication", at ¶ 4. We therefore find that the government's proposed discipline of disbarment is appropriate, based on the respondent's conviction, and we will honor it.

We note that the respondent may petition to be reinstated to practice before the Board, Immigration Courts, and DHS after one year has passed, under 8 C.F.R. § 1003.107(b)(2013). The respondent would need to show that she meets the regulatory definition of attorney and would need to demonstrate "by clear and convincing evidence that [s]he . . . possess[es] the moral and professional qualifications required to appear before the Board and the Immigration Courts or DHS, or before all three authorities, and that h[er] . . . reinstatement [would] not be detrimental to the administration of justice." *Id.*; *Matter of Krivonos*, *supra*.

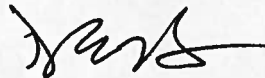
Accordingly, we hereby disbar the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our February 25, 2014, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

ORDER: The Board hereby disbars 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: As indicated, the respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. § 1003.107(2013).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. 8 C.F.R. § 1003.105(d)(2)(2013).



FOR THE BOARD