

Falls Church, Virginia 20530

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File: D2014-022

Date:

APR 14 2014

In re: JOHN WANG, 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: Richard Marc Maltz, Esquire

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

On December 19, 2013, in the United States District Court for the Southern District of New York, the court entered a judgment in a criminal case relating to the respondent. 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 conspiracy to commit immigration fraud, in violation of 18 U.S.C. § 371. Consequently, on January 29, 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 7, 2014, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. The respondent filed an answer to the Notice of Intent to Discipline, and 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).

The Board agrees 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 he pled guilty to conspiracy to commit immigration fraud, in violation of 18 U.S.C. § 371. 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 argues that disbarment is not warranted, despite his conviction. Respondent's Answer, at §§ 8-22. He contends that his actions resulted from his inexperience, poor judgment, desperation to solicit business, and undue influence by non-attorneys, and he expresses remorse. He notes that he was sentenced to two years' probation and six months' home confinement. He presents evidence that he was suspended from the practice of law in Connecticut for two years. Respondent's Answer, Exh. A. He also presents evidence that in 2009 the DHS stipulated to a one-year suspension for an attorney who pled guilty to a crime in federal court in Connecticut. Respondent's Answer, Exh. B.

Despite the respondent's claims of naivete and remorse, the DHS properly observes that the respondent "... actively participated in the fraud." DHS "Motion for Summary Adjudication", at ¶ 4. The DHS presents a December 3, 2013, sentencing letter from the office of the United States Attorney. DHS "Motion for Summary Adjudication", at ¶ 4, Exh. A. The letter states that, for two years, the respondent's firm "operated as an immigration fraud mill". The letter references an attached statement from the Deputy Director of the New York Asylum Office of the DHS, United States Citizenship and Immigration Services. This statement observes that, between 2010 and 2012, the respondent filed 1,322 asylum cases, and 84% of these cases were found not credible by an interviewing officer. The United States Attorney also noted that the respondent's statements "contradict any claim that he was an unknowing or reluctant participant in the scheme", and recorded statements showed the respondent bragging about how he was able to perpetrate the fraud. In short, according to the United States Attorney, the respondent "was the leader of his own fraud mill."<sup>1</sup>

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 ¶ 3. Particularly given the evidence concerning the respondent's active and significant participation in fraudulent activity involving asylum claimants, we find that the government's proposed discipline of disbarment is appropriate, and we will honor it.

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<sup>1</sup>The respondent's counsel presents a "declaration" in which he objects to the submission of exhibits by the DHS with its "Motion for Summary Adjudication". However, while counsel says that the respondent disagrees with many of the facts presented in the exhibits, the only specific claim relates to an attached transcript presented by the United States Attorney to the criminal court, in which the respondent told a client that when she went to Immigration Court she should "just make it up." DHS "Motion for Summary Adjudication", Exh. B. Counsel asserts that the respondent "contends" that he did not tell his client to "just make it up." Even if this particular statement is disregarded, for the purposes of issuing this order, however, disbarment of the respondent in these proceedings is a correct result. We note that, in any event, the criminal indictment specifically charged that, in December 2010, the respondent "coached a client of the Wang Firm to lie about being persecuted in China during asylum interviews with officers of the United States Citizenship and Immigration Services".

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 he meets the regulatory definition of attorney and would need to demonstrate "by clear and convincing evidence that 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 his . . . reinstatement [would] not be detrimental to the administration of justice." *Id.*; *Matter of Krivonos, supra*.

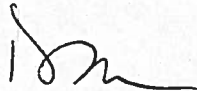
Accordingly, we hereby disbar the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our February 7, 2014, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

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 him.

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).



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FOR THE BOARD