

Falls Church, Virginia 22041

File: D2014-156

Date: OCT 06 2015

In re: HERBERT J. TAN, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

ON BEHALF OF DHS: Jeannette V. Dever
Associate Legal Advisor

The respondent will be suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (DHS) for one year.

On November 20, 2013, the Supreme Court of New Jersey temporarily suspended the respondent from the practice of law, effective immediately, pending his compliance with prior court orders, and until further order of the court. Consequently, on June 13, 2014, 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. We granted the petition on July 8, 2014. On March 12, 2015, the Supreme Court of New Jersey suspended the respondent from the practice of law in New Jersey for one year, and the EOIR Disciplinary Counsel thereafter filed a 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 (2013). 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 (2013).

The Notice proposes that the respondent be suspended from practicing before the Board and the Immigration Courts for one year. 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 (2013).

The proposed sanction is appropriate in light of the respondent's suspension in New Jersey. Accordingly, the Board will honor that proposal. As the respondent is currently under our July 8, 2014, order of suspension, we will deem the respondent's suspension to have commenced on that date.

ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS for one year.

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 (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