

Falls Church, Virginia 22041

---

File: D2016-0111

Date: JUL 27 2016

In re: DAVID K. WENGER, II, 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 disbarred from practice before the Board of Immigration Appeals (“Board”), the Immigration Courts, and the Department of Homeland Security (“DHS”).

On November 3, 2015, in Case D2015-0193, we suspended the respondent from practice before the Immigration Courts, Board, and DHS, for 180 days, effective October 6, 2015. This was based on the fact that, on August 26, 2015, the Michigan Attorney Discipline Board suspended the respondent from the practice of law in Michigan for 180 days. Our November 3, 2015, suspension remains in effect.

On February 12, 2016, the respondent was convicted, on the basis of a guilty plea, of three counts of corruptly influencing official proceedings, in violation of 18 U.S.C. § 1512(c), in the United States District Court for the Eastern District of Michigan. The respondent is subject to discipline by the Board based on this crime, as his offense constitutes a “serious crime” as defined by 8 C.F.R. § 1003.102(h). In particular, the crime is a felony. *See* 8 C.F.R. § 1003.102(h). Further, the crime involved immigration-related fraud, an offense that “strikes at the heart of the country’s immigration laws and undermines the integrity of the entire system.” *Matter of Krivonos*, 24 I&N Dec. 292, 293 (BIA 2007); *see also* 8 C.F.R. § 1003.102(h) (indicating that felonies as well as lesser offenses involving fraud or interference with the administration of justice constitute “serious crimes”).<sup>1</sup> On April 7, 2016, the respondent was disbarred from the practice of law in Michigan, by the Michigan Attorney Discipline Board, and is subject to discipline by the Board for this reason as well. 8 C.F.R. § 1003.102(e).

---

<sup>1</sup> The April 7, 2016, Michigan Attorney Discipline Board Hearing Panel report set out how the respondent related, with regard to his crime, that he “allowed his client to testify untruthfully as to his previous convictions at his deportation hearing and also filed forms on his client’s behalf containing false (incomplete) information” and “testified that he knew that if the government was aware of all of his client’s previous convictions he would be deported.”

On June 7, 2016, the Disciplinary Counsel for the Executive Office for Immigration Review (Disciplinary Counsel for EOIR) 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. The respondent's failure to file a response within the time period prescribed in the Notice constitutes an admission of the allegations therein, and he is now precluded from requesting a hearing on the matter. 8 C.F.R. § 1003.105.

The Notice of Intent to Discipline proposes that the respondent be disbarred from practicing before the Board and the Immigration Courts. The Disciplinary Counsel for the DHS asks the Board to extend that discipline to practice before that agency as well. 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. The proposed sanction is appropriate, in light of the respondent's criminal conviction, and disbarment in Michigan.

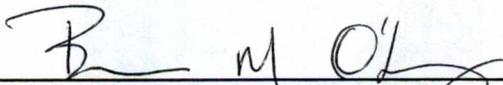
ORDER: The Board hereby disbars the respondent from practice before the Board, the Immigration Courts, and the DHS.

FURTHER ORDER: The respondent must notify the Board of any further disciplinary action against him.

FURTHER ORDER: The contents of this order shall be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

FURTHER ORDER: The respondent shall maintain records to evidence compliance with this order.

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, the Immigration Courts, and the DHS under 8 C.F.R. § 1003.107.

  
\_\_\_\_\_  
FOR THE BOARD