

Falls Church, Virginia 22041

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File: D2016-0131

Date: DEC 15 2017

In re: Robert DEKELAITA, 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

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 May 9, 2016, in the United States District Court for the Northern District of Illinois, the respondent was convicted, pursuant to a multiple-count indictment, of fraud and misuse of visas and other documents in violation of 18 U.S.C. § 1546, conspiracy to defraud the United States in violation of 8 U.S.C. § 371, and subornation of perjury in violation of 18 U.S.C. § 1622. Consequently, on June 10, 2016, the Disciplinary Counsel for the DHS petitioned for the respondent's immediate suspension from practice before that agency. The Disciplinary Counsel for the Executive Office for Immigration Review (Disciplinary Counsel for EOIR) then asked that the respondent be similarly suspended from practice before the Board and the Immigration Courts.

On July 6, 2016, the respondent filed a motion to stay a decision in his matter until a final decision was made on the merits of his criminal case. The Disciplinary Counsel for the DHS filed a response to the respondent's motion to stay requesting that we proceed with a decision on the petition for immediate suspension but asking that the proceedings concerning the Notice of Intent to Discipline filed against the respondent be stayed pending the conclusion of the respondent's post-trial proceedings and any appeal of his conviction. We granted the petition for immediate suspension on August 3, 2016, and we declined to stay proceedings on the Notice of Intent to Discipline.

On November 24, 2017, the Disciplinary Counsel for the DHS filed a motion for entry of a final order in the respondent's case. In her motion, the Disciplinary Counsel for the DHS states that the respondent's appeal from his criminal conviction now is complete, and she has submitted the November 17, 2017, order of the United States Court of Appeals for the Seventh Circuit affirming the respondent's conviction for conspiracy to commit asylum fraud against the United States in violation of 8 U.S.C. § 371.<sup>1</sup>

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<sup>1</sup> The United States District Court for the Northern District of Illinois, in ruling on a post-trial motion filed by the respondent, vacated the other counts under which the respondent had been convicted. See *United States v. DeKelaita*, \_ F.3d \_, 2017 WL 5507845, \*2 (7<sup>th</sup> Cir. 2017).

The respondent has not replied to the motion for entry of a final order. The respondent also has not responded to the allegations contained in the Notice of Intent to Discipline. 8 C.F.R. § 1003.105 (2017). The respondent's failure to file a response within the time period prescribed in the Notice of Intent to Discipline 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(d)(1).

The Notice of Intent to Discipline proposes that the respondent be disbarred from practicing before the DHS. The Disciplinary Counsel for EOIR asks the Board to extend that discipline to practice before the Board and the Immigration Courts 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 of Intent to Discipline, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. § 1003.105(d)(2).

The proposed sanction is appropriate in light of the respondent's conviction for conspiracy to commit asylum fraud. We will order the respondent disbarred from practice before the Board, the Immigration Courts, and the DHS. Further, as the respondent is currently under our August 3, 2016, order of suspension, we will deem his 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. The disbarment is deemed to have commenced on August 3, 2016.

**FURTHER ORDER:** The respondent must maintain compliance with the directives set forth in our prior order. The respondent must notify the Board of any further disciplinary action against him.

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

**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.

  
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FOR THE BOARD