

Falls Church, Virginia 20530

File: D2013-112

Date: MAR 11 2014

In re: MICHAELANGELO ROSARIO, Attorney

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

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

The respondent is an attorney located in Orlando, Florida. On November 8, 2013, the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR), and the Disciplinary Counsel for the DHS, jointly filed a Notice of Intent to Discipline.¹

The Notice of Intent to Discipline brings 38 detailed allegations, involving 39 individuals represented by the respondent concerning immigration matters. The government alleges that disciplinary sanctions are warranted under 8 C.F.R. § 1003.102(c), in that the respondent knowingly or with reckless disregard made false statements of material fact or law concerning a material and relevant matter relating to a case, including knowingly or with reckless disregard offering false evidence; 8 C.F.R. § 1003.102(j), in that the respondent engaged in frivolous behavior; 8 C.F.R. § 1003.102(n), in that the respondent engaged in conduct prejudicial to the administration of justice, and engaged in a pattern and practice of engaging in conduct prejudicial to the administration of justice; 8 C.F.R. § 1003.102(o), in that the respondent failed to provide competent representation, and 8 C.F.R. § 1003.102(r), in that the respondent failed to maintain communication with a client.

The Notice of Intent to Discipline was served on the respondent on November 8, 2013. The Notice plainly stated that "[t]he Rules provide that Respondent shall file **with the Board** a written answer to the Notice of Intent to Discipline within 30 days of the date stated on the Proof of Service attached to this notice." Notice of Intent to Discipline, at 51 (emphasis in original); 8 C.F.R. § 1003.105(c)(1)(2013). An answer was therefore due on December 9, 2013. Rather, on December 12, 2013, the respondent filed a request for an extension of time to file an answer. The untimely request was denied on December 13, 2013. The Disciplinary Counsel for EOIR filed a "Motion For A Final Order Imposing Discipline" on December 13, 2013.

¹The government did not petition for the respondent's immediate suspension from practice pending final disposition of this proceeding, under 8 C.F.R. § 1003.103(a)(2013).

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline but did not 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(d) (2013).

The Notice of Intent to Discipline proposes that the respondent be disbarred from practice before the Board, Immigration Courts, and DHS. Because the respondent did not file a timely 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(d)(2)(2013).

The proposed discipline is appropriate, considering the government's charges, which the respondent did not timely dispute. Notice of Intent to Discipline, at p. 51 (citing and applying American Bar Association "Standards For Imposing Lawyer Sanctions" in proposing the discipline). The respondent also was the subject of prior disciplinary action. That is, on February 24, 2012, the respondent was informally admonished pursuant to 8 C.F.R. § 1003.104(c), for violations of 8 C.F.R. §§ 1003.102 (j), (n), and (o). *See* Notice of Intent to Discipline, at pp. 50-51; Exh. 1. The informal admonition became a matter of public record, as the pending Notice of Intent to Discipline was served and based on unrelated misconduct. 8 C.F.R. § 1003.108(b).

Accordingly, we disbar the respondent from practice before the Board, the Immigration Courts, and the DHS.

ORDER: The respondent is disbarred from practice before the Immigration Courts, Board of Immigration Appeals, and DHS, effective 15 days from this date. 8 C.F.R. § 1003.105(c).

FURTHER ORDER: The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been disbarred from practicing before these bodies.

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

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

FURTHER ORDER: The Board directs that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

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).



FOR THE BOARD