

UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
OFFICE OF PROFESSIONAL RESPONSIBILITY  
WASHINGTON, DC

DIRECTOR, OFFICE OF PROFESSIONAL  
RESPONSIBILITY,

Complainant,

v.

Complaint No. 2008-10

CHARLES G. STEWART,

Respondent.

DECISION BY DEFAULT

On June 12, 2008, a Complaint was issued on behalf of the Director, Office of Professional Responsibility, Internal Revenue Service, Department of the Treasury, pursuant to 31 C.F.R. 10.60, under the authority of 31 U.S.C. 330, alleging that the Respondent, Charles G. Stewart, an attorney who practices before the Internal Revenue Service, engaged in disreputable conduct within the meaning of 31 C.F.R. 10.51. The complaint seeks to have the Respondent suspended from such practice for a period of forty-eight (48) months, pursuant to 31 C.F.R. 10.50 and 10.70.

Also on June 12, 2008, copies of the Complaint and Notice of Institution of Proceedings, together with a covering letter, were sent to the Respondent by certified mail, return receipt requested, at his last known address of record with the Internal Revenue Service. The Notice advised the Respondent of his obligation to file an answer to the Complaint within 30 calendar days of service of the Complaint. Respondent was also advised that failure to answer the Complaint could result in a decision of default being rendered against him. The Complaint and Notice and the covering letter were delivered to Respondent at the address indicated on June 24, 2008, as shown by a United States Postal Service return receipt form. To date no answer to the Complaint has been received. Nor has any other communication from Respondent in connection with this case been received.

On August 1, 2008, counsel for the Director filed a Motion for Default Judgment with the undersigned. The motion, together with a covering letter, an affidavit from counsel for the Director, and attached exhibits, were sent to the Respondent, at his last known address, by certified mail, return receipt requested, on August 1, 2008. To date, the Respondent has filed no response to the motion.

Ruling on Motion for Default Judgment

A review of the record herein shows that effective service of copies of the Complaint and Notice of Institution of Proceedings was made upon the Respondent in accordance with 31 C.F.R. 10.63(a). The Respondent was obliged to file an answer to the Complaint or be subject to having a decision by default entered against him, but he failed to do so. No answer has been filed. Accordingly, the motion for default judgment is granted.

Pursuant to the provisions of 31 C.F.R. 10.64(d), failure to file a timely answer constitutes a waiver of hearing. Thus, the allegations of the Complaint are deemed to be admitted, and they may be considered as proved without further evidence. Inasmuch as the allegations in the Complaint have been admitted and no hearing or further proceeding is necessary, based on the record herein, I make the following:

#### Findings of Fact

1. At all times material, the Respondent was an attorney engaged in practice before the Internal Revenue Service and was subject to the disciplinary authority of the Secretary of the Treasury and the Director, Office of Professional Responsibility, Internal Revenue Service.

2. Respondent willfully failed to timely file his individual Federal income tax returns for the tax years 2001, 2002, 2003, 2004, 2005 and 2006. The Respondent also willfully failed to pay the tax, interest and penalties assessed against him for the tax years 2001, 2002, 2003, 2004 and 2005.

3. The conduct set forth in Number 2 above is evidence of willful and disreputable conduct within the meaning of 31 C.F.R. 10.51 and reflects adversely on Respondent's current fitness to practice before the Internal Revenue Service.

#### Conclusions of Law

1. The Respondent's eligibility to practice before the Internal Revenue Service is subject to suspension or disbarment by reason of disreputable conduct.

2. The Respondent's repeated and willful failure to timely file required Federal tax returns and pay required tax, interest and penalties assessed against him constitutes disreputable conduct within the meaning of 31 C.F.R. 10.51. The Respondent's disreputable conduct and violation of the regulations governing practice before the Internal Revenue Service warrant his suspension from such practice. There is no record evidence of extenuating or mitigating circumstances for such disreputable conduct. Accordingly, a forty-eight (48) month suspension, the penalty sought by the Director, is reasonable.

Upon the foregoing findings of fact and conclusions of law, and on the entire record, it is

ORDERED that Charles G. Stewart is suspended from practice before the Internal Revenue Service for a period of forty-eight (48) months. Reinstatement thereafter is at the sole discretion of the Office of Professional Responsibility, at a minimum requiring Respondent to have filed all Federal tax returns and paid all outstanding Federal tax liabilities for which he is responsible, or to have entered into an installment agreement or offer in compromise, which has been accepted by the IRS and with which he has remained in compliance.

Dated at Washington, D.C., August 19, 2008

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Robert A. Giannasi  
Administrative Law Judge

CERTIFICATION OF RECORD

I, Robert A. Giannasi, Administrative Law Judge, certify that the attached documents, consisting of the following:

Complaint No. 2008-10 and Notice of Institution of Proceedings, *Director, Office of Professional Responsibility v. Charles G. Stewart*, dated June 12, 2008;

Motion for decision by default, covering letter, and attached exhibits, all dated August 1, 2008; and

Decision by Default, dated August 19, 2008;

constitute the complete administrative record in the matter of *Director, Office of Professional Responsibility v. Charles G. Stewart*, Complaint No. 2008-10.

Dated at Washington, D.C., August 19, 2008

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Robert A. Giannasi  
Administrative Law Judge