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

INTERNAL REVENUE SERVICE
OFFICE OF CHIEF COUNSEL
(MANHATTAN)
OCT 18 2007
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DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY,
Complainant,

v.

Complaint No. 2007-36

ROBERT MARKS,
Respondent.

DECISION BY DEFAULT

On July 11, 2007, 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, issued under the authority of 31 U.S.C. §330, alleging that the Respondent, Robert Marks, an attorney who has engaged in practice before the Internal Revenue Service, has engaged in disreputable conduct within the meaning of 31 C.F.R. §10.51 and is subject to disbarment from such practice pursuant to 31 C.F.R. §10.50.

The Complaint was sent to the Respondent by certified mail at his last address of record with the Internal Revenue Service on July 11, 2007. A signed receipt for the Complaint sent by certified mail, indicating delivery to the Respondent's address on July 16, 2007, was received by the Internal Revenue Service. The Complaint advised the Respondent of his obligation to file and serve an answer to the Complaint within 30 days of the date of service. No answer has been filed.

On September 25, 2007, counsel for the Complainant filed a Motion for a Decision by Default with the undersigned administrative law judge who has been designated to conduct this proceeding. The motion was served upon the Respondent by first class at his last address of record with the Internal Revenue Service on the same date. The Respondent has filed no response to the motion.

Ruling on Motion for Default

A review of the record herein shows that effective service of a copy of the Complaint was made upon the Respondent in accordance with 31 C.F.R. §10.63(a)(2). 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. Pursuant to the provisions of 31 C.F.R. §10.64(d), failure to file a timely answer constitutes a waiver of hearing, 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 proceedings are necessary, based on the record herein, I make the following:

Findings of Fact

1. At all times material, the Respondent Robert Marks was an attorney who had 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. The Respondent willfully failed to file with the Internal Revenue Service a required federal income tax return for each of the years 2001, 2002, 2003, 2004, and 2005.

Conclusions of Law

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

2. The Respondent's repeated willful failure to file required federal income tax returns in violation of the revenue laws of the United States constitutes disreputable conduct within the meaning of 31 C.F.R. §10.51. There is no evidence of any extenuating or mitigating circumstances. Such disreputable conduct warrants his disbarment from practice before the Internal Revenue Service, as proposed by the Complainant.

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

ORDERED that Robert Marks is disbarred from practice before the Internal Revenue Service.

Dated at Washington, DC October 15, 2007

Richard A. Scully
Administrative Law Judge