

**THE DEPARTMENT OF THE TREASURY
OFFICE OF PROFESSIONAL RESPONSIBILITY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C.**

DIRECTOR,
OFFICE OF PROFESSIONAL
RESPONSIBILITY,

Complainant

v.

JOHN A. ESCOBAR,

Respondent

COMPLAINT NO. 2008-05

DEFAULT DECISION AND ORDER

On December 9, 2008 a Complaint was issued on behalf of the Acting Director, Office of Professional Responsibility, Internal Revenue Service, Department of the Treasury, pursuant to 31 C.F.R. §§ 10.61 and 10.91, issued under authority of 31 U.S.C. § 330. The Complainant alleged that the Respondent, JOHN A. ESCOBAR, an Enrolled Agent (EA) 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. The Complaint seeks to have the Respondent disbarred from practice before the Internal Revenue Service. The disbarment sought would allow any reinstatement thereafter at the sole discretion of the Office of Professional Responsibility, and reinstatement at minimum would require the practitioner 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 Service and with which the practitioner has remained in compliance.

On December 9, 2008, the Complaint, with a cover letter, was served on the Respondent by certified mail addressed to the Respondent at his last known mailing address on file with the Internal Revenue Service: Address 1. The Complaint was returned unclaimed. Subsequently, the Complaint was then served on the Respondent by first-class mail on January 22, 2009, which mailing was returned to the Complainant on February 2, 2009.

The Complaint notified Respondent that he was required to file and serve an answer within thirty (30) calendar days from the date of service, and that a failure to file an answer may result in a decision by default being rendered against the Respondent. No answer has been filed.

On April 3, 2009, counsel for the Complainant filed a Motion for a Decision by Default. The motion was served upon the Respondent by certified mail, return receipt requested and via first-class mail addressed to the Respondent at his last known mailing address on file with the Internal Revenue Service: Address 1.

The motion was also sent to Respondent via certified mail, return receipt requested, restricted delivery, in care of the following addresses: 2Address 2; Address 3; and Address 4. The Respondent has filed no response to the motion.

FINDINGS OF FACT

1. At all material times, the Respondent, John A. Escobar, has been an EA who engaged in practice before the Internal Revenue Service and is subject to the disciplinary authority of the Secretary of the Treasury and the Acting Director, Office of Professional Responsibility, and to the rules and regulations contained in 31 C.F.R., Part 10.

COUNT 1

2. Respondent was required by 26 U.S.C. §§ 6011, 6012, and 6072 to pay his Federal individual income taxes for tax year 1999, on or before April 15, 2000.

3. Respondent failed to pay his Federal individual income taxes and, as of November 24, 2008, owed in excess of \$7,000.00 and remains delinquent.
4. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 2

5. Respondent was required by 26 U.S.C. §§ 6011, 6012, and 6072 to pay his Federal individual income taxes for tax year 2000, on or before April 15, 2001.
6. Respondent failed to pay his Federal individual income taxes, and as of November 24, 2008, owed in excess of \$3,000.00, and remains delinquent.
7. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 3

8. Respondent was required by 26 U.S.C. §§ 6011, 6012, and 6072 to pay his Federal individual income taxes for tax year 2001, on or before April 15, 2002.
9. Respondent failed to pay his Federal Individual income taxes and, as of November 24, 2008, owed in excess of \$13,000.00, and remains delinquent.
10. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 4

11. Respondent was required by 26 U.S.C. §§ 6011, 6012, and 6072 to pay the tax as shown on his Federal individual income tax return (Form 1040) for tax year 2003, on or before April 15, 2004.
12. Respondent failed to pay his Federal individual income taxes and, as of November 24, 2008, owed in excess of \$1,000.00, and remains delinquent.
13. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 5

14. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2000-09, on or before October 31, 2000.
15. Respondent failed to timely file a Federal employment tax return (form 941) on behalf of EJM & Associates, LLC (EIN No.1).
16. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 6

17. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2000-12, on or before December 31, 2000.

18. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1).
19. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 7

20. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2001-03, on or before April 30, 2001.
21. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1).
22. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 8

23. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2001-06, on or before July 31, 2001.
24. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1).
25. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 9

26. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2001-09, on or before October 31, 2001.
27. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1).
28. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 10

29. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2001-12, on or before January 31, 2002.
30. Respondent failed to timely file a Federal employment tax return (form 941) on behalf of EJM & Associates, LLC (EIN No.1).
31. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § generally and a willful violation of §10.51(d)(Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 11

32. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2002-03, on or before April 30, 2002.

- 33. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No. 33-0888676).
- 34. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 12

- 35. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2002-06, on or before July 31, 2002.
- 36. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1).
- 37. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev. July 26, 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 13

- 38. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2002-09, on or before October 31, 2002.
- 39. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1).
- 40. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev.

2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 14

41. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2002-12, on or before January 31, 2003.
42. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of EJM & Associates, LLC (EIN No.1).
43. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev. 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 15

44. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2000-03, on or before April 30, 2000.
45. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess of \$250.00, and remains delinquent.
46. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 16

47. Respondent was required by 26 U.S.C. § § 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2000-09, on or before October 31, 2000.
48. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess of \$4,800.00, and remains delinquent.
49. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 17

50. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2000-12 on or before January 31, 2001.
51. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess of \$7,700.00, and remains delinquent.
52. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 18

53. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay the Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2001-03, on or before April 30, 2001.
54. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess \$4,700.00, and remains delinquent.
55. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) 9Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 19

56. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2001-06, on or before July 21, 2001.
57. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess of \$4,300.00, and remains delinquent.
58. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 20

59. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2001-09, on or before October 31, 2001.
60. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess of \$1,000.00, and remains delinquent.
61. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 21

62. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2002-03, on or before April 30, 2002.
63. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess of \$10,500.00, and remains delinquent.
64. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 22

- 65. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6072, and 6302, as well as Subtitle C, 26 U.S.C. § 3101 et seq., to pay Federal employment taxes (Form 941) on behalf of EJM & Associates, LLC (EIN No.1) for tax period 2002-06, on or before July 31, 2002.
- 66. Respondent failed to pay Federal employment taxes on behalf of EJM & Associates, LLC (EIN No.1) and, as of November 24, 2008, owed in excess of \$2,400.00, and remains delinquent.
- 67. Such failure to pay was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(d) (Rev. 1994) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 23

- 68. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2) for tax period 2004-06, on or before July 31, 2004.
- 69. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2).
- 70. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev. 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 24

- 71. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2) for tax period 2004-09, on or before October 31, 2004.

72. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2).
73. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev. 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 25

74. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2) for tax period 2005-03, on or before April 30, 2005.
75. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2).
76. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev. 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 26

77. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2) for tax period 2005-06, on or before July 31, 2005.
78. Respondent failed to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2).
79. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev. 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

COUNT 27

80. Respondent was required by 26 U.S.C. §§ 6011, 6012, 6071, 6072, and 7805 to timely file a Federal employment tax return (Form 941) on behalf of Escobar & Associates (EIN No.2) for tax period 2004-12, on or before January 31, 2005.
81. Respondent failed to pay Federal employment taxes on behalf of Escobar & Associates (EIN No.2) and, as of November 24, 2008, owed in excess of \$3,200.00, and remains delinquent.
82. Such failure to timely file was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally and a willful violation of § 10.51(f) (Rev. 2002) more particularly, for which Respondent may be censured, suspended or disbarred from practice before the IRS.

CONCLUSIONS OF LAW

83. The Respondent's actions, as set forth in Counts 1027 above, constitute disreputable conduct as set forth in 31 C.F.R. § 10.51, and reflect adversely on his current fitness to practice, for which the Respondent may be censured, suspended, or disbarred from practice before the Internal Revenue Service.
84. The Respondent's repeated disreputable conduct and violation of the regulations governing practice before the Internal Revenue Service warrant his disbarment from such practice. The record includes supportive documentation, in the form of "Account Transcripts," which are IRS business records. Those records document the allegations contained in the twenty-seven (27) counts in the Complaint. The record also contains evidence regarding extenuating or mitigating circumstances submitted to the Office of Professional Responsibility by the Respondent and this information was considered. The Court finds that the disciplinary action proposed by the Director is both reasonable and warranted.

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

ORDERED that the Complainant's motion for a decision by default is granted and that the Practitioner, John A. Escobar, is disbarred from practice before the Internal Revenue Service from the date of this decision and order, reinstatement thereafter being at the sole discretion of OPR, and at minimum requiring John A. Escobar 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 Service and with which John A. Escobar has remained in compliance.

WILLIAM B. MORAN
United States Administrative Law Judge

Dated: July 10, 2009
Washington, D.C.