

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. 2006-2

TED E. ANDREWS, CPA,

Respondent.

DECISION BY DEFAULT

On February 1, 2006, 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, Ted E. Andrews, a certified public accountant 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 three (3) years pursuant to 31 C.F.R. 10.50.

Also on February 1, 2006, copies of the Complaint and Notice of Institution of Proceedings were sent to the Respondent by certified mail, return receipt requested, and by first class mail 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 by March 3, 2006. On February 28, 2006, copies of an Amended Complaint and Notice of Institution of Proceedings were sent to the Respondent by certified mail, return receipt requested, and by first class mail. The Amended Complaint and Notice informed the Respondent that an answer to the Amended Complaint was due by March 30, 2006.

On February 28, 2006, Respondent requested an extension of time in which to file an answer. On March 20, 2006, the undersigned issued an order granting additional time to file an answer until April 8, 2006. On April 4, 2006, Respondent requested an additional 60 days to file and answer and that request was denied by order issued on April 5, 2006. Respondent has not requested additional time, and, as of this date, has not filed an answer to either the Complaint or the Amended Complaint.

On April 21, 2006, counsel for the Director filed a Motion for Default Judgment with the undersigned. The motion, together with a covering letter, a memorandum of law, declaration in support of default judgment and an exhibit list, with attached exhibits, were sent to the Respondent, at his last known address, by certified and first class mail on April 21, 2006. 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 and the Amended Complaint and Notice 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 and the Amended Complaint or be subject to having a decision by default entered against him, but he failed to do so. 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 and the Amended Complaint are deemed to be admitted, and they may be considered as proved without further evidence. Inasmuch as the allegations in the Complaint and the Amended Complaint have been admitted and no hearing or further proceeding is necessary, based on the record herein, I make the following:

Finds of Fact

1. At all times material, until the events set forth in item 2 below, the Respondent was a certified public accountant 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. On February 17, 2006, Respondent's license to practice as an Indiana certified public accountant was suspended by the Indiana Board of Accountancy indefinitely, with no right to petition for reinstatement until he completes a required number of continuing professional education credit hours.
3. Respondent's suspension of practice by the Indiana Board of Accountancy is evidence of willful and disreputable conduct within the meaning of 31 C.F.R. 10.51.
4. On or about November 2002, Respondent admitted to an agent of the Internal Revenue Service during an audit of Respondent's federal income tax returns that he failed to file his individual tax returns (IRS Form 1040) for the tax years 1999, 2000 and 2001. He in fact failed to file those tax returns and his failure to file those tax returns was willful.
5. Respondent failed to file his individual tax return for the tax years 2002 and 2003 and his failure to file those tax returns was willful.
6. Respondent failed to timely pay his individual Federal income taxes due and owing to the Internal Revenue Service for the tax years 1999, 2000, 2001, 2002 and 2003 and his failure to timely pay those taxes was willful.

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 failure to file required Federal tax returns, to timely pay income taxes due and owing, and his suspension from practice by the Indiana

Accountancy Board constitute 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. And there is no record evidence of extenuating or mitigating circumstances. Accordingly, a suspension of three (3) years, 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 Ted E. Andrews is suspended from practice before the Internal Revenue Service for a period three (3) years. He may apply for reinstatement at any time thereafter, but such application must demonstrate that his CPA license is in good standing in Indiana or any other state of the United States.

Dated at Washington, DC May 8, 2006

Robert A. Giannasi
Administrative law Judge