

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

Internal Revenue Service

JUN 11 2008

DIRECTOR, OFFICE OF PROFESSIONAL
RESPONSIBILITY,

Office of Professional Responsibility

Complainant,

v.

Complaint No. 2007-12

(b)(3)/26 USC 6103

Respondent.

DECISION ON MOTION FOR SUMMARY JUDGMENT

On March 30, 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, (b)(3)/26 USC 6103, an enrolled agent 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 practice for 36 months. Specifically, it is alleged that Respondent (b)(3)/26 USC 6103.

The Complaint was duly served upon Respondent. He subsequently submitted a letter answer to the complaint, dated (b)(3)/26 USC 6103 April 15, 2007. In his answer, Respondent conceded that (b)(3)/26 USC 6103

(b)(3)/26 USC 6103

. He claimed that (b)(3)/26 USC 6103

On May 7, 2008, counsel for the Director filed a motion for summary judgment, with attached exhibits, including an affidavit from Carolyn H. Gray, Deputy Director of the Office of Professional Responsibility (OPR) of the Internal Revenue Service (IRS), (b)(3)/26 USC 6103 (b)(3)/26 USC 6103 which was served on Respondent by certified mail. The Director asserts that there are no genuine and material issues of fact in dispute in this matter and that thus no evidentiary hearing is necessary. Respondent has failed to file a response to the motion for summary judgment.

Having carefully reviewed the pleadings and the exhibits in support of the motion for summary judgment, I find that there are no material issues of fact to be resolved and that the matter can appropriately be decided without a hearing. By letter dated February 22, 2006, OPR informed Respondent of (b)(3)/26 USC 6103

In a response, dated March 24, 2006, Respondent (b)(3)/26 USC 6103

(b)(3)/26 USC 6103

In these circumstances, I find that the Director has established that Respondent (b)(3)/26 USC 6103. (b)(3)/26 USC 6103. In this context, "willful" as used in the applicable regulations simply means the "voluntary intentional violation of a known legal duty." *United States v. Pomponio*, 429 U.S. 10, 12 (1976). Willfulness does not require proof of an evil motive or bad faith. *Ibid.* Respondent is an enrolled licensed to practice before the IRS. His eligibility to practice before the IRS subjects him to suspension or disbarment by reason of engaging in disreputable conduct. As an enrolled agent authorized to represent other taxpayers and practice before the IRS, Respondent (b)(3)/26 USC 6103

Such disreputable conduct has been shown by clear and convincing evidence, as required under 31 C.F.R. Section 10.76(a).

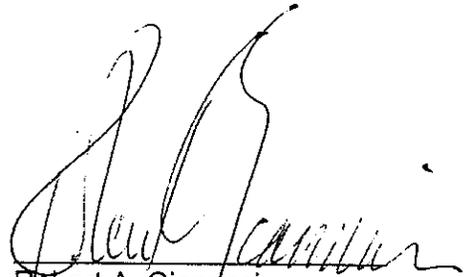
In support of the requested penalty of disbarment, Gray's affidavit points out that Respondent (b)(3)/26 USC 6103 and that there are no mitigating factors apparent in the record. The affidavit also mentions that (b)(3)/26 USC 6103

Gray also points out that she reviewed the reasons given for (b)(3)/26 USC 6103 and found them wanting, in part because (b)(3)/26 USC 6103. I agree. (b)(3)/26 USC 6103 and presumably getting paid for such help. Thus, (b)(3)/26 USC 6103

In these circumstances, I find that a suspension of Respondent from practice before the IRS for 36 months, the penalty requested by the Director, is appropriate. Accordingly, it is

ORDERED that Respondent (b)(3)/26 USC 6103 is hereby suspended from practice before the Internal Revenue Service for a period of thirty-six (36) months from the date of this Order. ¹

Dated at Washington, D.C., June 9, 2008


Robert A. Giannasi
Administrative Law Judge

¹ Pursuant to 31 C.F.R. Section 10.77, either party may appeal this decision to the Secretary of the Treasury within thirty (30) days of issuance.

CERTIFICATION OF RECORD

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

Complaint No. 2007-12, *Director, Office of Professional Responsibility v. (b)(3)/* 26 USC
6103, dated March 30, 2007;

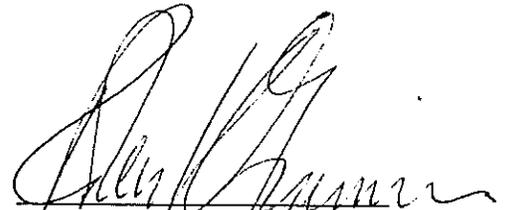
Answer submitted by Respondent, dated April 15, 2008;

Motion for Summary Judgment, together with supporting exhibits, and covering letter, dated May 7, 2008; and

Decision on Motion for Summary Judgment, dated June 9, 2008;

constitute the complete administrative record in the matter of *Director, Office of Professional Responsibility v. (b)(3)/* 26 USC
6103, Complaint No. 2007-12.

Dated at Washington, DC, June 9, 2008



Robert A. Giannasi
Administrative Law Judge