

UNITED STATES

DEPARTMENT OF THE TREASURY

Director, Office of Professional Responsibility,
Complainant-Appellee,

v.

COMPLAINT NO. 2006-24

(b)(3)/26 USC 6103,

Respondent-Appellant.

Decision on Appeal

Under the authority of General Counsel Order No. 9 (November 9, 2001) and the authority vested in him as Assistant General Counsel of the Treasury who was the Chief Counsel of the Internal Revenue Service, in a series of Delegation Orders (the most recent of which was dated January 15, 2008) Donald L. Korb delegated to the undersigned the authority to decide disciplinary appeals to the Secretary filed under Part 10 of Title 31, Code of Federal Regulations (“Practice Before the Internal Revenue Service,” sometimes known and hereafter referred to as “Treasury Circular 230”).

On March 9, 2007, Richard A. Scully, the Administrative Law Judge in these proceedings (the “ALJ”), entered a Decision by Default against Respondent-Appellant, DISBARRING him from practice before the Internal Revenue Service.¹ The ALJ’s Decision by Default sets forth the various provisions of Treasury Circular 230 Respondent-Appellant was charged with violating, relating to

(b)(3)/26 USC 6103

. In his Complaint, Complainant-Appellee averred that; (1) Respondent, a C.P.A., was authorized to practice before the Internal Revenue Service;² (2) Respondent had in fact practiced before the Internal Revenue Service;³ (4) (b)(3)/26 USC 6103

¹ A Copy of the ALJ’s Decision by Default appears as Attachment A to this Decision on Appeal.

² The ALJ noted this fact in his Decision by Default.

³ This is a jurisdictional prerequisite to Treasury Circular 230 disciplinary proceeding that was not mentioned by the ALJ in his Decision by Default.

The administrative record reflects that Respondent-Appellant received notice of the filing of the Complaint by both Certified Mail and First Class U.S. Mail sent to his last known address.

The Respondent-Appellant never filed an Answer or otherwise responded to the Complaint. Under §10.64(c) of Treasury Circular 230, every allegation in a Complaint that is not denied in an Answer is deemed admitted and will be considered proved. No further evidence in respect of such an allegation need be adduced at a hearing.

On this basis, the ALJ entered his Decision by Default. Thereafter, on March 22, 2007, Complainant-Appellee wrote Respondent-Appellant notifying him of the entry of the ALJ's Decision by Default And advising him of his right to Appeal that Decision by filing a timely Appeal on or before April 9, 2007. On April 3, 2007, Respondent-Appellant wrote Complainant-Appellant urging him, for the reasons set forth in his letter, to permit his "license" to be "renewed."⁴ The letter does not contest any of the allegations contained in the Complaint deemed admitted under §10.64(c) of Treasury Circular 230, but rather asks the Director to permit him to continue to practice "in consideration of" an unspecified "recent illness" and his again unspecified "mental and physical status."

The ALJ's Decision by Default is **AFFIRMED**, the Respondent-Appellant's Appeal is **DENIED**, and Respondent-Appellant is **DISBARRED** from practice before the Internal Revenue Service, effective on the date of the entry of this Decision on Appeal. This Decision on Appeal constitutes **FINAL AGENCY ACTION** in these proceedings.

David F. P. O'Connor, Special Counsel to the
Senior Counsel, Office of Chief Counsel, Internal
Revenue Service
(As Authorized Delegate of Henry M. Paulson
Secretary of the Treasury)

February 21, 2008
Washington, D.C.

⁴ A copy of the April 3, 2007 letter appears as Attachment B to this Decision on Appeal.