

UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
OFFICE OF PROFESSIONAL RESPONSIBILITY  
WASHINGTON, D.C.

DIRECTOR, OFFICE OF  
PROFESSIONAL RESPONSIBILITY

Complainant,

v.

Complaint No. 2008-13

(b)(3)/26 USC 6103 ,

Respondent.

**DECISION ON MOTION FOR DEFAULT JUDGMENT**

On February 13, 2009, a Complaint was issued on behalf of the Acting Director, Office of Professional Responsibility (OPR), Internal Revenue Service, pursuant to 31 C.F.R. §10.60<sup>1</sup>, issued under the authority of 31 U.S.C. §330, alleging that Respondent (b)(3)/26 USC 6103, an attorney engaged in practice before the Internal Revenue Service, as defined by 31 C.F.R. §10.2(d), engaged in disreputable conduct within the meaning of 31 C.F.R. §10.51 and is subject to suspension or disbarment from such practice. Specifically, it is alleged that the Respondent (b)(3)/26 USC 6103

Pursuant to 31 C.F.R. §10.62, Respondent's Answer to the complaint was due within thirty (30) calendar days from the date of the service of the complaint. The Respondent did not file an Answer to the complaint.

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<sup>1</sup> The regulations governing the practice before the IRS, found at 31 C.F.R. Part 10, were most recently revised on September 26, 2007. The savings clause contained at 31 C.F.R. §10.91 of the revised regulations provides that any proceeding under the part based on conduct engaged in prior to September 26, 2007, which is instituted after that date, shall apply the procedural rules of the revised regulations contained in Subpart D (Rules Applicable to Disciplinary Proceedings) and E (General Provisions). However, "...conduct engaged in prior to September 26, 2007, shall be judged by the regulations in effect at the time the conduct occurred." 31 C.F.R. §10.91 (2007)

On May 13, 2009, the Area Counsel for the Office of the General Counsel filed a Complainant's Motion for a Decision by Default, moving that the Administrative Law Judge grant the relief requested in the complaint and specifically order that the Respondent be disbarred for a minimum of 48 months from further practice before the Internal Revenue Service (IRS) pursuant to the provisions of 31 C.F.R. §§10.50, 10.52, 10.76 and 10.79, issued under the authority of 31 U.S.C. §330, reinstatement thereafter being at the sole discretion of the OPR. The motion is based on the Respondent's failure to file an Answer to the complaint. The regulations provide authority for a decision by default where the practitioner does not timely file an answer, despite her receipt of the complaint, notice of the requirement to answer, and the potential consequence of a default decision. 31 C.F.R. §10.64(d). Where the practitioner fails to file an answer to the complaint within the time prescribed, said failure constitutes a waiver of the right to a hearing and the allegations set forth in the complaint are deemed admitted. 31 C.F.R. §10.64(d). Where the practitioner fails to respond within 30 days of a motion for decision by default for failure to file a timely answer, the nonmoving party is deemed to not oppose the motion. 31 C.F.R. §10.68(b).

Having carefully reviewed the pleadings before me, and noting that the Respondent did not file an answer to the complaint or a response to the Complainant's Motion for a Decision by Default, I find that there are no material issues of fact to be resolved and that a decision on the motion for default judgment is the appropriate way to dispense of this matter. The uncontested facts establish the following:

#### **FINDINGS OF FACT**

1. The Respondent has engaged in practice before the Internal Revenue Service, as defined in 31 C.F.R. §10.2(a), as an attorney.
2. The Respondent is subject to the disciplinary authority of the Secretary of the Treasury and the Office of Professional Responsibility, in accordance with 31 C.F.R. §§10.3 and 10.50.
3. The Respondent's last known address of record with the Internal Revenue Service is Address 1.
4. At all times relevant to this complaint, the Respondent was involved in the presentation of matters to the Internal Revenue Service concerning matters relating to taxpayers, as defined by 31 C.F.R. §10.2(a)(4).
5. At all time relevant to the complaint, the Respondent (b)(3)/26 USC 6103

6. Pursuant to 31 C.F.R. §§10.50 and 10.60, the Secretary of the Treasury, by her delegate, here the Office of Professional Responsibility of the IRS, may take a disciplinary action against any practitioner who is shown, *inter alia*, to be disreputable, or who fails to comply with any regulation in these parts.
7. The Respondent is subject to the regulations governing practice before the IRS by virtue of 31 C.F.R. §10.0 *et seq.*, particularly §§10.50, 10.52 and 10.60, and by virtue of those provisions, is subject to disbarment or suspension from practice before the Internal Revenue Service due to disreputable conduct.
8. The Respondent is subject to disbarment or suspension from practice before the IRS under 31 C.F.R. §§10.50 and 10.52, by reason of the fact that the Respondent has engaged in disreputable conduct, as set forth under 31 C.F.R. §10.51, the circumstances of such conduct are more particularly set forth hereinafter.
9. In compliance with 31 C.F.R. §10.60(c), the Respondent previously has been advised in writing of the law, facts and conduct warranting the issuance of the Complaint, and has been accorded an opportunity to dispute facts, assert additional facts and make arguments.

10. (b)(3)/26 USC 6103  
[Redacted]

11. (b)(3)/26 USC 6103  
[Redacted]

12. (b)(3)/26 USC 6103  
[Redacted]

13. (b)(3)/26 USC 6103  
[Redacted]

14. (b)(3)/26 USC 6103  
[Redacted]

15. (b)(3)/26 USC 6103  
[Redacted]

16. (b)(3)/26 USC 6103  
[Redacted] . The Respondent

17. (b)(3)/26 USC 6103

18. (b)(3)/26 USC 6103

19. (b)(3)/26 USC 6103

20. (b)(3)/26 USC 6103

21. (b)(3)/26 USC 6103  
for which the Respondent may be censured, suspended or disbarred from practice before the Internal Revenue Service.

In conclusion, by failing to timely file an answer or response to the motion filed by the Complainant, the Respondent has admitted that (b)(3)/26 USC 6103 as alleged in the complaint and motion.

The Respondent is an attorney who has engaged in practice before the Internal Revenue Service. As such, she is subject to the disciplinary authority of the Secretary of the Treasury and the Director or Acting Director of OPR. 31 U.S.C. §330(a)(1). (b)(3)/26 USC 6103

(b)(3)/26 USC 6103. The Complainant asserts that (b)(3)/26 USC 6103

Pursuant to 31 C.F.R. §10.50, the Respondent's eligibility to practice before the Internal Revenue Service is subject to suspension or disbarment by reason of engaging in disreputable conduct. (b)(3)/26 USC 6103

(b)(3)/26 USC 6103 As  
an attorney representing taxpayers before the Internal Revenue Service, the  
Respondent (b)(3)/26 USC 6103

. I find that the (b)(3)/26 USC 6103  
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With regard to the remedy in this matter, the Complainant seeks to have  
the Respondent disbarred for a minimum of 48 months from further practice  
before the Internal Revenue Service because of (b)(3)/26 USC 6103

. I find the  
recommendation of OPR concerning the appropriate penalty is entitled to  
substantial deference. The Respondent, an attorney, (b)(3)/26 USC 6103

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The allegations against the Respondent are serious in nature and it is important  
to deter similar conduct by other certified agents. Accordingly, I find that, under  
all the circumstances, disbarment from practicing before the IRS is appropriate.

#### ORDER

The Respondent, (b)(3)/26 USC 6103, is hereby disbarred from practice  
before the Internal Revenue Service.

Dated at Washington, D.C., July 1, 2009.

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Susan E. Jelen  
Administrative Law Judge

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<sup>2</sup> Pursuant to 31 C.F.R. §10.77, either party may appeal the Decision to the  
Secretary of the Treasury within thirty (30) days from the date of issuance.