

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. 2008-15

(b)(3)/26 USC 6103,

Respondent.

DECISION BY DEFAULT

On June 13, 2008, 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, 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 such practice for a period of thirty-six (36) months, pursuant to 31 C.F.R. 10.50 and 10.70.

Also on June 13, 2008, copies of the Complaint and Notice of Institution of Proceedings, together with a covering letter, were sent to the Respondent by certified mail, return receipt requested, at her last known address of record with the Internal Revenue Service. The Notice advised the Respondent of her obligation to file an answer to the Complaint within 30 calendar days of service of the Complaint. Respondent was also advised that failure to answer the Complaint could result in a decision of default being rendered against her. The Complaint and Notice and the covering letter were delivered to Respondent at the address indicated on June 19, 2008, as shown by a United States Postal Service return receipt form. To date no answer to the Complaint has been received. Nor has any other communication from Respondent in connection with this case been received.

On July 29, 2008, counsel for the Director filed a Motion for Default Judgment with the undersigned. The motion, together with a covering letter, an affidavit from counsel for the Director, and attached exhibits, were sent to the Respondent, at her last known address, by certified mail, return receipt requested, on July 29, 2008. 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 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 or be subject to having a decision by default entered against her, but she failed to do so. No answer has been filed. 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 are deemed to be admitted, and they may be considered as proved without further evidence. Inasmuch as the allegations in the Complaint have been admitted and no hearing or further proceeding is necessary, based on the record herein, I make the following:

Findings of Fact

1. At all times material, the Respondent was an enrolled agent 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. [REDACTED] (b)(3)/26 USC 6103 [REDACTED].

3. The conduct set forth above in Number 2 above is evidence of willful and disreputable conduct within the meaning of 31 C.F.R. 10.51 and reflects adversely on Respondent's current fitness to practice before the Internal Revenue Service.

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 [REDACTED] 26 USC 6103 [REDACTED] constitutes 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 her suspension from such practice. There is no record evidence of extenuating or mitigating circumstances for such disreputable conduct. Accordingly, a thirty-six (36) month suspension, 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 [REDACTED] 26 USC 6103 [REDACTED] is suspended from practice before the Internal Revenue Service for a period of thirty-six (36) months. Reinstatement thereafter is at the sole discretion of the Office of Professional Responsibility, at a minimum requiring Respondent [REDACTED] 26 USC 6103 [REDACTED].

Dated at Washington, D.C., August 19, 2008

Robert A. Giannasi
Administrative Law Judge

