

**THE DEPARTMENT OF THE TREASURY
OFFICE OF PROFESSIONAL RESPONSIBILITY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C.**

DIRECTOR, OFFICE OF)	
PROFESSIONAL RESPONSIBILITY)	
)	
Complainant)	Complaint No. 2009-11
)	
V.)	
)	
(b)(3)/26 USC 6103)	
)	
Respondent)	

Decision by Default

In this proceeding brought by the Acting Director, Office of Professional Responsibility (OPR), United States Department of the Treasury, Internal Revenue Service (IRS), on February 27, 2009, OPR filed a Complaint against the Respondent, (b)(3)/26 USC 6103, seeking his disbarment from practice before the IRS. Respondent is a practitioner as an attorney before the Internal Revenue Service. Subsequent to the filing of the Complaint, on May 21, 2009, OPR filed a Motion for a Decision by Default. For reasons which follow, the Court, finding the Respondent to be in default, grants OPR's Motion and issues this Decision by Default.

The Complainant, in Eight Counts, alleged that the Respondent engaged in disreputable conduct. Count 1 alleges that the Respondent (b)(3)/26 USC 6103. Respondent granted an extension of time, until October 15, 2002 to make that year's filing. Count 2 alleges the same (b)(3)/26 USC 6103. Count 3, involving (b)(3)/26 USC 6103, likewise involves (b)(3)/26 USC 6103. In that instance the Respondent (b)(3)/26 USC 6103. Count 4 pertains to (b)(3)/26 USC 6103. Though Respondent (b)(3)/26 USC 6103. Count 5 deals with (b)(3)/26 USC 6103. Yet, the Complaint alleges this (b)(3)/26 USC 6103. Count 6 represents a return to (b)(3)/26 USC 6103 (b)(3)/26 USC 6103 in the Complaint, the Respondent (b)(3)/26 USC 6103

(b)(3)/26 USC 6103 . However, the Complaint relates that (b)(3)/26 USC 6103 . Count 7 pertains to (b)(3)/26 USC 6103 . Again, Respondent (b)(3)/26 USC 6103 . Count 8 involves (b)(3)/26 USC 6103 and again the Respondent (b)(3)/26 USC 6103 . The Complaint alleges that the Respondent (b)(3)/26 USC 6103 .

In each of the Counts, except Count 5, the Complainant alleges that the Respondent (b)(3)/26 USC 6103 . Count 5, as set forth above, is different from the other counts in that it pertains to (b)(3)/26 USC 6103 . For each of the Counts in the Complaint, an attachment is included to document the charge made. For example, for Count 1, Attachment 1 was included and shows, through (b)(3)/26 USC 6103 . In each instance, the attachments represent an official records document maintained by the IRS.

The Complaint asserts that, individually and collectively, the Respondent's (b)(3)/26 USC 6103 . The Complaint concludes that such conduct "reflect[s] adversely on [Respondent's] current fitness to practice [and] warrant[s] his disbarment from practice before the Internal Revenue Service." Complaint at 9.

OPR's Motion for Default relates that the Respondent was served a copy of the Complaint via Certified Mail to the Respondent's last known address.¹ The return receipt for that certified mail shows that it was signed with the name (b)(3)/26 USC 6103 at that address on March 3, 2009. OPR Exhibits 1 and 2. The Complaint advised that the Respondent was required to file his Answer within thirty (30) days and that a failure to do so could result in a default decision. Confirming that the Respondent received the Complaint, the Respondent contacted OPR and sought an extension of time to file his Answer. The request was granted by OPR, allowing the Respondent until May 4, 2009 to file his Answer. A second extension was then granted by OPR, this time allowing the Respondent until May 15, 2009 to file his Answer. However, as of the May 21, 2009 filing of OPR's Motion for Default, the Respondent had not filed his Answer. The Court notes that the Respondent's actions are consistent with the allegations in the Complaint. That is, the Respondent (b)(3)/26 USC 6103 . Like the Complaint itself, OPR sent a copy of its Motion for Default to the Respondent's (b)(3)/26 USC 6103 address via certified and by regular mail.

OPR correctly notes that the failure to file an answer "constitutes an admission of the allegations of the complaint and a waiver of [the right to a] hearing, and the

¹ Respondent's address is Address 1.

Administrative Law Judge may make the decision by default without a hearing or further procedure. A decision by default constitutes a decision under §10.76.” 31 C.F.R. § 10.64(d).

Accordingly, with the foregoing history of this matter in mind, OPR seeks to have the Respondent’s failure to file an answer to the allegations in the Complaint deemed as admissions of all of the allegations in it and that the Respondent has, by the same failure, waived his right to a hearing. On the basis of the allegations in the Complaint, now considered by the Respondent’s failures to have been admitted, OPR seeks a Decision by Default for disbarment of the Respondent and also seeking that any future reinstatement be at the sole discretion of OPR, which, at a minimum, would include (b)(3)/26 USC 6103

Certainly each of the eight Counts (b)(3)/26 USC 6103 section provides that “[w]illfully failing to make a Federal tax return in violation of the Federal tax laws, or willfully evading, attempting to evade, or participating in any way in evading or attempting to evade any assessment or payment of any Federal tax” is disreputable conduct for which a practitioner may be sanctioned.

(b)(3)/26 USC 6103
That is, Respondent
(b)(3)/26 USC 6103
Further, he (b)(3)/26 USC 6103, as Respondent (b)(3)/26 USC 6103.

(b)(3)/26 USC 6103 in this Complaint, as Respondent has behaved (b)(3)/26 USC 6103. Respondent when faced with this Complaint sought an extension of the time allowed for an Answer to be filed and then sought still another extension. Having received two extensions, Respondent acted (b)(3)/26 USC 6103 by ignoring the grace period afforded by the extension and continuing to not fulfill his obligation. In the instance of this Complaint, (b)(3)/26 USC 6103, this failure to meet his obligations has consequences. Regarding the failure to file an Answer to the Complaint, the consequence is that the Respondent has waived his right to a hearing and the charges, documented as they are in the attachments to the Complaint, are all deemed to be admitted. With regard to the failure to file an Answer, and Respondent’s failure to respond to the Motion for a decision by default, the consequence is that the Respondent is found to be in DEFAULT per 31 C.F.R. § 10.64.

Having closely considered the evidence in this case and upon finding the Respondent in Default for failing to file an Answer in this proceeding, the Court

concludes that OPR has established by clear and convincing evidence in the record the facts alleged in Counts 1 through 8, that each of such Counts constitute disreputable conduct on the part of the Respondent and that, except for Count 1, each of the other Counts individually justify the sanction of disbarment. Collectively, Counts 2 through 8 serve to highlight the [REDACTED] (b)(3)/26 USC 6103 [REDACTED]

Accordingly, the Court issues this **Decision by Default for DISBARMENT**, with any future reinstatement possibility being at the sole discretion of OPR, with whatever requirements and terms that Office may insist upon.

SO ORDERED.

William B. Moran

June 17, 2009

Washington, D.C.