

THE DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
BEFORE THE ADMINISTRATIVE LAW JUDGE

DIRECTOR, OFFICE OF PROFESSIONAL
RESPONSIBILITY,

Complainant,

v.

(b) (3)/26 USC 6103

Respondent.

17-AF-0013-OD-001
(Complaint No. 2016-00002)

August 24, 2017

(b)(3)/26 USC 6103

INITIAL DECISION ON DEFAULT JUDGMENT

On March 10, 2017, the Director of the Office of Professional Responsibility (“OPR” or “Complainant”) for the Internal Revenue Service (IRS) filed a *Motion for a Decision by Default* (“Default Motion”) in the above-captioned matter.¹

PROCEDURAL HISTORY

On November 22, 2016, the OPR Director filed a *Complaint* against (b) (3)/26 USC 6103 (b)(3)/26 USC 6103 (“Respondent”). The *Complaint* seeks an order disbaring Respondent from practice before the Internal Revenue Service for committing violations of the Federal regulations governing authority to practice before IRS that are set forth in 31 C.F.R. Part 10.²

A copy of the *Complaint* was served on Respondent by United States Postal Service (USPS) via certified mail, return receipt requested, to Respondent’s last known address of record with the (b) (3)/26 USC 6103. In addition, an (b)(3)/26 USC 6103 additional copy was sent to the same address by regular USPS mail. Based upon USPS tracking (b)(6) information, the *Complaint* was delivered to Respondent’s address on November 28, 2016.

By *Notice of Hearing and Order*, issued December 1, 2016, Respondent was required to file an answer within 30 days from the date the *Complaint* is served upon Respondent. The

¹ Pursuant to an Interagency Agreement in effect beginning June 10, 2015, Administrative Law Judges of the United States Department of Housing and Urban Development are authorized to hear cases brought by the Department of the Treasury, Internal Revenue Service.

² The regulations governing practice before the IRS, found at 31 C.F.R. Part 10, were most recently revised on June 12, 2014. The savings clause contained at 31 C.F.R. § 10.91 of the revised regulations provides that any proceeding under this part based on conduct engaged prior to June 12, 2014, which is instituted after that date, shall apply the procedural rules of the revised regulations contained in Subparts D and E, but the conduct engaged in prior to the effective date of these revisions will be judged by the regulations in effect at the time the conduct occurred. 31 C.F.R. § 10.91 (Rev. 6-2014).

Complaint included a similar instruction to Respondent. Respondent did not file a timely answer to the *Complaint*. As of the date of this *Initial Decision*, Respondent has not filed an answer, requested an extension of time to do so, or otherwise appeared in this matter.

CONSEQUENCES OF FAILURE TO ANSWER

Section 10.64 of title 31 of the Code of Federal Regulations sets forth the requirement for answering a complaint and the consequences for not do so.

Failure to file an answer within the time prescribed (or within the time for answer as extended by the Administrative Law Judge), constitutes an admission of the allegations of the complaint and a waiver of hearing, and the Administrative Law Judge may make a decision by default without a hearing or further procedure.

31 C.F.R. § 10.64(d). As a result of Respondent's failure to answer the *Complaint*, Respondent is deemed to have admitted the allegations in the *Complaint*, which are set forth below as the Court's findings of fact.

FINDINGS OF FACT

Respondent has engaged in practice before the IRS as a certified public accountant subject to the disciplinary authority of the Secretary of the Treasury and the OPR. Respondent's last known address of record with the Internal Revenue Service is

(b) (3)/26 USC 6103 (b)(3)/26 USC 6103
(b)(3)/26 USC 6103 (b)(6)
(b)(6)

Respondent is a shareholder and partner in the CPA (b) (3)/26 USC 6103 located in Rockville, Maryland. (b)(3)/26 USC 6103

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CONCLUSIONS OF LAW

The *Complaint* alleges Respondent willfully engaged in 5 counts of misconduct in violation of the Federal regulations governing practice before the IRS.

A practitioner may be sanctioned for willfully violating the regulations set forth at 31 C.F.R. Part 10. Incompetence and disreputable conduct are sanctionable pursuant to the regulations. 31 C.F.R. § 10.51. A practitioner that willfully attempts to evade payment of any Federal tax may be sanctioned for disreputable conduct pursuant to 31 C.F.R. § 10.51(a)(6).

(b)(3)/26 USC 6103 (b)(3)/26 USC 6103
(b)(3)/26 USC 6103 constitutes a separate (b)(3)/26 USC 6103
count of disreputable conduct in violation of 31 C.F.R. § 10.51(a)(6). Such conduct has resulted
in an (b)(3)/26 USC 6103 (b)(3)/26 USC 6103

³ The *Complaint* incorrectly states that (b)(3)/26 USC 6103 (b)(3)/26 USC 6103
(b)(3)/26 USC 6103 (b)(3)/26 USC 6103

SANCTION

Respondent's actions constitute disreputable conduct and failure to comply with the regulations governing practice before the IRS as set forth in 31 C.F.R. Part 10. The OPR Director claims Respondent's misconduct adversely reflects on Respondent's fitness to practice before the IRS and, as such, warrants his disbarment from practice. In support of this claim, the OPR Director notes, as an aggravating factor, that Respondent has engaged in the same pattern of behavior since 1998.

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

Willfully evading the payment of a federal tax warrants a sanction. OPR v. Craft, Complaint Number 2010-12, Decision on Appeal (IRS, Oct. 12, 2011). Based upon the uncontested aggravating factor proffered by the OPR Director

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

(b) (3)/26 USC 6103 Respondent's extensive history of misconduct, a severe sanction is warranted. (b)(3)/26 USC 6103

CONCLUSION

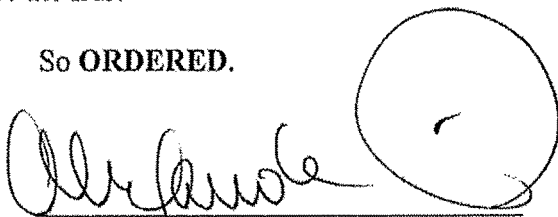
Respondent failed to file an answer to the *Complaint* and is in **DEFAULT**. As such, his lack of response constitutes an admission of the allegations in the *Complaint* and a waiver of hearing. See 31 C.F.R. § 10.64(d). Based upon the allegations deemed admitted by Respondent, the Court finds, by clear and convincing evidence, that Respondent

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

(b) (3)/26 USC 6103 Respondent's conduct, as set forth in Counts 1-5, constitute incompetence and disreputable conduct pursuant to 31 C.F.R. § 10.51. (b)(3)/26 USC 6103

The Court finds that the seriousness of Respondent's offenses, coupled with the aggravating factor proffered by the OPR Director, demonstrate that Respondent is unfit to practice before the IRS and disbarment is warranted. Accordingly, Respondent is **DISBARRED** from practice before the IRS.

So ORDERED.

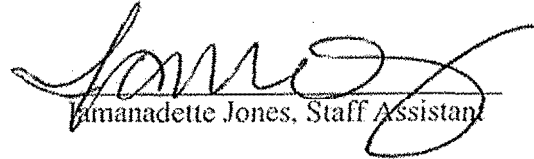


Alexander Fernández
United States Administrative Law Judge

Notice of Appeal Rights: Within thirty (30) days of this *Initial Decision*, either party may file an appeal with the Secretary of the Treasury, or delegate deciding appeals. 31 C.F.R. § 10.77(a). In the absence of an appeal to the Secretary of the Treasury or delegate, this *Initial Decision* will, without further proceedings, become the decision of the agency 30 days after the issuance date. 31 C.F.R. § 10.76(d).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **INITIAL DECISION ON DEFAULT JUDGMENT**, issued by Alexander Fernández, Administrative Law Judge, in 17-AF-0013-OD-001, were sent to the following parties on this 24th day of August, 2017, in the manner indicated:


Lamanadette Jones, Staff Assistant

VIA REGULAR MAIL:

(b) (3)/26 USC 6103

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(b)(6)

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