

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

DIRECTOR, OFFICE OF PROFESSIONAL
RESPONSIBILITY,

Complainant,

v.

LINDA R. SHARP, CPA,

Respondent.

18-AF-0132-OD-002
(Complaint No. 2018-00002)

September 7, 2018

INITIAL DECISION ON DEFAULT JUDGMENT

On April 12, 2018, the Director of the Office of Professional Responsibility (“OPR” or “Complainant”) for the Internal Revenue Service (IRS) filed a *Complainant’s Motion for Decision by Default* (“Default Motion”) in the above-captioned matter.¹

PROCEDURAL HISTORY

On March 5, 2018, the OPR Director filed a *Complaint* against Linda R. Sharp (Respondent). The *Complaint* seeks an order disbaring Respondent from practice before the IRS for committing violations of 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 IRS: Linda R. Sharp, CPA, [REDACTED]. In addition, an additional copy was sent to the same address by USPS mail. Based upon USPS tracking information, the *Complaint* was delivered to the Respondent’s address on March 6, 2018.

(b)(6)

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 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 Subpart 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).

By *Notice of Hearing and Order*, issued March 7, 2018, Respondent was required to answer within 30 days from the date the *Complaint* is served upon Respondent. The *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.

APPLICABLE LEGAL PRINCIPLES

The Secretary of Treasury is authorized by statute to “regulate the practice of representatives of persons before the Department of Treasury,” including representatives who practice before the IRS. 31 U.S.C. § 330(a). The standards of conduct for IRS representative are set forth in 31 C.F.R. part 10, and the OPR Director is charged with enforcing these standards. See 31 C.F.R. § 10.1(a).

The OPR Director may suspend, disbar, censure, or impose a monetary penalty on any IRS representative who is incompetent or disreputable or who violates the standards of conduct for IRS representatives. See 31 U.S.C. § 330(c); 31 C.F.R. § 10.50(a), (c). When the OPR Director determines that a practitioner has violated the rules of conduct, he may initiate a proceeding for sanctions after giving the practitioner notice and opportunity to respond to all allegations against him. See 31 C.F.R. § 10.60(a), (c). Proceedings for sanctions are conducted before an administrative law judge in accordance with the Administrative Procedure Act and the procedural rules set forth in 31 C.F.R. part 10, subpart D. *Id.* §§ 10.0, 10.70, 10.72(a)(1), (a)(3)(ii).

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 doing 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 the 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 in the Court’s findings of fact.

FINDINGS OF FACT

Respondent has engaged in practice before the IRS as a certified public accountant (CPA) subject to disciplinary authority of the Secretary of Treasury and OPR. Respondent’s last known address of record with the IRS is [REDACTED] Respondent holds an active certificate of qualification allowing practice as a CPA in North Carolina.

(b)(6)

Respondent is self-employed and conducts business as Linda R. Sharp, CPA from the above listed address. Respondent prepares tax returns for the general public and represents taxpayers during audits and examinations by the IRS. Respondent, acting in her capacity as a CPA, prepared federal income tax returns for taxpayers for the 2009, 2010, 2011, 2012, 2013, and 2014 tax years. Certain tax returns prepared by Respondent were selected by the IRS for examination and these returns showed that Respondent was claiming deductions not permitted by law or not supported by adequate documentation and giving her clients and the Department of Treasury false or misleading information.

Respondent prepared tax returns for Taxpayer A for tax years [redacted]

(b)(3)/26 USC 6103

(b)(3)/26 USC 6103

[redacted]

not applicable.

Respondent prepared tax returns for Taxpayer B for tax years [redacted]

(b)(3)/26 USC 6103

(b)(3)/26 USC 6103

[redacted]

Respondent prepared tax returns for Taxpayer C for tax years [redacted]

(b)(3)/26 USC 6103

(b)(3)/26 USC 6103

[redacted]

Respondent prepared tax returns for Taxpayer D for tax years [redacted]

(b)(3)/26 USC 6103

(b)(3)/26 USC 6103

[redacted]

Respondent prepared tax returns for Taxpayer E for tax year [redacted]

(b)(3)/26 USC 6103

(b)(3)/26 USC 6103

[redacted]

Respondent prepared tax returns for Taxpayer F for tax years [redacted]

(b)(3)/26 USC 6103

(b)(3)/26 USC 6103

[redacted]

[Redacted]

(b)(3)/26 USC 6103

Respondent prepared tax returns for Taxpayer G for tax years

[Redacted]

(b)(3)/26 USC 6103

[Redacted]

(b)(3)/26 USC 6103

Respondent prepared tax returns for Taxpayer H for tax years

[Redacted]

(b)(3)/26 USC 6103

[Redacted]

(b)(3)/26 USC 6103

Respondent prepared tax returns for Taxpayer I for tax year

[Redacted]

(b)(3)/26 USC 6103

[Redacted]

(b)(3)/26 USC 6103

expenses.

Respondent prepared tax returns for Taxpayer J for tax years

[Redacted]

(b)(3)/26 USC 6103

[Redacted]

(b)(3)/26 USC 6103

Respondent prepared tax returns for Taxpayer K for tax years

[Redacted]

(b)(3)/26 USC 6103

[Redacted]

(b)(3)/26 USC 6103



CONCLUSIONS OF LAW

The *Complaint* alleges Respondent willfully engaged in 62 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 federal regulations. 31 C.F.R. § 10.51. A practitioner that gives false or misleading information to an employee of the Department of Treasury in connection to a pending matter, while knowing that information to be false or misleading, is subject to sanctions. 31 C.F.R. § 10.51(a)(4). A practitioner that willfully assists or encourages a client in violating federal tax law or suggests to a client to violate federal tax law is subject to sanctions. 31 C.F.R. § 10.51(a)(7). In addition, a practitioner may be sanctioned for giving false opinions, or through gross negligence providing opinions that are misleading, or engaging in a pattern of providing incompetent opinions on questions of federal tax laws. 31 C.F.R. § 10.51(a)(13).

Respondent willfully assisted taxpayers in violating federal law for tax years 2011, 2012, 2013 and 2014. First, for tax years 2011, 2012, 2013, and 2014, Respondent willfully assisted taxpayers in filing returns or taking positions on tax returns that lacked a reasonable basis, in violation of federal tax laws. See 31 C.F.R. § 10.34(a). For tax years 2012, 2013, and 2014, Respondent willfully encouraged taxpayers to take positions on documents submitted to the IRS that were frivolous, in violation of federal tax laws. See 31 C.F.R. § 10.34(b). For those same tax years, Respondent provided false information to the IRS in connection with certain taxpayers' pending matters, in violation of federal tax laws. See 31 C.F.R. § 10.51(a)(4). Respondent also willfully assisted or counseled taxpayers in a plan to evade federal taxes and provided false opinions that were intentionally misleading and engaged in a pattern of providing incompetent opinions, in violation of federal tax laws. See 31 C.F.R. § 10.51(a)(7); § 10.51(a)(13).

Last, Respondent engaged in disreputable conduct and willfully violated the regulations governing practice before the IRS by failing to respond to the OPR's request for information. When a proper and lawful request is made by a duly authorized officer of employee of the IRS concerning an inquiry into an alleged violation of the regulations, a practitioner is required to provide any information the practitioner has concerning the alleged violation unless the practitioner believes, in good faith and on reasonable grounds, that the information is privileged. 31 C.F.R. § 10.20(a)(3) (Rev. 6-2014). OPM sent Respondent a lawful request for information

regarding alleged violations of IRS regulations. However, Respondent willfully failed to respond to the request for information despite being granted an extension to respond. Such failure constitutes a violation of IRS regulations and is sanctionable conduct.

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 that Respondent has engaged in the same pattern of behavior since 2011. For each tax year since 2011, Respondent has engaged in a pattern of willful and reckless conduct in violation of federal tax law.

(b)(3)/26 USC 6103

(b)(3)/26 USC 6103

Given Respondent's extensive history of misconduct while serving in her capacity as a CPA, a severe sanction is warranted.

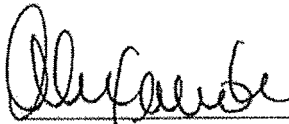
(b)(3)/26 USC 6103

CONCLUSION

Respondent failed to file an answer to the *Complaint* and is in **DEFAULT**. As such, her 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 counseled and advised her clients to violate federal tax laws for tax years 2011, 2012, 2013, and 2014. Respondent's conduct constitutes incompetence and disreputable conduct pursuant to 31 C.F.R. § 10.51.

The Court finds that the seriousness of Respondent's offenses 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,



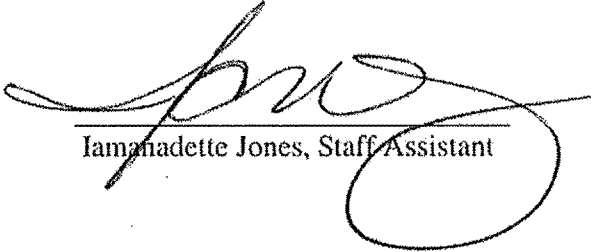
Alexander Fernández

United States Administrative Law Judge

Notice of Appeal Rights. Pursuant to 31 C.F.R. § 10.77, this decision may be appealed by any party by filing a Notice of Appeal within thirty (30) days of the date this decision is served on the party. The Notice of Appeal must be filed with the Secretary of the Treasury, or delegate deciding appeals, and must include a brief that states exceptions to the decision of the Administrative Law Judge and supporting reasons for such exceptions. The Notice of Appeal must be filed in duplicate with the OPR Director, and a copy of the Notice of Appeal and supporting brief must be served on any non-appealing party's representative.

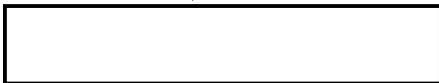
CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **INITIAL DECISION ON DEFAULT JUDGMENT**, issued by Alexander Fernández, Administrative Law Judge, in 18-AF-0132-OD-002, were sent to the following parties on this 7th day of September 2018, in the manner indicated:


Iamhadette Jones, Staff Assistant

VIA REGULAR MAIL:

Linda R. Sharp, CPA



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