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

DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY, Complainant

Complaint Number: 2010-16 Docket Number: 10-IRS-0002

v.

(b)(3)/26 USC 6103

Respondent

HON. WALTERJ. BRUDZINSKI Administrative Law Judge

ORDER GRANTING MOTION FOR A DECISION BY DEFAULT

Introduction

Complainant IRS requests a Default Decision because the Respondent has not filed his Answer to the Complaint or asked for an extension of time to file his answer. Further, Respondent has not replied to Complainant's Motion for a Default Decision. As shown below, Complainant's Motion for Default Decision is granted.

The Complaint

On August 18, 2010, the Department of the Treasury, Office of Professional Responsibility, Internal Revenue Service (Complainant or IRS) filed its Complaint and served it on (b)(3)/26 USC 6103 (Respondent). The Complaint alleges Respondent committed eleven (11) violations of disreputable conduct under the regulations by

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(b)(3)/26 USC 6103	
The Complaint alleges that (b)(3)/26 USC 6103	

and constitutes disreputable

conduct pursuant to 31 C.F.R. § 10.51.

On June 29, 2010, the IRS sent its Complaint to Respondent via certified mail at his address of record listed on his Request for Hearing with instructions on how to file an answer. The Complaint specifically provided that pursuant to 31 C.F.R. § 10.62, Respondent's Answer to the Complaint must be filed at the ALJ Docketing Center, Room 412, 40 S. Gay Street, Baltimore Maryland 21202-4022 with a copy served on the IRS Attorney within thirty (30) calendar days of service.

Law and Procedure

To date, Respondent has not filed his answer to the Complaint nor has he replied to the Motion for a Default Decision. Title 31 C.F.R. § 10.64(d) provides that "[f]ailure 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. A decision by default constitutes a decision under §10.76."

Decision

Title 31 C.F.R. § 10.68(b) prescribes "if a non-moving party does not respond within 30 days to a filing of a motion for decision by default for failure to file a timely answer ... the nonmoving party is deemed not to oppose the motion." Therefore, in accordance with 31 C.F.R. § 10.64(d) and § 10.76, the allegations in the Complaint are hereby deemed ADMIITED. The IRS has met its burden to demonstrate that no genuine issue of material fact is present and is entitled to a decision as a matter of law.

Respondent's actions as set forth above constitute disreputable conduct pursuant to 31 C.F.R. § 10.51, and reflect adversely on his fitness to practice. Upon review of the facts presented in the record as a whole, I find IRS's proposed penalty of disbarment is fair and appropriate. Respondent (b)(3)/26 USC 6103

(b)(3)/26 USC impacts directly on his fitness to practice before the Internal

Revenue Service.

WHEREFORE,

ORDER

IT IS HEREBY ORDERED that Complainant's Motion for Default Decision is GRANTED.

IT IS FURTHER ORDERED that Respondent, (b)(3)/26 USC 6103, is DISBARRED from practice before the Internal Revenue Service.

PLEASE TAKE NOTICE that Attachment A provides your appeal rights.

Done and dated November 17, 2010 New York, New York

/s/

HON. WALTER J. BRUDZINSKI Administrative Law Judge U.S. Coast Guard