UNITED STATES OF AMERICA
THE DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

KAREN L. HAWKINS,	)	Complaint No. IRS 2013-00011
DIRECTOR,	)	
OFFICE OF PROFESSIONAL	)	DECISION BY DEFAULT AND
RESPONSIBILITY,	)	ORDER
INTERNAL REVENUE SERVICE,	)	
	)	
Complainant	)	
	)	
v.	)	
[redacted],	)	
	)	
Respondent	)	

PROCEDURAL HISTORY

On September 23, 2013, by the authority of 31 C.F.R. part 10 ("Circular 230") and Internal Revenue Service ("IRS") Delegation Order 25-16, 2012, Complainant Karen L. Hawkins, in her official capacity as Director, Office of Professional Responsibility ("OPR"), United States Department of the Treasury, IRS, issued Complaint No. IRS 2013-00011 ("Complaint") against Respondent, [redacted], pursuant to 31 C.F.R. § 10.60.[1] The Complaint alleged that Respondent is an enrolled agent who has practiced before the IRS and engaged in disreputable

[1] The regulations governing practice before the IRS, found at 31 C.F.R., Part 10, were most recently revised August 2, 2011. 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 in prior to September 26, 2007, 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.

conduct within the meaning of 31 C.F.R. §§ 10.51 and 10.52. The Complaint sought to have Respondent disbarred from practice before the IRS.

On August 6, 2013, the Complaint and a cover letter were sent to Respondent by United States Postal Service ("USPS") Certified Mail, Return Receipt Requested. The Complaint and cover letter were sent to Respondent's last known address of record with the IRS: *[Redacted]*, [redacted], [redacted] *[Redacted]*. On September 20, 2013, the Complaint was returned to Complainant because it was not claimed by Respondent.

On September 23, 2013, pursuant to 31 C.F.R. § 10.63(a)(2)(ii), Complainant served a copy of the Complaint and cover letter on Respondent by USPS First Class Mail sent to Respondent's last known address of record with the IRS: *[Redacted]*, [redacted], [redacted] *[Redacted]*. By operation of 31 C.F.R. § 10.63(a)(2)(ii), service of the Complaint was complete upon mailing by USPS First Class Mail.

The Complaint and cover letter notified Respondent that he was required to file an answer with this Office within thirty (30) calendar days from the date of service, and that a failure to file an answer may result in a decision by default being rendered against Respondent. To date, no answer has been filed.

FINDINGS

1. Respondent has engaged in practice before the IRS as an enrolled agent as defined by 31 C.F.R. § 10.3(c).

2. By virtue of this practice before the IRS as described in ¶ 1, Respondent is subject to the disciplinary authority of the Secretary of the Treasury under 5 U.S.C. § 500 and of the OPR under 31 C.F.R. §§ 10.2, 10.3, and 10.50.

3. Respondent's last known address of record with the IRS is: *[Redacted]*, [redacted], [redacted] *[Redacted]*.

4. In accordance with 31 C.F.R. § 10.60(c), Respondent was advised in writing of the law and facts warranting the issuance of the Complaint and was given the opportunity to dispute facts, assert additional facts, and make arguments to OPR regarding his case.

Count 1

5. Respondent (b)(3)/26 USC 6103 [redacted].

6. Pursuant to (b)(3)/26 USC 6103 [redacted], Respondent (b)(3)/26 USC 6103 [redacted].

7. Respondent (b)(3)/26 USC 6103 [redacted]

8. Such (b)(3)/26 USC 6103 [redacted] for which Respondent may be censured, suspended or disbarred from practice before the IRS.

Count 2

9. Respondent (b)(3)/26 USC 6103 [redacted].

10. Pursuant to (b)(3)/26 USC 6103 [redacted], Respondent (b)(3)/26 USC 6103 [redacted].

11. Respondent (b)(3)/26 USC 6103 [redacted]

12. Such (b)(3)/26 USC 6103 [redacted] for which Respondent may be censured, suspended or disbarred from practice before the IRS.

Count 3

13. Respondent (b)(3)/26 USC 6103 [redacted].

14. Pursuant to (b)(3)/26 USC 6103 [redacted], Respondent (b)(3)/26 USC 6103 [redacted].

15. Respondent (b)(3)/26 USC 6103 [redacted]

16. Such (b)(3)/26 USC 6103 [redacted] for which Respondent may be censured, suspended or disbarred from practice before the IRS.

Count 4

17. Respondent (b)(3)/26 USC 6103 [redacted].

18. Pursuant to (b)(3)/26 USC 6103 [redacted], Respondent (b)(3)/26 USC 6103 [redacted].

19. Respondent (b)(3)/26 USC 6103 [redacted]

20. Such (b)(3)/26 USC 6103 [redacted] for which Respondent may be censured, suspended or disbarred from practice before the IRS.

Count 5

21. Respondent (b)(3)/26 USC 6103 [redacted]

22. Pursuant to (b)(3)/26 USC 6103 [redacted], Respondent (b)(3)/26 USC 6103 [redacted]

23. Respondent (b)(3)/26 USC 6103 [redacted].

24. Such (b)(3)/26 USC 6103 [redacted], for which Respondent may be censured, suspended or disbarred from practice before the IRS.

Count 6

25. Respondent's (b)(3)/26 USC 6103 [redacted], as set forth in ¶¶ 5 through 24 above, establishes Respondent's (b)(3)/26 USC 6103 [redacted], for which Respondent may be censured, suspended, or disbarred from practice before the IRS.

Count 7

26. On July 30, 2010, OPR mailed a letter to Respondent at his last known address of record with the IRS requesting information concerning his alleged violations of Circular 230.

27. Respondent failed to respond to OPR's July 30, 2010, request for information.

28. Respondent's failure to respond to OPR's July 30, 2010, request for information was willful and constitutes disreputable conduct pursuant to 31 C.F.R. § 10.51 generally, and a willful violation 31 C.F.R. § 10.20(b) more particularly, for which Respondent may be censured, suspended, or disbarred from practice before the IRS.

AGGRAVATING FACTORS REFLECTING ON RESPONDENT'S CURRENT FITNESS TO PRACTICE

29. Respondent [redacted].

30. Respondent's [redacted] is an aggravating factor reflecting on Respondent's current fitness to practice.

CONCLUSIONS

31. By operation of 31 C.F.R. § 10.63(a)(2)(ii), Complainant completed service of the Complaint on September 23, 2013, upon mailing the same by USPS First Class Mail to Respondent's last known address of record with the IRS: *[Redacted]*, [redacted], [redacted] *[Redacted]*. Pursuant to 31 C.F.R. § 10.63(a)(2)(ii), service is completed upon mailing of the Complaint via USPS First Class Mail, without regard to whether or not the Complaint was returned as undeliverable. *See* 31 C.F.R. § 10.63(a)(2)(ii); *see also Dir. Office of Prof'l Responsibility v.* [redacted], Complaint No. 2008-05 (Default Decision and Order, dated July 10, 2009).

32. As provided by 31 C.F.R. § 10.64(c), Respondent's failure to deny or otherwise answer any of the allegations in the Complaint must be deemed an admission by Respondent of the conduct described in Counts 1 through 7 of the Complaint, as well as the aggravating factor reflecting on his current fitness to practice described in the Complaint. Accordingly, the material set-forth in ¶¶ 1-30 above is deemed admitted and considered proved by operation of 31 C.F.R. § 10.64(c)-(d). Further, failure to file an answer within the time prescribed constitutes an admission of the allegations in the Complaint and a waiver of hearing pursuant to 31 C.F.R. § 10.64(d).

33. The Respondent's actions, as set-forth in Counts 1-7 and the aggravating factor reflecting on his current fitness to practice described in the Complaint as detailed in ¶¶ 29-30 above, constitute incompetence and disreputable conduct under 31 C.F.R. § 10.51, and reflect adversely on his current fitness to practice before the IRS, for which the Respondent may be subject to sanction (censure, suspension or disbarment from practice before the IRS) pursuant to 31 C.F.R §§ 10.50, and 10.52.

34. Pursuant to 31 C.F.R §§ 10.50, 10.70, and 10.76, after notice and an opportunity for a proceeding, an Administrative Law Judge assigned to adjudicate a

complaint filed by the Director of OPR under 31 C.F.R § 10.60 may sanction (censure, suspend or disbar from practice before the IRS) any practitioner if the practitioner is shown to be incompetent or disreputable (within the meaning of 31 C.F.R § 10.51). In determining the appropriate sanction, an Administrative Law Judge assigned to adjudicate a complaint filed by the Director of OPR under 31 C.F.R. § 10.60 shall take into account "all relevant facts and circumstances." 31 C.F.R. § 10.50(e).

35. The Director of OPR is the Treasury Department official who has the primary responsibility to investigate allegations of misconduct by practitioners and to bring proceedings to enforce regulations governing practice before the IRS. The Director thus possesses substantial expertise in weighing the seriousness of alleged misconduct in the context of the practitioner's profession and industry and familiarity with prior decisions rendered in other disciplinary proceedings brought by OPR; therefore, the Director's proposed sanction in a particular case is entitled to deference. *See Dir., Office of Prof'l Responsibility v.* [redacted] , Complaint No. 2008-12 (Decision and Order, dated November 18, 2008), p. 6 (recognizing deference, but imposing lesser penalty than requested); *Dir, Office of Prof'l Responsibility v.* [redacted], Complaint No. 2008-12 (Decision on Appeal, dated January 20, 2010), p. 6 (increasing penalty from 24-month suspension imposed by Administrative Law Judge to requested 48-month suspension).

36. Complainant weighed all of the factors relevant to Respondent's current fitness to practice. Based on those factors, Complainant seeks disbarment pursuant to the provisions of 31 C.F.R. §§ 10.50 and 10.52 issued under the authority of 31 U.S.C. § 330, reinstatement thereafter being conditioned upon the provisions contained in 31 C.F.R. §§ 10.79 (relating to effect of disbarment) and 10.81 (relating to petitions for reinstatement).

37. I find that disbarment is an appropriate and reasonable sanction in this case.

Based on the foregoing findings and conclusions under 31 C.F.R. §§ 10.64(d), 10.76, I hereby enter the following:

DECISION BY DEFAULT AND ORDER

Pursuant to 31 C.F.R. § 10.64(d), a decision by default is entered and I hereby order Respondent [redacted] disbarred from practice before the IRS, with any reinstatement being conditioned upon the provisions contained in 31 C.F.R. §§ 10.79 and 10.81.

_/S/__________________
Harvey C. Sweitzer
Administrative Law Judge

Dated: February 27, 2014,
Salt Lake City, Utah.

Pursuant to 31 C.F.R. § 10.77, this Decision may be appealed to the Secretary of the Treasury within thirty (30) days from the date of service of this Decision on the parties. The Notice of Appeal must be filed in duplicate with the Director, Office of Professional Responsibility, 1111 Constitution Ave. NW, SE: OPR 7238IR, Washington D.C. 20224, and shall include a brief that states the party's exceptions to this Decision and supporting reasons for any exceptions.

See page 9 for Distribution.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Order titled "DECISION BY DEFAULT AND ORDER" (Complaint No. IRS 2013-00011) upon the following parties to this proceeding via certified and first class mail at the addresses below:

Ian J. Watson, Esq.
Office of Chief Counsel
Internal Revenue Service
[Redacted]
San Francisco, California *[Redacted]*

[redacted]
[Redacted]
[redacted], [redacted] *[Redacted]*

Dated February 27, 2014,
at Salt Lake City, Utah.

/S/____________
Brooke A. Gordon
Legal Assistant