# UNITED STATES OF AMERICA DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE OFFICE OF PROFESSIONAL RESPONSIBILITY WASHINGTON, D.C.

DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILTY

Complainant

V.

Complaint No. 2007-33

(b)(3)/26 USC 6103

Respondent

G. Roger Markley, Esq., for the Complainant.

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

for the Respondent, pro se.

### **DECISION**

MICHAEL A. ROSAS, Administrative Law Judge: This matter arises from a complaint issued on July 13, 2007, by the Director, Office of Professional Responsibility, Department of the Treasury, Internal Revenue Service (OPR), pursuant to 31 C.F.R. § 10.60 (also referred to as Section 10.60 of the Treasury Department Circular No. 230).

The complaint seeks to have the Respondent, (b)(3)/26 USC 6103 (the Respondent), an enrolled agent who practices before the Internal Revenue Service (IRS), disbarred from such practice, pursuant to 31 C.F. R. §§ 10.50 and 10.70, for having willfully engaged in disreputable conduct as set forth in 31 C.F. R. § 10.51. Specifically, it is alleged that the Respondent

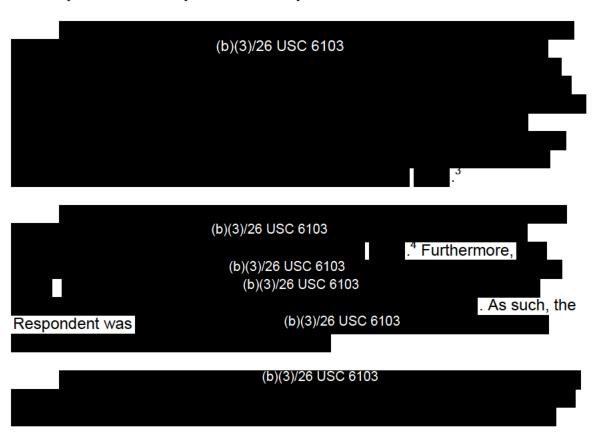
10.70, for flaving willfully engaged in disreputable conduct as set forth in 51 C.1.
R. § 10.51. Specifically, it is alleged that the Respondent
(b)(3)/26 USC 6103
. In his answer to the complaint, the Respondent
denied the material allegations in the complaint. He contends that
(b)(3)/26 USC 6103 , thus, there is no basis for
disbarment from the practice of representing taxpayers before the IRS.

On March 27, 2008, a hearing was held before me in Grand Rapids, Michigan, at which the parties were given a full opportunity to examine and cross-examine witnesses and to present other evidence and arguments. Closing arguments were made at the conclusion of the hearing, and the parties submitted proposed findings and conclusions of law and supporting reasons.

Upon the entire record, and based on my observation of the demeanor of the witnesses, I make the following:

## FINDINGS OF FACT<sup>1</sup>

The Respondent, (b)(3)/26 USC 6103, is an enrolled agent who practices before the Internal Revenue Service (IRS). His address of record is (b)(3)/26 USC 6103; (b)(6). As an enrolled agent engaged in practice before the IRS, as defined by 31 CFR §10.2(d), the Respondent is subject to the disciplinary authority of the Secretary of the Treasury and the Director of the OPR.



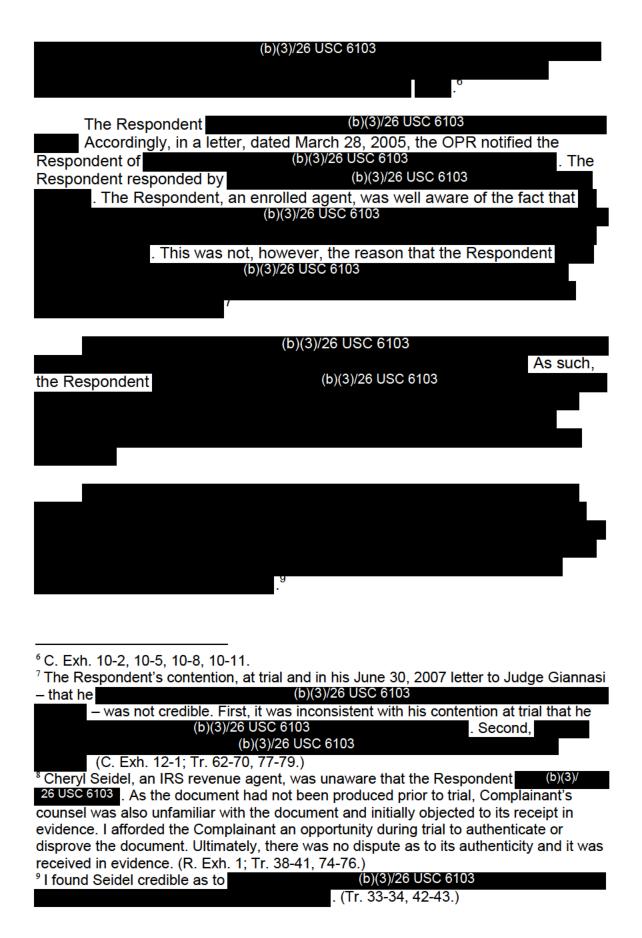
<sup>&</sup>lt;sup>1</sup> "Tr." refers to transcript pages, "C. Exh." refers to Complainant's exhibits, and "R. Exh." refers to the Respondent's exhibits.

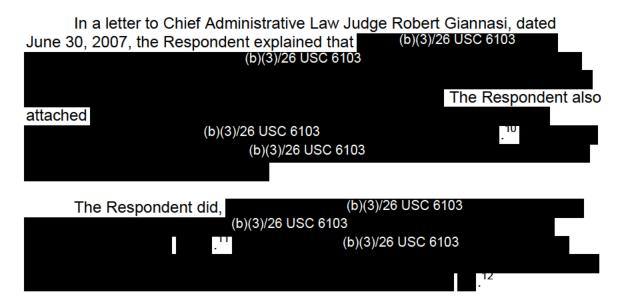
<sup>&</sup>lt;sup>2</sup> C. Exh. 1A and 13-1 (para. 3).

<sup>&</sup>lt;sup>3</sup> C. Exh. 11-1, 11-4, 11-7, 11-10, 11-15, 12-14 and 12-15.

<sup>&</sup>lt;sup>4</sup> C. Exh. 11-1 through 11-4, 11-10, 11-15 through 11-18, and 12-14 through 12-15; Tr. 27-28.

<sup>&</sup>lt;sup>5</sup> C. Exh. 7; Tr. 31.





### ANALYSIS AND DISCUSSION

The Respondent is an enrolled agent who has engaged in practice before the Internal Revenue Service. As such, he is subject to the disciplinary authority of the Secretary of the Treasury and the Director or Acting Director of OPR. 31 U.S.C. § 330(a)(1).

(b)(3)/26 USC 6103

In conclusion, the clear and convincing evidence establishes that the Respondent's aforementioned (b)(3)/26 USC 6103

inconsistent and incredible. The record established that (b)(3)/26 USC 6103

that (b)(3)/26 USC 6103

. Moreover, he conceded at trial (b)(3)/26 USC 6103

. Accordingly, (b)(3)/26 USC 6103

4

.

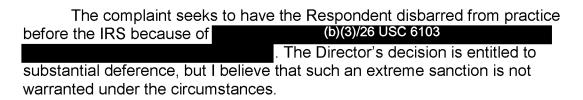
<sup>&</sup>lt;sup>10</sup> The Respondent does not contend that, other than attaching them to his letter to Judge Giannasi, (b)(3)/26 USC 6103 . (C. Exh. 12-1 through 12-27.)

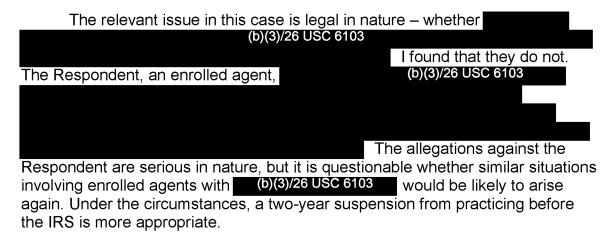
<sup>&</sup>lt;sup>11</sup> C. Exh. 10-6 through 10-9 and 11-1 through 11-22.

<sup>&</sup>lt;sup>12</sup> C. Exh. 11-2, 11-8, 11-16.

for which he may be suspended from practice before the Internal Revenue Service pursuant to 31 C.F.R. (b)(3)/26 USC (2002) and 31 C.F.R. (b)(3)/26 USC (2005).

### SANCTION

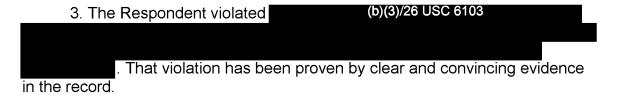




I find that the allegations against the Respondent have been proven by clear and convincing evidence in the record, the standard provided in 31 C.F.R. § 10.50 to support the sanction of a two-year suspension from practicing before the IRS.

## **CONCLUSIONS OF LAW**

- 1. The Respondent, (b)(3)/26 USC 6103, is an enrolled agent who has practiced before the Internal Revenue Service and is subject to the disciplinary authority of the Secretary of the Treasury and the Director, Office of Professional Responsibility.
- 2. 31 C.F.R. §10.51 (f) (2002) provides that willfully failing to make a Federal income tax return is grounds for discipline.



4. Upon the foregoing findings of fact and conclusions of law, and the entire record, pursuant to 31 C.F.R. §10.76, I issue the following:

# ORDER<sup>13</sup>

The Respondent, (b)(3)/26 USC 6103, is suspended from practice before the Internal Revenue Service for a period of two years.

Dated at Washington, D.C. May 19, 2008

Michael A. Rosas Administrative Law Judge

<sup>&</sup>lt;sup>13</sup> Pursuant to 31 C.F.R. §10.77, either party may appeal this Decision to the Secretary of the Treasury within thirty (30) days from the date of issuance of this Decision.