



UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

February 23, 2021

PRESS RELEASE

The Chief Judge of the United States Tax Court announced today that the following practitioners have been reprimanded, suspended, or disbarred by the United States Tax Court for reasons explained in an order issued in the case of each practitioner. Copies of the orders and the memorandum sur order with respect to John Joseph Koresko are attached.

1. Jonathan F. Altman
2. Moises A. Aviles
3. Eric A. Bopp
4. John Joseph Koresko
5. Louis Joseph Posner

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: Jonathan F. Altman

ORDER OF DISBARMENT

This Court issued an Order to Show Cause to Mr. Altman on October 8, 2020, affording him the opportunity, on or before November 9, 2020, to show cause why he should not be suspended or disbarred from practice before this Court, or otherwise disciplined, and to appear at a hearing to be conducted remotely on December 2, 2020, concerning his proposed discipline if he provided via email, on or before November 9, 2020, written notice of his intention to appear at a hearing. The Order to Show Cause (Order) was based upon Mr. Altman's disbarment from the practice of law by the Supreme Court of Pennsylvania, see Office of Disciplinary Counsel v. Altman, No. 2623 Disciplinary Docket No. 3, 2020 Pa. LEXIS 2242 (Apr. 22, 2020), as well as his subsequent disbarment from practice before the United States District Court for the Eastern District of Pennsylvania by order filed June 15, 2020, in In re Altman, No. 2:20-mc-00054. Furthermore, Mr. Altman failed to inform the Chair of the Court's Committee on Admissions, Ethics, and Discipline of the disciplinary actions taken against him within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

The Order was mailed by certified and regular mail to Mr. Altman's addresses of record with this Court and with the Disciplinary Board of the Supreme Court of Pennsylvania. The tracking information on the United States Postal Service's (USPS) website for the copy of the Order mailed by certified mail to Mr. Altman's address of record with the Court indicates that it was returned to the Court on October 23, 2020. The tracking information for the copy of the Order mailed by certified mail to Mr. Altman's address of record with the Disciplinary Board of the Supreme Court of Pennsylvania states: "Delivered – October 31, 2020 at 1:54 pm – Delivered, Left with Individual – Pottstown, PA 19465". It does not appear that either of the copies of the Order mailed by regular mail have been returned to the Court by the USPS.

The Court has received no response from Mr. Altman. Furthermore, Mr. Altman's right to a hearing is deemed waived as he did not advise the Court in writing on or before November 9, 2020, of his intention to appear at a hearing concerning his proposed discipline.

Upon due consideration and for cause, it is

ORDERED that the Court's Order to Show Cause, issued October 8, 2020, is made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Altman is disbarred from practice before the United States Tax Court. It is further

ORDERED that Mr. Altman's name is stricken from the list of practitioners who are admitted to practice before the United States Tax Court, and Mr. Altman is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

ORDERED that Mr. Altman's practitioner access to case files maintained by the Court in electronic form, if any access was given to him, is revoked. It is further

ORDERED that the Court will file orders to withdraw Mr. Altman as counsel in any pending cases in which he appears as counsel of record. It is further

ORDERED that Mr. Altman shall, within 20 days of service of this Order upon him, surrender to this Court his certificate of admission to practice before this Court.

By the Court:

(Signed) Maurice B. Foley
Maurice B. Foley
Chief Judge

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: Moises A. Aviles

ORDER OF SUSPENSION

The Court issued an Order to Show Cause (Order) to Mr. Aviles on October 8, 2020, affording him the opportunity, on or before November 9, 2020, to show cause why he should not be suspended or disbarred from practice before this Court, or otherwise disciplined, and to appear at a remotely conducted hearing on December 2, 2020, concerning his proposed discipline if he provided written notice via email, on or before November 9, 2020, of his intention to appear at a hearing. The Order was based upon Mr. Aviles's suspension from the practice of law in California, see Aviles on Discipline, No. S259006, 2020 Cal. LEXIS 289 (Jan. 9, 2020), as well as his reciprocal suspension from practice before the United States District Court for the Central District of California, by order dated May 27, 2020 in In re Aviles, case no. 2:20-ad-00477. According to the official website of the State Bar of California, Mr. Aviles remains ineligible to practice law in California.

The Order was mailed by both certified and regular mail to Mr. Aviles's addresses of record with this Court and with the State Bar of California. The tracking information on the United States Postal Service's (USPS) website for the copies of the Order mailed by certified mail indicates that those copies were returned to the Court by the USPS on October 21, 2020, and October 22, 2020, after delivery attempts were unsuccessful. The copies of the Order mailed by regular mail do not appear to have been returned to the Court by the USPS.

The Court has received no response from Mr. Aviles. Furthermore, Mr. Aviles's right to a hearing concerning his proposed discipline is deemed waived as he did not advise the Court in writing on or before November 9, 2020, of his intention to appear at a hearing concerning his proposed discipline.

Upon due consideration and for cause, it is

ORDERED that the Court's Order to Show Cause, issued October 8, 2020, is made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Aviles is suspended from practice before the United

States Tax Court until further order of the Court. See Rule 202(f), Tax Court Rules of Practice and Procedure, for reinstatement requirements and procedures. It is further

ORDERED that, until reinstated, Mr. Aviles is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

ORDERED that Mr. Aviles's practitioner access to case files maintained by the Court in electronic form, if any access was given to him, is revoked. It is further

ORDERED that the Court will file orders to withdraw Mr. Aviles as counsel in any pending cases in which he appears as counsel of record.

By the Court:

(Signed) Maurice B. Foley
Maurice B. Foley
Chief Judge

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: Eric A. Bopp

ORDER OF REPRIMAND

On August 18, 2020, the Court received from Mr. Bopp a letter enclosing a copy of a certificate of good standing issued June 11, 2020, by the Louisiana State Bar Association and other documents demonstrating that the costs of a disciplinary proceeding in Louisiana had been paid by Mr. Bopp.

Upon investigation, the Court learned that by per curiam order issued February 26, 2020, the Supreme Court of Louisiana approved a joint petition for consent discipline and suspended Mr. Bopp from the practice of law in Louisiana for one year and one day. Also pursuant to that order, all but ninety days of the suspension was deferred, and Mr. Bopp was placed on probation for a certain period of time. See In re Bopp, 290 So.3d 172 (La. 2020). Mr. Bopp's discipline resulted from the commencement of an investigation into allegations that he had twice been arrested for driving while intoxicated. Furthermore, Mr. Bopp failed to inform the Chair of this Court's Committee on Admissions, Ethics, and Discipline of the disciplinary action taken against him within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

On October 8, 2020, the Court issued an Order to Show Cause (Order) to Mr. Bopp, affording him the opportunity to show cause, if any, why he should not be suspended or disbarred from practice before this Court, or otherwise disciplined, and to appear at a hearing to be conducted remotely on December 2, 2020, concerning his proposed discipline if he provided, on or before November 9, 2020, written notice by email of his intention to appear at a hearing.

On November 19, 2020, the Court received via email Mr. Bopp's untimely response to its Order. Mr. Bopp stated in that response that he has been reinstated to the practice of law in Louisiana. Although he indicated that the order of the Supreme Court of Louisiana reinstating him to the practice of law in Louisiana was attached to his response, the only attachments were certain documents from his disciplinary proceeding in Louisiana and another copy of the certificate of good standing issued by the Louisiana State Bar Association on June 11, 2020.

According to his profile on the Louisiana Attorney Disciplinary Board's official website, Mr. Bopp was reinstated to the practice of law in Louisiana effective May 27, 2020, by order of the Supreme Court of Louisiana issued June 2, 2020, and he currently is listed as "eligible" to practice law in Louisiana.

Mr. Bopp's right to a hearing in this proceeding is deemed waived as he did not advise the Court in writing on or before November 9, 2020, of his intention to appear at a hearing concerning his proposed discipline.

Upon careful consideration of the entire record in this matter, it is

ORDERED that the Court's Order to Show Cause issued October 8, 2020, is made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Eric A. Bopp shall be reprimanded for his above-described misconduct. This Order, a copy of which will be placed in Mr. Bopp's file at the Court and will be available to the public, shall serve as that reprimand.

Mr. Bopp is reminded that Rule 202(b), Tax Court Rules of Practice and Procedure, requires a member of the Bar of this Court to report certain convictions and disciplinary actions to the Chair of the Court's Committee on Admissions, Ethics, and Discipline in writing within 30 days after entry of the judgment of conviction or order of discipline.

By the Court:

(Signed) Maurice B. Foley
Maurice B. Foley
Chief Judge

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: John Joseph Koresko

ORDER OF SUSPENSION

The Court issued to Mr. Koresko an Order to Show Cause on March 19, 2014; a Supplemental Order to Show Cause on October 6, 2014; an Order Lifting Stay and Second Supplemental Order to Show Cause on May 10, 2016; and a Second Order Lifting Stay and Third Supplemental Order to Show Cause on November 16, 2017. The Court received written responses to those Orders from Mr. Koresko on April 22, 2014; June 24, 2014; June 25, 2014; November 28, 2014; July 22, 2016; and December 18, 2017.

After Mr. Koresko was deemed to have waived his right to a hearing, by Order of Disbarment and Memorandum Sur Order, dated April 19, 2018, Mr. Koresko was disbarred from the practice of law before this Court. Mr. Koresko appealed his disbarment to the United States Court of Appeals for the District of Columbia Circuit. On December 23, 2019, the court of appeals vacated the Order of Disbarment and remanded this case for a hearing concerning Mr. Koresko's proposed discipline. See Koresko v. U.S. Tax Court, 788 Fed. App'x 741 (D.C. Cir. 2019). This Court thereafter received further written responses from Mr. Koresko on May 8, 2020; June 29, 2020; October 14 and 15, 2020; October 30, 2020; and December 21, 2020.

Upon due consideration of Mr. Koresko's written responses referenced above and for the reasons set forth more fully in the attached Memorandum Sur Order, it is

ORDERED that the Court's Order to Show Cause issued on March 19, 2014, as supplemented, is made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Koresko is suspended from practice before the United States Tax Court until further order of the Court. See Rule 202(f), Tax Court Rules of Practice and Procedure, for reinstatement requirements and procedures. It is further

ORDERED that, until reinstated, Mr. Koresko is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

ORDERED that Mr. Koresko's practitioner access to case files maintained by the Court in electronic form, if any access was given to him, is revoked. It is further

ORDERED that the Court will file orders to withdraw Mr. Koresko as counsel in pending cases, if any, in which he appears as counsel of record.

By the Court:

(Signed) Maurice B. Foley
Maurice B. Foley
Chief Judge

In re: John Joseph Koresko

MEMORANDUM SUR ORDER

Because of multiple delays and orders issued as a result of changes in Mr. Koresko's status, as well as an appeal to the United States Court of Appeals for the District of Columbia and subsequent proceedings in this Court, the record in this matter is extensive. It may be summarized for purposes of this memorandum.

BACKGROUND

The record began on March 19, 2014, with the issuance of an Order to Show Cause predicated on Mr. Koresko's emergency temporary suspension from the practice of law in the Commonwealth of Pennsylvania by Order of the Supreme Court of Pennsylvania filed December 19, 2013, based on his misconduct while acting in a fiduciary capacity in connection with multiple employer-employee death benefit arrangements and related litigation before the United States District Court for the Eastern District of Pennsylvania (District Court), and his failure to inform the Chair of the Committee on Admissions, Ethics, and Discipline of this disciplinary action within 30 days of the action, as required by Rule 202(b) of the Tax Court Rules of Practice and Procedure. After two extensions requested by Mr. Koresko, on October 6, 2014, this Court issued a Supplemental Order to Show Cause predicated on his temporary suspension from the practice of law before the District Court by Order issued on June 17, 2014. By Order dated December 19,

2014, as the result of a belated response to the October 6, 2014 Supplemental Order to Show Cause, the Court stayed the proceedings in this case, and directed Mr. Koresko to: (1) on or before March 2, 2015, file a list of each and every disciplinary case involving him; and (2) on or before the earlier of June 30, 2015, or a date no later than 30 days after any action is taken in the courts as to his disciplinary matters pending before those courts, submit to the Court a report as to the status of the disciplinary proceedings pending before the Supreme Court of Pennsylvania, the District Court, and the United States Court of Appeals for the Third Circuit. Mr. Koresko did not respond to the December 19, 2014 Order.

On May 10, 2016, the Court issued an Order Lifting Stay and Second Supplemental Order to Show Cause predicated on Mr. Koresko's disbarment from the practice of law in the Commonwealth of Pennsylvania by Order of the Supreme Court of Pennsylvania dated September 4, 2015, based on multiple litigation actions by Mr. Koresko from 2008 through 2013 related to the sale of a home by Mr. Koresko and his ex-wife to a tenant; his suspension from the practice of law before the United States Supreme Court by Order dated December 7, 2015, In re Koresko, 136 S. Ct. 612; and his failure to inform the Chair of the Committee on Admissions, Ethics, and Discipline of either of these disciplinary actions no later than 30 days after each such action, as required by Rule 202(b) of the Tax Court Rules of Practice and Procedure.

On July 22, 2016, the Court received a letter dated July 7, 2016, from Mr. Koresko asserting that he did not receive the May 10, 2016 Order as he had been incarcerated in solitary confinement since May 6, 2016, for contempt of court. By Order dated September 30, 2016, the Court stayed the proceedings in this case.

Each of the foregoing Orders to Show Cause afforded Mr. Koresko the opportunity to show cause, if any, why he should not be suspended or disbarred from practice before this Court, or otherwise disciplined. Each Order set a date for response and a date for a hearing in which he could appear in person or by counsel and warned Mr. Koresko that his right to appear at a hearing before the Court would be deemed waived if no such notice was received by the Court on or before the response date.

The disciplinary hearings in Pennsylvania that resulted in Mr. Koresko's disbarment occurred between January 23, 2014, and March 6, 2014. Mr. Koresko was represented by counsel. He challenged the basis for discipline and offered as a defense mental disabilities which he states he has been afflicted with as a result of several head injuries. The final disbarment action of the Pennsylvania Supreme Court followed. In the Report and Recommendations of the Disciplinary Board of the Supreme Court of Pennsylvania dated June 1, 2015, the Disciplinary Board reviewed in detail the history of multiple litigation actions by Mr. Koresko from

2008 through 2013. The report concluded that he violated the following

Pennsylvania Rules of Professional Conduct (RPC):

(1) RPC 1.1 (A lawyer shall provide competent representation to a client.);

(2) RPC 1.3 (A lawyer shall act with reasonable diligence and promptness in representing a client.);

(3) RPC 1.7(a) (Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.);

(4) RPC 1.7(b) (Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if: (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and (4) each affected client gives informed consent.);

(5) RPC 3.1 (A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.);

(6) RPC 3.2 (A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.);

(7) RPC 3.3(a)(1) (A lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.);

(8) RPC 3.3(a)(3) (A lawyer shall not knowingly offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence before a tribunal or in an ancillary proceeding conducted pursuant to a tribunal's adjudicative authority, such as a deposition, and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.);

(9) RPC 3.4(b) (A lawyer shall not falsify evidence, counsel, or assist a witness to testify falsely, pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the witness' testimony or the outcome of the case.);

(10) RPC 4.1(a) (In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.);

(11) RPC 4.3(b) (During the course of a lawyer's representation of a client, a lawyer shall not give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the lawyer knows or reasonably should know the interests of such person are or have a reasonable possibility of being in conflict with the interests of the lawyer's client.);

(12) RPC 4.4(a) (In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such person.);

(13) RPC 5.3(b) (With respect to a nonlawyer employed or retained by or associated with a lawyer, a lawyer having a direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer.);

(14) RPC 8.4(c) (It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.); and

(15) RPC 8.4(d) (It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.)

The Disciplinary Board also concluded that Mr. Koresko's evidence of an impaired mental state stemming from head trauma did not establish that his condition was a factor in causing the professional misconduct charge against him.

On November 16, 2017, this Court issued a Second Order Lifting Stay and Third Supplemental Order to Show Cause predicated on Mr. Koresko's suspension from the practice of law before the United States Court of Appeals for the Third Circuit by Order dated October 21, 2015; his disbarment from the practice of law before the United States Supreme Court by Order dated June 27, 2016, In re Disbarment of Koresko, 136 S. Ct. 2535; his disbarment from the practice of law before the District Court by Order dated September 12, 2016; and his failure to inform the Chair of the Committee on Admissions, Ethics, and Discipline of any of these disciplinary actions no later than 30 days after each action, as required by Rule 202(b) of the Tax Court Rules of Practice and Procedure. The Order instructed Mr. Koresko to submit a written response on or before December 18, 2017. On December 18, 2017, the Court received from Mr. Koresko a 15-page letter with attachments (bringing the total to 200 pages) dated December 14, 2017, responding to the Second Order Lifting Stay and Third Supplemental Order to Show Cause.

The essence of Mr. Koresko's responses to the above-described Orders was to reargue the findings of the Pennsylvania Supreme Court and to assert that his

disabilities preclude disbarment or other discipline because of failure to comply with the Americans With Disabilities Act. On April 19, 2018, by Order of Disbarment and Memorandum Sur Order, the Court found that Mr. Koresko had waived his right to a hearing and he was disbarred from the practice of law before this Court as reciprocal discipline based on his disbarment from the practice of law in Pennsylvania by the Supreme Court of Pennsylvania. Mr. Koresko appealed his disbarment to the United States Court of Appeals for the District of Columbia Circuit. On December 23, 2019, the court of appeals ruled that Mr. Koresko had not waived his right to the hearing offered by this Court in its Order dated May 10, 2016. The court of appeals vacated this Court's Order of Disbarment and remanded the case so that Mr. Koresko could be offered "the hearing it promised appellant in its May 10, 2016 order." See Koresko v. U.S. Tax Court, 788 Fed. App'x 741 (D.C. Cir. 2019).

Therefore, on February 24, 2020, this Court issued an Order scheduling a hearing concerning Mr. Koresko's proposed discipline on May 20, 2020, if he provided written notice, on or before April 20, 2020, of his intention to appear at that hearing. Due to public health concerns regarding COVID-19 that arose following the issuance of that Order, it was vacated by Order dated April 16, 2020. The April 16, 2020 Order additionally advised Mr. Koresko that if he wished to appear at a hearing, he must provide notice of his intention to appear at a hearing

on or before May 18, 2020; upon receipt of any such notice, the Court would set a hearing date and advise Mr. Koresko of that date at least four weeks prior to any hearing; and if he did not provide notice of his intention to appear at a hearing, his right to a hearing would be deemed waived.

On May 8, 2020, Mr. Koresko filed a response to the April 16, 2020 Order, stating his intention to appear at a hearing concerning his proposed discipline, but suggesting that the scheduled hearing be postponed indefinitely due to the COVID-19 pandemic. In the light of the inadvisability of conducting an in-person hearing, by Order dated September 23, 2020, the Court set a hearing to be conducted remotely by teleconference on December 2, 2020, if Mr. Koresko provided notice on or before November 10, 2020, of his intention to appear at the hearing.

On October 14 and 15, 2020, the Court received Mr. Koresko's responses to the September 23, 2020 Order. Mr. Koresko repeated his intention of appearing at a hearing, once again suggested an indefinite postponement of his hearing, appeared to agree to discipline by this Court, and argued that any discipline the Court might impose on him should consist at most of some type of conditional, stayed, or time-limited suspension. By a letter dated November 16, 2020, the Court advised Mr. Koresko that it does not impose conditional or time-limited suspension as a form of discipline and agreed to postpone the December 2, 2020 hearing. The Court additionally advised Mr. Koresko that it would not be inclined

to grant any further delays; his hearing would be conducted remotely at the first regularly scheduled disciplinary hearing in 2021, on a date to be determined; and he would be given at least 30 days' notice of the hearing date.

Thereafter, on December 21, 2021, the Court received a letter from Mr. Koresko in which he waived his right to a hearing and stated: "I respectfully request that you accept my proposal and agreement to accept discipline short of disbarment." He expressed regret for his actions that led to his disbarment in Pennsylvania and admitted that he made a terrible mistake of judgment. His response explained that his "unduly aggressive behavior in the litigation was wrong" and "the charged offenses were worthy of discipline."

DISCUSSION

As is true in the case of every reciprocal discipline case, the Order of the Supreme Court of Pennsylvania disbarring Mr. Koresko from the practice of law in the Commonwealth of Pennsylvania raises a serious question about his character and fitness to practice law in this Court. The landmark opinion of the United States Supreme Court in Selling v. Radford, 243 U.S. 46 (1917), in effect, directs that we recognize the absence of "fair private and professional character" inherently arising as the result of the action of the Supreme Court of Pennsylvania, and that we also impose discipline against Mr. Koresko, unless we determine, from an intrinsic consideration of the record of the Pennsylvania proceedings that one or

more of the following factors appears: (1) that Mr. Koresko was denied due process in the form of notice and an opportunity to be heard with respect to the Pennsylvania proceedings; (2) that there was such an infirmity of proof in the facts found to have been established in the proceedings as to give rise to a clear conviction that we cannot accept the conclusions of the Pennsylvania proceedings; or (3) that some other grave reason exists which convinces us that we should not follow the discipline imposed by the Supreme Court of Pennsylvania. See, e.g., Selling v. Radford, 243 U.S. at 50-51; In re Squire, 617 F.3d 461, 466 (6th Cir. 2010); In re Edelstein, 214 F.3d 127, 131 (2d Cir. 2000).

We have given due consideration to Mr. Koresko's waiver of his right to a hearing, admission of misconduct, and agreement to reciprocal discipline short of disbarment. Considering the entire record in this matter, we conclude that, under Rule 202 of the Tax Court Rules of Practice and Procedure, the appropriate discipline in this case is suspension.

The Committee on Admissions,
Ethics, and Discipline

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: Louis Joseph Posner

ORDER OF DISBARMENT

This Court issued an Order of Interim Suspension and Order to Show Cause to Mr. Posner on September 30, 2020, affording him the opportunity, on or before October 30, 2020, to show cause why he should not be suspended or disbarred from practice before this Court, or otherwise disciplined, and to appear at a hearing to be conducted remotely on December 2, 2020, concerning his proposed discipline if he provided via email, on or before October 30, 2020, written notice of his intention to appear at a hearing. The Order of Interim Suspension and Order to Show Cause (Order) was based upon Mr. Posner's automatic disbarment from the practice of law in New York, as a result of his guilty plea and conviction of a felony, which was acknowledged by an opinion issued December 16, 2010, by the Supreme Court of New York, Appellate Division, First Department. See In re Posner, 80 A.D.3d 238 (N.Y. App. Div. 2010). Furthermore, while Mr. Posner reported his conviction and discipline by an email received by this Court on June 9, 2020, he failed to inform the Chair of the Court's Committee on Admissions, Ethics, and Discipline of those actions within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

The Order was mailed by both certified and regular mail to the address provided by Mr. Posner in his email received by the Court on June 9, 2020. The tracking information on the United States Postal Service's (USPS) website for the copy of the Order mailed by certified mail to Mr. Posner states: "Delivered – October 3, 2020 at 10:21 am – Delivered, Front Desk/Reception/Mail Room – New York, NY 10017". The copy of the Order mailed by regular mail to Mr. Posner does not appear to have been returned to the Court by the USPS.

The Court has received no response from Mr. Posner. Furthermore, Mr. Posner's right to a hearing is deemed waived as he did not advise the Court in writing on or before October 30, 2020, of his intention to appear at a hearing concerning his proposed discipline.

Upon due consideration and for cause, it is

ORDERED that the Court's Order of Interim Suspension and Order to Show Cause, issued September 30, 2020, is made absolute in that, under the provisions of

Rule 202, Tax Court Rules of Practice and Procedure, Mr. Posner is disbarred from practice before the United States Tax Court. It is further

ORDERED that Mr. Posner's name is stricken from the list of practitioners who are admitted to practice before the United States Tax Court, and Mr. Posner is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

ORDERED that Mr. Posner's practitioner access to case files maintained by the Court in electronic form, if any access was given to him, is revoked. It is further

ORDERED that the Court will file orders to withdraw Mr. Posner as counsel in any pending cases in which he appears as counsel of record. It is further

ORDERED that Mr. Posner shall, within 20 days of service of this Order upon him, surrender to this Court his certificate of admission to practice before this Court.

By the Court:

(Signed) Maurice B. Foley
Maurice B. Foley
Chief Judge