



**UNITED STATES TAX COURT**  
WASHINGTON, D.C. 20217

April 19, 2018

**PRESS RELEASE**

The Chief Judge of the United States Tax Court announced today that the following practitioners have been suspended or disbarred by the United States Tax Court for reasons explained in an order issued in the case of each practitioner, and memoranda sur order issued with respect to James D. LeSuer, Sidney M.A. Schwarz, and John J. Koresko, V.

Copies of the orders and the memoranda sur order are attached.

1. Jude C. Ezeala
2. John J. Koresko, V
3. James D. LeSuer
4. Steven James Lynch
5. Sidney M.A. Schwarz
6. Gary J. Stern
7. Benjamin Yu

Attachments

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: Jude C. Ezeala

**ORDER OF SUSPENSION**

The Court issued an Order to Show Cause to Mr. Ezeala on November 16, 2017, 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, based upon his suspensions from the practice of law in the States of New York and Maryland, the United States District Court for the District of Maryland, and the District of Columbia.

By Order filed January 30, 2014, the State of New York Supreme Court, Appellate Division, Third Judicial Department suspended Mr. Ezeala from the practice of law in the State of New York for failure to pay the required attorney registration fee. In re Attorneys in Violation of Judiciary Law, 984 N.Y.S.2d 134 (N.Y. App. Div. 2014). By Order filed March 21, 2017, the Court of Appeals of Maryland granted the Joint Petition for Indefinite Suspension by Consent in Mr. Ezeala's disciplinary matter, and he was suspended indefinitely from the practice of law in the State of Maryland. By Order of Reciprocal Suspension filed May 5, 2017, the United States District Court for the District of Maryland suspended Mr. Ezeala indefinitely from practice before the Court nunc pro tunc from March 21, 2017. By Order filed September 18, 2017, the District of Columbia Court of Appeals suspended Mr. Ezeala from the practice of law in the District of Columbia pending final disposition of its reciprocal discipline proceeding. Mr. Ezeala failed to inform the Co-Chairs of the Court's Committee on Admissions, Ethics, and Discipline of the entry of each disciplinary order issued against him within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

The Order to Show Cause instructed Mr. Ezeala to (1) submit a written response to the Order on or before December 18, 2017, and (2) notify the Court in writing on or before December 18, 2017, of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, at 10:00 a.m. on January 17, 2018.

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The Order to Show Cause (Order) was mailed by both certified and regular mail to an address in Baltimore, Maryland that is the most recent address that the Court has on record for Mr. Ezeala, and to an address in Windsor Mill, Maryland, that is listed for Mr. Ezeala on documents issued by the Court of Appeals in Maryland, the District of Columbia Court of Appeals, United States District Court for the District of Maryland, and the State of New York Supreme Court, Appellate Division, Third Judicial Department. The copy of the Order mailed by certified mail to the address in Baltimore was returned to the Court by the U.S. Postal Service, the envelope marked "Forward Time Exp Rtn to Send: Jude Ezeala Law Office 8251 Vosges Road Windsor Mill MD 21244-3368 Return to Sender." The copy of the Order mailed by regular mail to the address in Baltimore has not been returned to the Court by the U.S. Postal Service. The copy of the Order mailed by certified mail to the address in Windsor Mill has not been returned to the Court by the U.S. Postal Service. The tracking information on the USPS website is: "Your item was delivered to an individual at the address at 2:55 pm on November 20, 2017 in Windsor Mill, MD 21244." The copy of the Order mailed by regular mail to that address has not been returned to the Court by the U.S. Postal Service. The Court has received no response from Mr. Ezeala to the Order to Show Cause, nor did the Court receive by December 18, 2017, notice of Mr. Ezeala's intention to appear at the scheduled hearing.

Upon due consideration of the foregoing, it is

ORDERED that the Court's Order to Show Cause, issued November 16, 2017, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Ezeala 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. Ezeala is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

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

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

ORDERED that Mr. Ezeala 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) L. Paige Marvel

L. Paige Marvel  
Chief Judge

Dated: Washington, D.C.  
April 19, 2018

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: John J. Koresko, V

**ORDER OF DISBARMENT**

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. These Orders 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.

Upon due consideration of Mr. Koresko's written responses to the Orders mentioned in the preceding paragraph, which the Court received on April 22, 2014, June 24, 2014, June 25, 2014, November 28, 2014, July 22, 2016, and December 18, 2017, and the reasons set forth more fully in the attached Memorandum Sur Order, it is

ORDERED that the Court's Order to Show Cause issued March 19, 2014, as supplemented, is hereby made absolute in that, under the provision of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Koresko is disbarred from practice before the United States Tax Court. It is further

ORDERED that Mr. Koresko's name is hereby stricken from the list of practitioners who are admitted to practice before the United States Tax Court, and 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 such access was given to him, is hereby revoked. It is further

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

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

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this Court.

By the Court:

~~(Signed) L. Paige Marvel~~

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L. Paige Marvel  
Chief Judge

Dated: Washington, D.C.  
April 19, 2018

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: John J. Koresko, V

**MEMORANDUM SUR ORDER**

**BACKGROUND**

The record in this proceeding is extensive because of multiple delays and orders issued as a result of changes in Mr. Koresko's status, but it may be summarized for purposes of this memorandum. The record began on March 19, 2014, with the issuance of a 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 and has 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. Notwithstanding four scheduled hearing dates, Mr. Koresko never advised the Court of his intention to appear at a hearing himself or through counsel. Thus he repeatedly waived his right to appear at a hearing.

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 with which he was afflicted. 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 a 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 such 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. The Order noted that Mr. Koresko previously waived his right to a hearing. On December 18, 2017, the Court received a 15 page letter with attachments bring the total to 200 pages, dated December 14, 2017, from Mr. Koresko responding to the Second Order Lifting Stay and Third Supplemental Order to Show Cause.

The essence of Mr. Koresko's response is 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. He complains of his imprisonment for contempt as a result of actions of the District Court and asks that "this matter should be stayed until a reasonable time after I am released and restored to an appropriate state of physical and mental health." He challenges every action by which he has been disciplined in other courts. He seeks an evidentiary hearing and argues that he could not have waived his rights because of his disabilities.

#### 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 follow the disciplinary action of that judge, 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).

Mr. Koresko bears the burden of showing why, notwithstanding the discipline imposed by the Supreme Court of Pennsylvania, this Court should impose no reciprocal discipline, or should impose a lesser or different discipline. See, e.g., In re Roman, 601 F.3d 189, 193 (2d Cir. 2010); In re Sibley, 564 F.3d 1335, 1340 (D.C. Cir. 2009); In re Surrick, 338 F.3d 224, 232 (3d Cir. 2003); In re Calvo, 88 F.3d 962, 967 (11th Cir. 1996); In re Thies, 662 F.2d 771, 772 (D.C. Cir. 1980). We have given Mr. Koresko an opportunity to present, for our review, the record of the disciplinary proceedings in Pennsylvania, and to point out any grounds to conclude that we should not give effect to the action of the Supreme Court of Pennsylvania. See Selling v. Radford, 243 U.S. at 51-52 (“an opportunity

should be afforded the respondent \* \* \* to file the record or records of the state court \* \* \* [and] to point out any ground within the limitations stated which should prevent us from giving effect to the conclusions established by the action of the supreme court of Michigan which is now before us \* \* \*”).

Mr. Koresko has not shown any of the three factors identified by the Supreme Court in Selling v. Radford. First, Mr. Koresko has not shown a “want of notice or opportunity to be heard” with respect to the Pennsylvania proceedings. See Selling v. Radford, 243 U.S. at 51. To the contrary, Mr. Koresko participated in the disciplinary proceedings before the Supreme Court of Pennsylvania and was represented at the hearing by an attorney. Second, Mr. Koresko has not shown any infirmity of proof as to the facts in his disciplinary proceedings before the Supreme Court of Pennsylvania. To the extent that Mr. Koresko asserts that his disbarment was not supported by the record of his Pennsylvania disciplinary proceedings, we do not sit as a court of review with respect to the proceedings before the Supreme Court of Pennsylvania. See Selling v. Radford, 243 U.S. at 49-50; In re Sibley, 564 F.3d at 1341. To the contrary, we are required to accept the facts found by the Pennsylvania Supreme Court, and to follow the action of the Pennsylvania Supreme Court unless, from an intrinsic consideration of the record



before that court, we find one or more of the three factors identified by the Supreme Court in Selling v. Radford.

Finally, Mr. Koresko has not shown any “other grave reason” not to give effect to the action of the Pennsylvania Supreme Court. See Selling v. Radford, 243 U.S. at 51. His arguments lack merit and none of his arguments raise questions about the appropriateness of the discipline imposed by the Pennsylvania Supreme Court.

We have considered all of Mr. Koresko’s arguments, and, to the extent not addressed herein, we conclude that they are moot, irrelevant, or without merit. Accordingly, we will give full effect to the discipline imposed by the Supreme Court of Pennsylvania.

Considering the entire record in this matter, we conclude that Mr. Koresko has not shown good cause why he should not be suspended, disbarred or otherwise disciplined. We also conclude that, under Rule 202 of the Tax Court Rules of Practice and Procedure, the appropriate discipline in this case is disbarment.

The Committee on Admissions,  
Ethics, and Discipline

Dated: Washington, D.C.  
April 19, 2018

# UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: James D. LeSuer

## ORDER OF SUSPENSION

The Court issued an Order to Show Cause to Mr. LeSuer on November 16, 2017, 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, based upon his suspension for six months from the practice of law in the State of Colorado, by Order Approving Conditional Admission of Misconduct and Imposing Sanctions Under C.R.C.P. 251.22, entered on August 14, 2017 by the Presiding Disciplinary Judge of the Colorado Supreme Court.

The Order to Show Cause instructed Mr. LeSuer to (1) submit a written response to the Order on or before December 18, 2017, and (2) notify the Court in writing on or before December 18, 2017, of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, at 10:00 a.m. on January 17, 2018.

The Order to Show Cause was mailed by both certified and regular mail to three addresses: (1) an office address in Denver, Colorado, that is the most recent address that the Court has on record for Mr. LeSuer; (2) an address in Aurora, Colorado, that is listed for Mr. LeSuer below his signature on the Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct, filed August 11, 2017 in the Colorado Supreme Court's Office of the Presiding Disciplinary Judge; and (3) an address in Greenwood Village, Colorado, that appears on the letterhead of a letter received by the Court in September 2017 from the office of Mr. LeSuer's attorney in his state disciplinary proceedings reporting Mr. LeSuer's suspension.

The copy of the Order mailed by certified mail to the address in Denver was returned to the Court by the U.S. Postal Service (USPS), the envelope marked "Return to Sender – Not Deliverable As Addressed – Unable to Forward." The copy of the Order mailed by regular mail to that address was returned to the Court by USPS, the envelope marked "Return to Sender – Not Deliverable As Addressed – Unable to Forward."

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The copy of the Order mailed by certified mail to the address in Aurora was returned to the Court by the USPS, the envelope marked with a label dated November 24, 2017 that reads “Notify Sender of New Address – Law Office of James D LeSuer – PO Box 441455 – Aurora CO 80044-1455.” A second label pasted over the first and dated December 24, 2017 reads “Return to Sender – Unclaimed – Unable to Forward.” The copy of the Order mailed by regular mail to that address has not been returned to the Court by the USPS.

On December 13, 2017, the Court received a letter dated December 6, 2017, from Mr. LeSuer’s attorney, Benjamin L. Archer, at the Greenwood Village address in which he stated that his representation was limited to Mr. LeSuer’s Colorado disciplinary matter. The Court has received no other response from Mr. LeSuer to the Order to Show Cause, nor did the Court receive by December 18, 2017, notice of Mr. LeSuer’s intention to appear at the scheduled hearing.

Upon due consideration of the foregoing 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 November 16, 2017, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. LeSuer 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. LeSuer is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

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

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

ORDERED that Mr. LeSuer 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) L. Paige Marvel**

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L. Paige Marvel  
Chief Judge

Dated: Washington, D.C.  
April 19, 2018

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: James D. LeSuer

**MEMORANDUM SUR ORDER**

The Court issued an Order to Show Cause to Mr. James D. LeSuer on November 16, 2017, 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. The Order to Show Cause was predicated on the Order Approving Conditional Admission of Misconduct and Imposing Sanctions under C.R.C.P. 251.22 (herein "Order of Suspension") entered on August 14, 2017, by the Presiding Disciplinary Judge of the Supreme Court of the State of Colorado, suspending Mr. LeSuer from the practice of law for six month effective August 14, 2017.

The Order to Show Cause issued by this Court instructed Mr. LeSuer to submit a written response on or before December 18, 2017, and notify the Court in writing on or before December 18, 2017, of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the Court on January 17, 2018. On December 13, 2017, the Court received a Letter dated December 6, 2017, from Mr. Benjamin L. Archer, Mr. LeSuer's attorney, (hereinafter Response), which states that his representation of Mr. LeSuer was limited to the Colorado disciplinary matter. The Response included a copy of the

Order of Suspension and the Stipulation, Agreement and Affidavit Containing the Conditional Admission of Misconduct from Mr. LeSuer's discipline case, dated August 11, 2017. No other response to the Order to Show Cause was received from Mr. LeSuer. Because Mr. LeSuer did not notify the Court in writing, on or before December 18, 2017, of his intention to appear at a hearing concerning his proposed discipline, his right to appear at a hearing before the Court concerning his disciplinary matter was deemed waived.

#### BACKGROUND

Mr. LeSuer's suspension from the practice of law in Colorado was based upon his convictions for violating a temporary protection order by contacting his former wife and for failing to inform the Colorado disciplinary authorities within fourteen days of that conviction. The Supreme Court of Colorado concluded that Mr. LeSuer violated Colo. RPC 8.4(b) (a lawyer shall not commit a criminal act that reflects on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects); C.R.C.P. 251.5(b) (any criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer amounts to grounds for discipline); and C.R.C.P. 251.20(b) (a lawyer shall notify disciplinary authorities of any conviction within fourteen days of the conviction). See People v. LeSuer, 2017 WL 3588713 (Colo. 2017).

## DISCUSSION

As is true in the case of every reciprocal discipline case, the order of the Colorado Supreme Court imposing discipline on Mr. LeSuer 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 Colorado Supreme Court, and that we follow the disciplinary action of that court, unless we determine, from an intrinsic consideration of the record of the Colorado proceeding that one or more of the following factors should appear: (1) that Mr. LeSuer was denied due process in the form of notice and an opportunity to be heard with respect to the Colorado 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 Colorado 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 Colorado. 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).

Mr. LeSuer bears the burden of showing why, notwithstanding the discipline imposed by the Supreme Court of Colorado, this Court should impose no reciprocal discipline, or should impose a lesser or different discipline. See, e.g., In re Roman, 601 F.3d 189, 193 (2d Cir. 2010); In re Sibley, 564 F.3d 1335, 1340 (D.C. Cir. 2009); In re Surrick, 338 F.3d 224, 232 (3d Cir. 2003); In re Calvo, 88 F.3d 962, 967 (11th Cir. 1996); In re Thies, 662 F.2d 771, 772 (D.C. Cir. 1980).

We have given Mr. LeSuer an opportunity to present, for our review, the record of the disciplinary proceeding in Colorado, and to point out any grounds to conclude that we should not give effect to the action of the Colorado Supreme Court. See Selling v. Radford, 243 U.S. at 51-52 (“an opportunity should be afforded the respondent \* \* \* to file the record or records of the state court \* \* \* [and] to point out any ground within the limitations stated which should prevent us from giving effect to the conclusions established by the action of the supreme court of Michigan which is now before us \* \* \*”).

Mr. LeSuer has not alleged or shown any of the three factors identified by the Supreme Court in Selling v. Radford. First, Mr. LeSuer has neither alleged nor shown a “want of notice or opportunity to be heard” with respect to the Colorado proceeding. To the contrary, Mr. LeSuer fully participated in the disciplinary proceeding before the Colorado Supreme Court, and entered into a Stipulation,



Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct that was the basis for the discipline imposed by the Colorado Supreme Court. Second, Mr. LeSuer has neither alleged nor shown any infirmity of proof as to the facts in his disciplinary proceeding before the Colorado Supreme Court. Indeed, the facts on which Mr. LeSuer's discipline was based were the facts stipulated by Mr. LeSuer. Finally, Mr. LeSuer has not shown any "other grave reason" not to give effect to the action of the Colorado Supreme Court. See Selling v. Radford, 243 U.S. at 51.

Considering the entire record in this matter, including the written Response of Mr. LeSuer's attorney before the Colorado Supreme Court, we conclude that Mr. LeSuer has not shown good cause why he should not be suspended, disbarred or otherwise disciplined. We also conclude that we should give full effect to the discipline imposed by the Colorado Supreme Court. We further 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

Dated: Washington, D.C.  
April 19, 2018

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: Steven James Lynch

**ORDER OF SUSPENSION**

The Court issued an Order of Interim Suspension and Order to Show Cause to Mr. Lynch on November 16, 2017, 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, based upon (1) his conviction of 16 felony counts of willful failure to pay over withheld employment taxes in violation of 26 U.S.C. § 7202, see United States v. Lynch, 227 F. Supp. 3d 421, 423 (W.D. Pa. 2017); (2) his temporary suspension from the practice of law in the Commonwealth of Pennsylvania pursuant to the grant by the Supreme Court of Pennsylvania of a Joint Petition to Temporarily Suspend an Attorney, see In re Lynch, No. 2359 Disciplinary Docket No. 3, 2017 Pa. LEXIS 514 (Pa. Mar. 2, 2017); and (3) his indefinite suspension from practice before the Internal Revenue Service by default decision in an expedited proceeding under 31 C.F.R. § 10.82(b), effective June 20, 2017.

Pursuant to his felony conviction, Mr. Lynch was sentenced on January 12, 2017, to 48 months of imprisonment to be followed by three years of supervised release, payment of a fine of \$75,000, and payment of restitution to the IRS in the amount of \$793,145. See United States v. Lynch, No. 14-181, 2017 WL 272027, at \*1 (W.D. Pa. 2017). On January 16, 2017, Mr. Lynch appealed the judgment to the United States Court of Appeals for the Third Circuit, and the appeal remains pending. See id.

The Order of Interim Suspension and Order to Show Cause instructed Mr. Lynch to (1) submit a written response to the Order on or before December 18, 2017, and (2) notify the Court in writing on or before December 18, 2017, of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, at 10:00 a.m. on January 17, 2018.

The Order of Interim Suspension and Order to Show Cause was mailed by both certified and regular mail to four addresses: (1) an address in Canonsburg, Pennsylvania that is the most recent address that the Court has on record for Mr. Lynch; (2) an address in Pittsburgh, Pennsylvania that is listed for Mr. Lynch on

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the New York State Unified Court System's official website; (3) an address in Pittsburgh, Pennsylvania for an attorney representing Mr. Lynch in his criminal case (Attorney A); and (4) an address in Pittsburgh, Pennsylvania for another attorney representing Mr. Lynch in his criminal case (Attorney B).

The copy of the Order mailed by certified mail to the address in Canonsburg has not been returned to the Court by the U.S. Postal Service (USPS). The tracking information on the USPS website is: "Alert – November 20, 2017 – No Access – We attempted to deliver your item at 12:41 pm on November 20, 2017 in Canonsburg, PA 15317 but could not complete the delivery because the employee did not have access to the delivery location. Your item will go out for delivery on the next business day." The copy of the Order mailed by regular mail to the address in Canonsburg has not been returned to the Court by the USPS.

The copy of the Order mailed by certified mail to the address in Pittsburgh that the New York State Unified Court System has on record for Mr. Lynch has not been returned to the Court by the USPS. The tracking information on the USPS website is: "Your item was delivered to an individual at the address at 1:52 pm on November 20, 2017 in Pittsburgh, PA 15232." The copy of the Order mailed by regular mail to that address has not been returned to the Court by the USPS.

The copy of the Order mailed by certified mail to the address for Attorney A has not been returned to the Court by the USPS. The tracking information on the USPS website is: "Your item was delivered to an individual at the address at 11:51 am on November 18, 2017 in Pittsburgh, PA 15219." The copy of the Order mailed by regular mail to the address for Attorney A has not been returned to the Court by the USPS.

The copy of the Order mailed by certified mail to the address for Attorney B has not been returned to the Court by the USPS. The tracking information on the USPS website is: "Your item was delivered to an individual at the address at 1:56 pm on November 21, 2017 in Pittsburgh, PA 15219." The copy of the Order mailed by regular mail to the address for Attorney B was returned to the Court by the USPS, the envelope marked "Return to Sender – Not Deliverable as Addressed – Unable to Forward."

The Court has received no response from Mr. Lynch to the Order of Interim Suspension and Order to Show Cause, nor did the Court receive by December 18,

2017, notice of Mr. Lynch's intention to appear at the scheduled hearing.

Upon due consideration of the foregoing, it is

ORDERED that the Court's Order of Interim Suspension and Order to Show Cause, issued November 16, 2017, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Lynch 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. Lynch is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

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

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

ORDERED that Mr. Lynch 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) L. Paige Marvel**

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L. Paige Marvel  
Chief Judge

Dated: Washington, D.C.  
April 19, 2018

# UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: Sidney M. A. Schwarz

## **ORDER OF SUSPENSION**

The Court issued an Order of Interim Suspension and Order to Show Cause to Mr. Schwarz on November 17, 2017, 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, based upon (1) his conviction on one felony count of importation contrary to law in violation of 18 U.S.C. sections 545 and 2 in the United States District Court for the Southern District of California, case number 14-cr-01075-GPC; (2) his interim suspension from the practice of law in the State of California, effective June 20, 2016, by Order of the State Bar Court of California, In Bank, filed May 26, 2016; and (3) his suspension from the practice of law in the State of California for five years, which was stayed, suspension for two years with conditions, and placement on probation for five years, by Order of the State Bar Court of California, filed January 18, 2017.

Pursuant to his felony conviction, Mr. Schwarz was sentenced on September 18, 2015, to a two-year term of probation, including home detention for eight months, and a \$3,000 fine. Judgment was entered in the case on September 21, 2015.

The Order of Interim Suspension and Order to Show Cause instructed Mr. Schwarz to (1) submit a written response to the Order on or before December 18, 2017, and (2) notify the Court in writing on or before December 18, 2017, of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, at 10:00 a.m. on January 17, 2018.

The Court received a response from Mr. Schwarz to the Order of Interim Suspension and Order to Show Cause on December 18, 2017. His response did not include notification to the Court of whether he intended to appear at the hearing on January 17, 2017. Mr. Schwarz did not appear at the hearing on January 17, 2018.

Upon due consideration of Mr. Schwarz's written response to the Court and for the reasons set forth more fully in the attached Memorandum Sur Order, it is

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ORDERED that the Court's Order of Interim Suspension and Order to Show Cause, issued November 17, 2017, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Schwarz 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. Schwarz is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

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

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

ORDERED that Mr. Schwarz 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) L. Paige Marvel

L. Paige Marvel  
Chief Judge

Dated: Washington, D.C.  
April 19, 2018

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: Sidney M. A. Schwarz

**MEMORANDUM SUR ORDER**

The Court issued an Order of Interim Suspension and Order to Show Cause to Mr. Sidney M. A. Schwarz on November 17, 2017, 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. The Order of Interim Suspension and Order to Show Cause was predicated on his guilty plea to and conviction of one felony count of importation contrary to law in violation of 18 U.S.C. sections 545 and 2 in the United States District Court for the Southern District of California, case number 14-cr-01075-GPC. On September 18, 2015, he was sentenced to a two-year term of probation, including home detention for eight months, and a \$3,000 fine, and judgment was entered in the case on September 21, 2015.

The Order of Interim Suspension and Order to Show Cause was also predicated on the Order filed on May 26, 2016, by the State Bar Court of California, In Bank, placing Mr. Schwarz on interim suspension from the practice of law in the State of California effective June 20, 2016, as a result of his felony conviction, (“Order of Interim Suspension”) and the Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving Actual Suspension filed

on January 18, 2017, by the State Bar Court of California suspending Mr. Schwarz from the practice of law in the State of California for five years, which was stayed, and suspending him from the practice of law for two years with conditions, and placing him on probation for a period of five years (“Order of Suspension”).

The Order of Interim Suspension and Order to Show Cause issued by this Court instructed Mr. Schwarz to submit a written response on or before December 18, 2017, and notify the Court in writing on or before December 18, 2017; of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the Court on January 17, 2018. On December 18, 2017, the Court received a Response to Order to Show Cause from Mr. Schwarz. The Response included a copy of the Order of Interim Suspension and a print out from the website of the State Bar of California on his discipline history, showing his interim suspension on June 20, 2016, and his discipline with actual suspension on July 26, 2017. Because Mr. Schwarz did not notify the Court in writing, on or before December 18, 2017, of his intention to appear at a hearing concerning his proposed discipline, his right to appear at a hearing before the Court concerning his disciplinary matter was deemed waived.

## BACKGROUND



Mr. Schwarz's suspension from the practice of law in California was based upon his conviction for importing and selling counterfeit goods. The State Bar Court of California concluded that Mr. Schwarz was convicted of a felony involving moral turpitude.

### DISCUSSION

As is true in the case of every reciprocal discipline case, the order of the State Bar Court of California imposing discipline on Mr. Schwarz 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 State Bar Court of California, and that we follow the disciplinary action of that court, unless we determine, from an intrinsic consideration of the record of the California proceeding that one or more of the following factors should appear: (1) that Mr. Schwarz was denied due process in the form of notice and an opportunity to be heard with respect to the California 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 California proceedings; or (3) that some other grave reason exists which convinces

us that we should not follow the discipline imposed by the State Bar Court of California. 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).

Mr. Schwarz bears the burden of showing why, notwithstanding the discipline imposed by the State Bar Court of California, this Court should impose no reciprocal discipline, or should impose a lesser or different discipline. See, e.g., In re Roman, 601 F.3d 189, 193 (2d Cir. 2010); In re Sibley, 564 F.3d 1335, 1340 (D.C. Cir. 2009); In re Surrick, 338 F.3d 224, 232 (3d Cir. 2003); In re Calvo, 88 F.3d 962, 967 (11th Cir. 1996); In re Thies, 662 F.2d 771, 772 (D.C. Cir. 1980).

We have given Mr. Schwarz an opportunity to present, for our review, the record of the disciplinary proceeding in California, and to point out any grounds that might cause us to conclude that we should not give effect to the action of the State Bar Court of California. See Selling v. Radford, 243 U.S. at 51-52 (“an opportunity should be afforded the respondent \* \* \* to file the record or records of the state court \* \* \* [and] to point out any ground within the limitations stated which should prevent us from giving effect to the conclusions established by the action of the supreme court of Michigan which is now before us \* \* \*”).

Mr. Schwarz has not shown any of the three factors identified by the Supreme Court in Selling v. Radford. First, Mr. Schwarz has neither alleged nor

shown a “want of notice or opportunity to be heard” with respect to the California proceeding. To the contrary, Mr. Schwarz participated in the disciplinary proceeding before the State Bar Court of California, and entered into a Stipulation Re Facts, Conclusions of Law and Disposition that was the basis for the discipline imposed by the State Bar Court of California. Second, Mr. Schwarz has neither alleged nor shown any infirmity of proof as to the facts in his disciplinary proceeding before the State Bar Court of California. Indeed, the facts on which Mr. Schwarz’s discipline was based were the facts stipulated by Mr. Schwarz. Finally, Mr. Schwarz has not shown any “other grave reason” not to give effect to the action of the State Bar Court of California. See Selling v. Radford, 243 U.S. at 51. In his Response, Mr. Schwarz asserts that the imposition of like discipline by this Court would impose a grave injustice because Mr. Schwarz has not practiced law before this Court since his interim suspension by the State Bar Court of California and Mr. Schwarz was credited in California for the time he spent on interim suspension against the time on his two year suspension in the Order of Suspension. In reciprocal discipline, suspensions in different jurisdictions based on the same underlying behavior often do not occur concurrently. The simple fact that suspension in this Court may extend beyond Mr. Schwarz’s suspension in the

State of California is not a grave reason not to give effect to the action of the State Bar Court of California.

Considering the entire record in this matter, including Mr. Schwarz's written Response, we conclude that Mr. Schwarz has not shown good cause why he should not be suspended, disbarred or otherwise disciplined. We also conclude that we should give full effect to the discipline imposed by the State Bar Court of California. We further 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

Dated: Washington, D.C.  
April 19, 2018

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: Gary J. Stern

**ORDER OF DISBARMENT**

The Court issued an Order of Interim Suspension and Order to Show Cause to Mr. Stern on December 1, 2017, 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 based upon (1) his guilty plea on September 7, 2016, to two felony counts of aiding and assisting in the preparation and presentation to the Internal Revenue Service of false income tax returns, in violation of 26 U.S.C. section 7206(2) in the U.S. District Court for the Northern District of Illinois Eastern Division, case number 14-cr-580, in which he was sentenced on October 6, 2017, to serve eighteen months of imprisonment on each count, with both terms to run concurrently, pay criminal monetary penalties and restitution, serve supervised release upon his release from imprisonment, and comply with the mandatory, discretionary and special conditions of his supervised release; and (2) his disbarment on consent from the practice of law in Illinois by Order of the Supreme Court of Illinois entered on May 18, 2017. Mr. Stern was to surrender for service of his sentence at an institution designated by the U.S. Bureau of Prisons on or before December 5, 2017. He currently is serving his sentence at the Federal Prison Camp in Duluth, Minnesota (FPC Duluth), with a projected release date of March 25, 2019.

The Order of Interim Suspension and Order to Show Cause directed Mr. Stern to (1) submit a written response to the Order on or before January 2, 2018, and (2) notify the Court in writing on or before January 2, 2018, of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, at 10:00 a.m. on January 17, 2018.

The Order of Interim Suspension and Order to Show Cause was mailed by both certified and regular mail to four addresses: a law firm in Chicago that is the Court's most recent address on record for Mr. Stern; a law firm in Northbrook, Illinois that is listed for Mr. Stern on the official website for the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois; an address in Chicago for an attorney representing Mr. Stern in his criminal case before the District Court (Attorney A); and an address in Chicago for another

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attorney representing Mr. Stern in his criminal case before the District Court (Attorney B). None of the copies of the Order of Interim Suspension and Order to Show Cause mailed by regular mail to those four addresses has been returned to the Court by the United States Postal Service.

The copy of the Order of Interim Suspension and Order to Show Cause (Order) mailed by certified mail to the Court's most recent address for Mr. Stern has not been returned to the Court by the United States Postal Service. The tracking information on the U.S. Postal Service's website is: "Delivered – Your item has been delivered to an agent at 10:55 am on December 5, 2017 in Chicago, IL 60690." The copy of the Order mailed by certified mail to the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois' address of record for Mr. Stern has not been returned to the Court by the United States Postal Service. The tracking information on the U.S. Postal Service's website is: "Delivered – Your item was delivered at 2:47 pm on December 8, 2017 in Deerfield, IL 60015." The copy of the Order mailed by certified mail to the address for Attorney A has not been returned to the Court by the United States Postal Service. The tracking information on the U.S. Postal Service's website is: "Delivered – Your item was delivered to the front desk or reception area at 3:09 pm on December 6, 2017 in Chicago, IL 60601." The copy of the Order mailed by certified mail to the address for Attorney B has not been returned to the Court by the United States Postal Service. The tracking information on the U.S. Postal Service's website is: "Delivered – Your item was delivered to an individual at the address at 2:58 pm on December 4, 2017 in Chicago, IL 60604." The Court has received no response from Mr. Stern to the Order of Interim Suspension and Order to Show Cause, nor did the Court receive by January 2, 2018, notice of Mr. Stern's intention to appear at the scheduled hearing.

Upon due consideration and for cause, it is

ORDERED that the Court's Order of Interim Suspension and Order to Show Cause, issued December 1, 2017, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Stern is disbarred from practice before the United States Tax Court. It is further

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

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

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

ORDERED that Mr. Stern 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:

 L. Paige Marvel

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L. Paige Marvel  
Chief Judge

Dated: Washington, D.C.  
April 19, 2018

**UNITED STATES TAX COURT**

WASHINGTON, DC 20217

In re: Benjamin Yu

**ORDER OF DISBARMENT**

The Court issued an Order of Interim Suspension and Order to Show Cause to Mr. Yu on November 16, 2017, 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 based upon (1) his conviction on May 31, 2016, following a jury trial in the Supreme Court of the State of New York, New York County, of conspiracy in the fourth degree, two counts of bribery in the second degree, and 13 counts of rewarding official misconduct in the second degree in violation of New York Penal Law Sections 105.10(1), 200.03, and 200.20 and his subsequent sentencing to 3 to 9 years in prison; (2) his automatic disbarment by operation of law and the consequent striking of his name from the roll of attorneys and counselors-at-law in the State of New York, nunc pro tunc to May 31, 2016, by Order of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, filed October 27, 2016; and (3) his interim suspension from the practice of law in the State of California by Order of the State Bar Court of California Review Department, In Bank, filed May 19, 2017, and effective June 12, 2017.

The Order of Interim Suspension and Order to Show Cause directed Mr. Yu to (1) submit a written response to the Order on or before December 18, 2017, and (2) notify the Court in writing on or before December 18, 2017, of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, at 10:00 a.m. on January 17, 2018.

The Order of Interim Suspension and Order to Show Cause was mailed by both certified and regular mail to an address in Newport Beach, California that is the most recent address that the Court has on record for Mr. Yu, and to an address in New York, New York that is listed for Mr. Yu on the official website for the State Bar of California. Both copies of the Order that were mailed to the address in New York were returned to the Court by the United States Postal Service, each envelope marked "Forward Time Exp Rtn to Send Yu Esq. 299 Adelphi St Apt 510 Brooklyn NY 11205-4643 Return to Sender."

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The copy of the Order of Interim Suspension and Order to Show Cause mailed by certified mail to the address in Newport Beach has not been returned to the Court by the U.S. Postal Service. The tracking information on the USPS website is: "Your item was picked up at a postal facility at 8:15 am on November 21, 2017 in Newport Beach, CA 92658." The copy of the Order mailed by regular mail to the address in Newport Beach has not been returned to the Court by the U.S. Postal Service. The Court has received no response from Mr. Yu to the Order of Interim Suspension and Order to Show Cause, nor has the Court received notice of Mr. Yu's intention to appear at the scheduled hearing.

Upon due consideration and for cause, it is

ORDERED that the Court's Order of Interim Suspension and Order to Show Cause, issued November 16, 2017, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Yu is disbarred from practice before the United States Tax Court. It is further

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

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

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

ORDERED that Mr. Yu 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:



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L. Paige Marvel  
Chief Judge

Dated: Washington, D.C.  
April 19, 2018