



UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

December 18, 2015

PRESS RELEASE

The Chief Judge of the United States Tax Court announced today that the following practitioners have been disciplined by the United States Tax Court for reasons explained in an order issued in the case of each practitioner, and a memorandum sur order issued in the case of Andrew Nicholas Dimitriou.

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

1. Andrew Nicholas Dimitriou
2. Joseph F. Lawless, Jr.
3. Chris M. Rusch

Attachments

UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: Andrew Nicholas Dimitriou

ORDER OF SUSPENSION

By order of the Supreme Court of California, filed April 10, 2015, Mr. Dimitriou was suspended from the practice of law in California for two years, with the execution of that period of suspension stayed, and he was placed on probation for three years subject to certain conditions, including the requirement that he be suspended from the practice of law for the first year of probation. Mr. Dimitriou failed to inform the Chair of this Court's Committee on Admissions, Ethics, and Discipline of the Order of the Supreme Court of California filed April 10, 2015, within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

Based upon the above, the Court issued an Order to Show Cause on September 9, 2015, affording Mr. Dimitriou 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 instructed Mr. Dimitriou to (1) submit a written response to the order on or before October 1, 2015, and (2) notify the Court in writing on or before October 1, 2015, 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 October 16, 2015.

Mr. Dimitriou did not file a timely response to the Order to Show Cause; the Court received his Response to Order to Show Cause (Response) on October 5, 2015. In his Response, he stated his intention to appear at the hearing on October 16, 2015, "by telephone". He also asked the Court to "suspend him from the practice before the Tax Court until May 10, 2016." The Court notified Mr. Dimitriou that his notice of intent to appear at the scheduled hearing concerning his proposed discipline was not received on or before October 1, 2015, and was, therefore, untimely. The Court also notified Mr. Dimitriou that the Court did not conduct disciplinary hearings by telephone.

SERVED DEC 18 2015

On October 8, 2015, the Court received Mr. Dimitriou's Amended Response to the Order to Show Cause and Request for Leave to File an Out of Time Response (Amended Response). Mr. Dimitriou's Amended Response explains that his Response was late because he had planned to file his response in this disciplinary proceeding electronically, and he did not know that he could not submit it electronically. He incorporates his Response by reference, and he requests leave to file his response out of time.

In his Amended Response, Mr. Dimitriou also addresses the Order to Show Cause. First, he states that the order of the Supreme Court of California filed April 10, 2015, is the only discipline that he has received as an attorney. Second, he describes the facts and circumstances underlying the California discipline. Third, Mr. Dimitriou states that, while he failed to notify the Chair of the Court's Committee on Admissions, Ethics, and Discipline of the order of the Supreme Court of California, he notified the presiding judge in a case he was handling in this Court, and he filed a motion to withdraw as counsel in that case. Finally, Mr. Dimitriou withdrew his request to appear at the scheduled hearing concerning the subject discipline. In conclusion, Mr. Dimitriou asks the Court to "suspend him from the practice before the Tax Court, and permit him to request reinstatement when his suspension ends with the State Bar of California." Mr. Dimitriou's Amended Response incorrectly states that his suspension would end on May 10, 2016.

Upon due consideration of Mr. Dimitriou's Amended Response to the Order to Show Cause, and for the reasons set forth in the attached Memorandum Sur Order, it hereby

ORDERED that Mr. Dimitriou's request for leave to file his response to the Order to Show Cause issued September 9, 2015, out of time is granted in that his Amended Response to Order to Show Cause and Request to File an Out of Time Response, which incorporates his Response to Order to Show Cause by reference, is included in the record of this proceeding. It is further

ORDERED that the Court's Order to Show Cause, issued September 9, 2015, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Dimitriou is forthwith 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. Dimitriou is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

ORDERED that Mr. Dimitriou'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. Dimitriou as counsel in all pending cases in which he appears as counsel of record. It is further

ORDERED that Mr. Dimitriou 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) Michael B. Thornton

Michael B. Thornton
Chief Judge

Dated: Washington, D.C.
December 18, 2015

UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: Andrew Nicholas Dimitriou

MEMORANDUM SUR ORDER

The Court issued an Order to Show Cause to Mr. Andrew Nicholas Dimitriou on September 9, 2015, 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 of the Supreme Court of California, filed April 10, 2015, wherein the court ordered that Mr. Dimitriou is:

suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and he is placed on probation for three years subject to the following conditions:

1. Andrew Nicholas Dimitriou is suspended from the practice of law for the first year of probation;
2. Andrew Nicholas Dimitriou must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on November 13, 2014; and
3. At the expiration of the period of probation, if Andrew Nicholas Dimitriou has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

The Order to Show Cause was also predicated on Mr. Dimitriou's failure to inform the Chair of the Court's Committee on Admissions, Ethics, and Discipline of the

action of the Supreme Court of California no later than 30 days after such action, as required by Rule 202(b) of the Tax Court Rules of Practice and Procedure.

The order of the Supreme Court of California, quoted above, suspended Mr. Dimitriou for two years, but it stayed execution of that suspension, and placed him on probation for three years subject to the three conditions. The first condition requires Mr. Dimitriou to be suspended from the practice of law for the first year of his probation. The third condition makes it clear that the period of Mr. Dimitriou's stayed suspension is satisfied, and his suspension will only be terminated, "At the expiration of the period of probation, if Andrew Nicholas Dimitriou has complied with all conditions of probation." Given the fact that Mr. Dimitriou's period of probation is three years, Mr. Dimitriou's stayed suspension cannot terminate until three years after the effective date of the Supreme Court order, vis. May 10, 2018.

The Order to Show Cause instructed Mr. Dimitriou to (1) submit a written response to the order on or before October 1, 2015, and (2) notify the Court in writing on or before October 1, 2015, 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 October 16, 2015. Mr. Dimitriou did not file a timely response to the order; the Court received his Response to Order to Show Cause ("Response")

on October 5, 2015. In his Response, he stated his intent to appear at the hearing on October 16, 2015, "by telephone". He also asked the Court to "suspend him from the practice before the Tax Court until May 10, 2016" when, according to the Response, his suspension would end.

The Court notified Mr. Dimitriou that his notice of intent to appear at the scheduled hearing was not timely because it had not been received on or before the deadline, October 1, 2015. The Court also notified Mr. Dimitriou that the Court did not conduct disciplinary hearings by telephone.

On October 8, 2015, the Court received Mr. Dimitriou's Amended Response to the Order to Show Cause and Request for Leave to File an Out of Time Response (Amended Response). Mr. Dimitriou explained in that document that his Response was late because he had planned to submit it electronically. He said that he was unaware that he could not submit his Response in this disciplinary proceeding electronically. He incorporated his Response in his Amended Response by reference, and he requested leave to file his response out of time.

In his Amended Response, Mr. Dimitriou makes the following four points in response to the Order to Show Cause: First, he states that the order of the Supreme Court of California filed April 10, 2015, is the only discipline that he has received as an attorney; second, Mr. Dimitriou describes the facts and circumstances

underlying the California discipline; third, Mr. Dimitriou acknowledges that he failed to notify the Chair of the Court's Committee on Admissions, Ethics, and Discipline of the order of the Supreme Court of California, but states that he notified the presiding judge of a case he was handling in this Court, and he filed a motion to withdraw as counsel in that case; and fourth, Mr. Dimitriou states that he no longer intended to appear at the scheduled hearing concerning the proposed discipline. In his conclusion, Mr. Dimitriou asks the Court to "suspend him from the practice before the Tax Court, and permit him to request reinstatement when his suspension ends with the State Bar of California." According to Mr. Dimitriou's Amended Response, his suspension would end on May 10, 2016.

Mr. Dimitriou's assertion that he was "suspended for only one year by order of the California Supreme Court" is contrary to the terms of the order of the Supreme Court of California, quoted above. As discussed, the order suspended Mr. Dimitriou for two years, but it stayed execution of that suspension, and placed him on probation for three years, subject to conditions. Under the terms of the order, Mr. Dimitriou's stayed suspension will be terminated "at the expiration of the period of probation," assuming he has complied with all conditions of his probation. Mr. Dimitriou's request in his Amended Response that this Court permit him to seek reinstatement after May 10, 2016, fails to take into account the

fact that his stayed suspension will not terminate until the expiration of his probation on or about May 10, 2018, and then only if it is determined that he had complied with all conditions of his probation. The Court cannot accept Mr. Dimitriou's Amended Response as an unconditional resignation from the bar of the Court. The Court must review the record of this disciplinary proceeding to determine whether Mr. Dimitriou has shown good cause why he should not be disciplined.

As true in the case of every reciprocal discipline case, the order of the California Supreme Court imposing discipline on Mr. Dimitriou 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 California Supreme Court, and that we follow the disciplinary action of that court, unless we determine, from an intrinsic consideration of the record California proceeding that one or more of the following factors should appear: (1) that Mr. Dimitriou 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 California Supreme Court. 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. Dimitriou bears the burden of showing why, notwithstanding the discipline imposed by the California Supreme Court, 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. Dimitrou an opportunity to present, for our review, the record of the disciplinary proceeding in California, and to point out any grounds to conclude that we should not give effect to the action of the California 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. Dimitriou has not shown any of the three factors identified by the Supreme Court in Selling v. Radford. First, Mr. Dimitriou fully participated in the disciplinary proceeding before the State Bar Court of California, and he entered into a Stipulation re Facts, Conclusions of Law, and Disposition and Order Approving Actual Suspension that was submitted to the Settlement Judge in that proceeding. See Rules of Procedure of the State Bar of California, Rule 5.56 (Stipulation re Facts, Conclusions of Law, and Disposition). Mr. Dimitriou has neither alleged nor shown a "want of notice or opportunity to be heard" with respect to the California proceeding. Second, Mr. Dimitriou has neither alleged nor shown any infirmity of proof as to the facts in his disciplinary proceeding before the California courts. Finally, Mr. Dimitriou has not shown any "other grave reason" not to give effect to the action of the California Supreme Court. See Selling v. Radford, 243 U.S. at 51. Indeed, the discipline imposed by the Supreme Court of California is the discipline set forth in the Stipulation re Facts, Conclusions of Law, and Disposition to which Mr. Dimitriou agreed during the proceedings before the State Bar Court of California. Accordingly, we will give full effect to the entire discipline imposed by California Supreme Court, supra.

Upon consideration of the foregoing, the Committee recommends that the Court grant Mr. Dimitriou's request for leave to submit his Amended Response out

of time. Considering the entire record in this matter, including Mr. Dimitriou's Amended Response, we conclude that Mr. Dimitriou has not shown good cause why he should not be suspended, disbarred or otherwise disciplined. 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.
December 18, 2015

UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: Joseph F. Lawless, Jr.

ORDER OF SUSPENSION

The Court issued an Order to Show Cause on September 9, 2015, affording Mr. Lawless 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 the Order of the Supreme Court of Pennsylvania, entered June 25, 2015, suspending Mr. Lawless from the practice of law in the Commonwealth of Pennsylvania for a period of one year and one day. See Office of Disciplinary Counsel v. Lawless, No. 1918 Disciplinary Docket No. 3 (Pa. Jun. 25, 2015). Additionally, Mr. Lawless failed to inform the Chair of this Court's Committee on Admissions, Ethics, and Discipline of the entry of the June 25, 2015, order of the Supreme Court of Pennsylvania within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

The Order to Show Cause instructed Mr. Lawless to (1) submit a written response to the order on or before October 1, 2015, and (2) notify the Court in writing on or before October 1, 2015, 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 October 16, 2015.

The Order to Show Cause was mailed to Mr. Lawless by both certified and regular mail. The copy of the Order to Show Cause mailed by certified mail was returned to the Court by the United States Postal Service, the envelope marked "Return to Sender Unclaimed - Unable to Forward." The copy of the Order to Show Cause mailed by regular mail has not been returned to the Court by the United States Postal Service. The Court has received no response from Mr. Lawless to the Order to Show Cause, nor had the Court received by October 1, 2015, notice of Mr. Lawless's intention to appear at the scheduled hearing.

Upon due consideration and for cause, it is hereby

SERVED DEC 18 2015

ORDERED that the Court's Order to Show Cause, issued September 9, 2015, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Lawless is forthwith 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. Lawless is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

ORDERED that Mr. Lawless'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. Lawless as counsel in all pending cases in which he appears as counsel of record. It is further

ORDERED that Mr. Lawless 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) Michael B. Thornton

Michael B. Thornton
Chief Judge

Dated: Washington, D.C.
December 18, 2015

UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: Christopher M. Rusch

ORDER OF DISBARMENT

The Court issued an Order to Show Cause on September 9, 2015, affording Mr. Rusch 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 an Order of the Supreme Court of California, En Banc, filed May 26, 2015, disbaring Mr. Rusch from the practice of law in the State of California. See In re Rusch, No. S225249, 2015 Cal. LEXIS 6703 (Cal. May 26, 2015). Additionally, Mr. Rusch failed to inform the Chair of this Court's Committee on Admissions, Ethics, and Discipline of the entry of the May 26, 2015, order of the Supreme Court of California within 30 days, as required by Rule 202(b) of the Tax Court Rules of Practice and Procedure.

The Order to Show Cause instructed Mr. Rusch to (1) submit a written response to the Order on or before October 1, 2015, and (2) notify the Court in writing on or before October 1, 2015, 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 October 16, 2015.

The Order to Show Cause was mailed to Mr. Rusch by both certified and regular mail. The copy of the Order to Show Cause mailed by certified mail has not been returned to the Court by the United States Postal Service. The tracking information listed on the USPS website states: "Your item was delivered at 9:00 am on September 15, 2015, in West Hollywood, CA 90069." The copy of the Order to Show Cause mailed by regular mail was returned to the Court by the United States Postal Service, the envelope marked "Return to Sender - No Such Person." The Court has received no response from Mr. Rusch to the Order to Show Cause, nor has the Court received by October 1, 2015, notice of Mr. Rusch's intention to appear at the scheduled hearing.

Upon due consideration and for cause, it is hereby

SERVED DEC 18 2015

ORDERED that the Court's Order to Show Cause, issued September 9, 2015, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Rusch is forthwith disbarred from further practice before the United States Tax Court. It is further

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

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

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

ORDERED that Mr. Rusch 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) Michael B. Thornton

Michael B. Thornton
Chief Judge

Dated: Washington, D.C.
December 18, 2015