



United States Tax Court

Washington, DC 20217

December 23, 2025

ANNOUNCEMENT

The Chief Judge of the United States Tax Court announces that the following practitioner has been suspended for reasons explained in the attached order.

1. Scott Lloyd Fenstermaker



United States Tax Court

Washington, DC 20217

In the Matter of
Scott L. Fenstermaker
Tax Court Bar No. FS0321

ORDER OF SUSPENSION

1. Background

Mr. Fenstermaker was admitted to the Bar of this Court on October 15, 1996, based on his admission to the Bar of New York on February 3, 1993. Mr. Fenstermaker was later admitted to the Maine bar in May 2022.

By Order dated March 17, 2023, the Supreme Judicial Court of Maine placed Mr. Fenstermaker on immediate interim suspension. *See Board of Overseers of the Bar v. Fenstermaker*, Docket No. Bar-23-4. In March 2024, Mr. Fenstermaker appeared pro se at a five-day disciplinary hearing in Maine. Thereafter, by Order dated June 21, 2024, the Supreme Judicial Court of Maine suspended Mr. Fenstermaker from the practice of law for three years, effective nunc pro tunc to March 17, 2023. *See Board of Overseers of the Bar v. Fenstermaker*, Docket No. Bar-23-4. Mr. Fenstermaker failed to timely disclose the discipline to this Court as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

By order dated March 21, 2023, the United States District Court for the District of Maine issued an Order to Show Cause that, pursuant to Local Rule 83.3(c)(2), reciprocally suspended Mr. Fenstermaker from the practice of law in that court. The district court's order was made effective immediately and directed him to show cause as to why such discipline should not be imposed. *See In Re Scott L. Fenstermaker*, Docket No. 2:23-mc-00106-JDL. Mr. Fenstermaker filed a response in which he requested a stay of his suspension. After a case management conference and with the leave of the district court, Mr. Fenstermaker filed a Memorandum in Opposition to the suspension.¹ The district court concluded Mr. Fenstermaker failed to show that identical discipline should not be imposed. Mr. Fenstermaker failed to timely disclose the discipline to this Court as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

By order filed March 28, 2025, Mr. Fenstermaker was suspended from the practice of law before the United States Court of Appeals for the Second Circuit pursuant to that court's reciprocal discipline rule. Mr. Fenstermaker failed to timely disclose the discipline to this Court as required by Rule 202(b), U.S. Tax Court Rules of Practice and Procedure. Mr.

¹ Mr. Fenstermaker also filed a Motion for Recusal arguing that Judge Jon D. Levy should recuse himself from presiding over the matter based on his ties to the Maine state legal system. The motion was denied.

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Fenstermaker moved, on or about April 17, 2025, to vacate the suspension. The motion is still awaiting decision.

By Order dated May 13, 2025, the Supreme Court of the State of New York, Appellate Division, First Judicial Department suspended Mr. Fenstermaker from the practice of law in the state of New York for a period of one year. The court found that Maine's three-year suspension did not reasonably align with precedent in New York involving comparable misconduct; highlighted that Mr. Fenstermaker had never been the subject of discipline, either publicly or privately, during his 32 years of practice in New York; and that a one-year suspension was sufficiently appropriate to take into consideration the seriousness of the Maine court's misconduct findings, Mr. Fenstermaker's pattern of misconduct before them, and his lack of remorse.

The New York suspension became effective on June 12, 2025. *See In the Matter of Fenstermaker*, Case No. 2025-00554. On May 25, 2025, Mr. Fenstermaker filed a Motion to Withdraw as Counsel in *Abhishek Chaki & Shamma Fidaly v. Commissioner*, Docket No. 16763-24, and advised the Tax Court that he had been suspended from practicing law in New York.

This Court issued an Order to Show Cause to Mr. Fenstermaker on September 25, 2025, affording him the opportunity to show cause why he should not be reciprocally suspended from practice before this Court. *See* Rule 202(c), Tax Court Rules of Practice and Procedure. Mr. Fenstermaker submitted a timely written response, with exhibits, in which he requested that the Court stay any decision pending the decision of the United States Court of Appeals for the Second Circuit; impose no reciprocal discipline; or provide any just and equitable relief.

At Mr. Fenstermaker's request, a hearing was held on December 3, 2025. Among other things, Mr. Fenstermaker testified as to the conduct involving his underlying suspension in Maine; stated he was aware that he should have reported the Maine suspension pursuant to Rule 202(b), Tax Court Rules of Practice and Procedure; and admitted he did not comply.

2. Discussion

A member of the Bar of this Court is required to report, in writing, imposition of discipline by another court of whose Bar an attorney is a member no later than 30 days after the entry of the order of discipline. Rule 202(b), Tax Court Rules of Practice and Procedure. Mr. Fenstermaker failed to report to the Court in writing within 30 days of his suspensions by the Supreme Judicial Court of Maine; the United States District Court for the District of Maine; and the United States Court of Appeals for the Second Circuit. We are mindful, however, that the latter's proceedings are ongoing, and that Mr. Fenstermaker timely reported his suspension from New York.

Additionally, a member of the Bar of this Court may be disciplined by this Court as a result of the imposition of discipline by any other court of whose Bar an attorney is a

member. Rule 202(a)(2), U.S. Tax Court Rules of Practice and Procedure.

Selling v. Radford, 243 U.S. 46 (1916), establishes the legal standard that governs the imposition of reciprocal discipline. Under *Selling*, we will recognize the suspension by the Bars of Maine and New York unless, from an examination of the record, it appears that the state procedure was wanting in due process, there was such an infirmity of proof as to give rise to a clear conviction that we could not accept the conclusion of the state court, or that some other grave reason exists that convinces us not to accept the action taken. *See id.* at 51.

Mr. Fenstermaker does not contend that either state procedure was wanting in due process, but challenges the imposition of reciprocal discipline on the basis of the second and third *Selling* factors. Specifically, Mr. Fenstermaker contends that the state of Maine's decision was based on numerous erroneous findings of fact, and he testified as to irregularities, for example, in state court filings. Mr. Fenstermaker did not address his suspension from the United States District Court for the District of Maine, but we note that the district court denied Mr. Fenstermaker's Motion for Recusal.

In contrast, Mr. Fenstermaker does not contend that there were any infirmities of proof in the New York proceeding. In that proceeding, the court deviated from the general rule of identical discipline and imposed lesser discipline of a one-year suspension. Nevertheless, the New York court chose to impose discipline. The New York suspension, coupled with Mr. Fenstermaker's failure to report to the Court his suspensions in three other courts despite knowing of his duty to do so, bely Mr. Fenstermaker's contention that reciprocal discipline in the instant case would be inconsistent with principles of right and justice. Bearing that in mind, we are not inclined to stay our decision.

Upon due consideration of the foregoing, it is

ORDERED that the Court's Order to Show Cause, issued September 25, 2025, is made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Fenstermaker is suspended from practice before the United States Tax Court until further order of the Court. It is further

ORDERED that, pursuant to Rule 202(f)(2), Tax Court Rules of Practice and Procedure, Mr. Fenstermaker may not resume practice before this Court until reinstated by order of this Court. It is further

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

ORDERED that Mr. Fenstermaker'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. Fenstermaker as counsel in any pending cases in which he appears as counsel of record.

By the Court:

(Signed) Patrick J. Urda
Chief Judge