



UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

October 12, 2016

PRESS RELEASE

The Chief Judge of the United States Tax Court announced today that the following practitioners have been disbarred or suspended 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 with respect to Troy D. Renkemeyer.

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

1. Jimmy E. Allen, Jr.
2. Troy D. Renkemeyer

Attachments

UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: Jimmy E. Allen, Jr.

ORDER OF DISBARMENT

The Court issued an Order to Show Cause on May 10, 2016, affording Mr. Allen 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 disbarment from the practice of law in the State of Kansas, by Order of the Supreme Court of Kansas filed November 5, 2015, In re Allen, 360 P.3d 1079 (Kan. 2015); (2) his disbarment from the practice of law in the State of Missouri, by Order of the Supreme Court of Missouri, En Banc, entered March 2, 2016, In re Allen, No. SC95493 (Mo. March 2, 2016); and (3) his failure to inform the Chair of the Committee on Admissions, Ethics, and Discipline of his disbarments in Kansas and Missouri within 30 days after each order of disbarment was entered, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

The Order to Show Cause instructed Mr. Allen to (1) submit a written response to the order on or before June 10, 2016, and (2) notify the Court in writing on or before June 10, 2016, 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 June 28, 2016.

The Order to Show Cause was mailed by certified mail and regular mail to an office address in Overland Park, Kansas, and to a Post Office box in Louisburg, Kansas. Both copies of the Order to Show Cause that were mailed to the office address, as well as the copy mailed by certified mail to the Post Office box address, were returned to the Court by the United States Postal Service, each envelope marked "Return to Sender -Not Deliverable as Addressed -Unable to Forward." The copy of the Order to Show Cause mailed by regular mail to the Post Office box address has not been returned to the Court by the United States Postal Service. The Court has received no response from Mr. Allen to the Order to Show Cause, nor did the Court receive by June 10, 2016, notice of Mr. Allen's intention to appear at the scheduled hearing.

Upon due consideration and for cause, it is hereby

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ORDERED that the Court's Order to Show Cause, issued May 10, 2016, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Allen is forthwith disbarred from further practice before the United States Tax Court. It is further

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

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

ORDERED that Mr. Allen 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.
October 12, 2016

UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re: Troy D. Renkemeyer

ORDER OF SUSPENSION

The Court issued an Order to Show Cause to Mr. Troy D. Renkemeyer on May 10, 2016, 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 discipline imposed by the Supreme Court of Kansas, by order filed October 23, 2015, suspending him from the practice of law in the State of Kansas for one year, effective October 23, 2015. See In re Renkemeyer, 359 P.3d 77, 89 (Kan. 2015); Rule 202(c), Tax Court Rules of Practice and Procedure. Mr. Renkemeyer failed to inform the Chair of this Court's Committee on Admissions, Ethics, and Discipline of the filing of the October 23, 2015, order by the Kansas Supreme Court within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

The Order to Show Cause instructed Mr. Renkemeyer to submit a written response to the Order on or before June 10, 2016, and notify the Court in writing on or before June 10, 2016, 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 June 28, 2016.

In response to the Order to Show Cause, Mr. Renkemeyer submitted a Response to Order to Show Cause ("response"), timely received by the Court on June 10, 2016, setting forth his written response to the Court's Order to Show Cause. The response included notification to the Court of his intention to appear at a hearing on June 28, 2016, a copy of In re Renkemeyer, and a copy of the transcript of proceeding before the Kansas Board for Discipline of Attorneys in the Supreme Court of Kansas, dated October 8, 2014. Additionally, Mr. Renkemeyer appeared before a panel of three Judges of the Court at the hearing on June 28, 2016.

Upon due consideration of Mr. Renkemeyer's written response to the Court, his testimony before the panel at the June 28, 2016, hearing, and for reasons set forth more fully in the attached Memorandum Sur Order, it is

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ORDERED that the Court's Order to Show Cause, issued May 10, 2016, is hereby made absolute in that, under the provisions of Rule 202, Tax Court Rules of Practice and Procedure, Mr. Renkemeyer 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. Renkemeyer is prohibited from holding himself out as a member of the Bar of the United States Tax Court. It is further

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

ORDERED that Mr. Renkemeyer 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.
October 12, 2016

UNITED STATES TAX COURT

WASHINGTON, DC 20217

In re Troy D. Renkemeyer

MEMORANDUM SUR ORDER

On May 10, 2016, the Court issued an Order to Show Cause to Mr. Troy D. Renkemeyer, a member of the bar, 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 Mr. Renkemeyer's suspension from the practice of law in the State of Kansas for one year, effective October 23, 2015, by Order of the Supreme Court of Kansas, filed October 23, 2015. See In re Renkemeyer, 359 P.3d 77 (Kan. 2015); Rule 202(c), Tax Court Rules of Practice and Procedure. The Order to Show Cause was also predicated on Mr. Renkemeyer's failure to inform the Chair of this Court's Committee on Admissions, Ethics, and Discipline of the filing of the October 23, 2015, Order of the Kansas Supreme Court within 30 days, as required by Rule 202(b), Tax Court Rules of Practice and Procedure.

The Order to Show Cause instructed Mr. Renkemeyer to submit a written response on or before June 10, 2016, and to notify the Court therein of his intention to appear, in person or by counsel, at a hearing concerning his proposed discipline scheduled before the Court on June 28, 2016, at 10:00 a.m.

The Court received Mr. Renkemeyer's Response To Order To Show Cause ("response") on June 10, 2016, wherein he also notified the Court of his intention to appear at the hearing on June 28, 2016. Attached to his response was a copy of In re Renkemeyer (the Kansas Supreme Court opinion) and a copy of the transcript of the proceedings on October 8, 2014, before a panel of the Kansas Board for Discipline of Attorneys in In re Renkemeyer, No. DA 10,995. Additionally, Mr. Renkemeyer appeared before a panel of three judges of this Court at the hearing on June 28, 2016.

We note that on June 28, 2016, after the Order to Show Cause had been issued, the Supreme Court of the State of Missouri suspended Mr. Renkemeyer from the practice of law in that state as reciprocal discipline based upon his suspension from the practice of law in the State of Kansas. See In re Renkemeyer, No. SC95652 (Mo. June 28, 2016).

BACKGROUND

Mr. Renkemeyer's suspension from the practice of law in the State of Kansas was based upon his misconduct in connection with the sale and subsequent failure of a trucking business, Monarch Transport, LLC. See In re Renkemeyer, 359 P.3d at 78. During litigation involving those matters, the Kansas courts found that Mr. Renkemeyer had breached his fiduciary duty to the buyer of the business

by improperly diverting invoice payments, and that Mr. Renkemeyer had acted in a fraudulent manner. See Monarch Transport, LLC v. FKMT, LLC, 2012 WL 3629861, *11, *13 (Kan. Ct. App. 2012) (referred to herein as Monarch Transport).

Based upon those findings, the office of the Disciplinary Administrator in Kansas filed a complaint against Mr. Renkemeyer alleging that he had violated Kansas Rules of Professional Conduct 8.4(c) (engaging in conduct involving misrepresentation) and 8.4(g) (engaging in conduct adversely reflecting on lawyer's fitness to practice law). In re Renkemeyer, 359 P.3d at 78. A panel of the Kansas Board for Discipline of Attorneys held a hearing on the complaint of the Disciplinary Administrator on October 8, 2014, at which Mr. Renkemeyer was present and represented by counsel. Id. The panel concluded that Mr. Renkemeyer had engaged in conduct involving dishonesty when he breached his fiduciary duty to the buyer of the business, and that he had acted in a fraudulent manner, violating Kansas Rules of Professional Conduct 8.4(c). Id. at 86. The panel also concluded that Mr. Renkemeyer had engaged in conduct that adversely reflected on his fitness to practice law when he breached his fiduciary duty and acted in a fraudulent manner, violating Kansas Rules of Professional Conduct 8.4(g). Id.

The panel considered Standards 5.11, 5.12, and 5.13 of the American Bar Association Standards for Imposing Lawyer Sanctions in deciding whether disbarment or some lesser discipline was appropriate. Id. at 87. The panel stated that “According to ABA Standards 5.11 and 5.13, the respondent’s misconduct warrants either disbarment (if the conduct was intentional) or censure (if the conduct was done knowingly).” Id. The panel concluded that disbarment was not appropriate because the mitigating factors were compelling and that censure was not appropriate when an attorney was engaged in fraud. Id. The panel unanimously recommended that Mr. Renkemeyer be suspended from the practice of law for six months. Id.

The Supreme Court of Kansas also held a hearing at which Mr. Renkemeyer was present and represented by counsel. Id. at 88. Mr. Renkemeyer did not file exceptions to the hearing panel’s final reports and, thus, he was deemed to have admitted the panel’s findings of fact. The Supreme Court concluded that the evidence before the panel established that Mr. Renkemeyer had violated Kansas Rules of Professional Conduct 8.4(c) and 8.4(g), and it adopted the panel’s conclusions of law. Id. However, the Supreme Court unanimously decided to suspend Mr. Renkemeyer for one year, rather than for the six months as recommended by the panel. Id. at 87-89. The court noted that Mr. Renkemeyer

had asserted during his hearing that he had not thought of himself as a fiduciary in the trucking company transaction. Id. at 88. He argued that he had been a passive investor who thought of himself as a mere seller. Id. The Supreme Court of Kansas remarked that Mr. Renkemeyer's arguments did not fill the court with confidence that Mr. Renkemeyer had a firm grasp on the nature and wrongfulness of his ethical lapses. Id. The court stated that it was particularly troubled because of Mr. Renkemeyer's substantial training and experience, not only as a tax lawyer, but also as a certified public accountant. Id.

DISCUSSION

As true in the case of every reciprocal discipline case, the order of the Supreme Court of Kansas suspending Mr. Renkemeyer from the practice of law for one year 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 Kansas, and that we follow the disciplinary action of that court, unless we determine, from an intrinsic consideration of the record of the Kansas proceeding that one or more of the following factors should appear: (1) that Mr. Renkemeyer was denied due process in the form of notice and an

opportunity to be heard with respect to the Kansas proceeding; (2) that there was such an infirmity of proof in the facts found to have been established in the proceeding as to give rise to a clear conviction that we cannot accept the conclusions of the Kansas proceeding; or (3) that some other grave reason exists which convinces us that we should not follow the discipline imposed by the Supreme Court of Kansas. 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. Renkemeyer bears the burden of showing why, notwithstanding the discipline imposed by the Supreme Court of Kansas, 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. Renkemeyer an opportunity to present, for our review, the record of the disciplinary proceeding in Kansas, and to point out any grounds to conclude that we should not give effect to the action of the Supreme Court of Kansas. 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. Renkemeyer argues that the appropriate discipline is reprimand, rather than suspension, because (1) the jury in Monarch Transport did not find actual fraud and (2) even if the jury had found actual fraud, the appropriate sanction under the ABA Standards for Imposing Lawyers Sanctions is a reprimand. To support his assertion that the jury did not find actual fraud, Mr. Renkemeyer provided the jury verdict form from the Monarch Transport case as an exhibit during his hearing. Question 12 of the jury verdict form states, “Do you find that there is clear and convincingconvincing [sic] evidence that Renkemeyer acted in a fraudulent manner such that punitive damages should be awarded to New Monarch?” The jury verdict form shows that the jury marked “yes” in answer to this question. However, Mr. Renkemeyer argues the jury finding is inconsistent with other jury findings. No prior court or tribunal was convinced by this argument and we accept the simple finding of fraud by the jury. In addition, as stated above, the Court of Appeals of Kansas affirmed the jury’s finding of breach of fiduciary duty and of acting in a fraudulent manner. See Monarch Transport, 2012 WL 3629861, *11, *13. The panel of the Kansas Board for Discipline of

Attorneys concluded that Mr. Renkemeyer had acted in a fraudulent manner. In re Renkemeyer, 359 P.3d at 86. The Supreme Court of Kansas adopted the panel's conclusions. Id. at 88.

To support his assertion that even if the jury had found actual fraud, the appropriate sanction under the ABA Standards for Imposing Lawyers Sanctions is reprimand, Mr. Renkemeyer cites Standards 5.12-5.14 of the American Bar Association Standards for Imposing Lawyer Sanctions. However, as mentioned above, the panel of the Kansas Board for Discipline of Attorneys considered whether to disbar Mr. Renkemeyer based on Standard 5.11 of the American Bar Association Standards for Imposing Lawyer Sanctions (lawyer engages in “intentional conduct involving dishonesty, fraud, deceit, or misrepresentation”). See In re Renkemeyer, 359 P.3d at 87. The panel recommended suspension, rather than disbarment, because the mitigating factors were compelling. Id. Furthermore, we note that, during his hearing before the Supreme Court of Kansas, Mr. Renkemeyer “expressed agreement with the panel’s recommendation of a 6-month suspension.” In re Renkemeyer, 359 P.3d at 88.

Mr. Renkemeyer has not shown any of the three factors identified by the Supreme Court in Selling v. Radford. First, Mr. Renkemeyer has neither alleged nor shown a “want of notice or opportunity to be heard” with respect to the Kansas

proceeding. Second, Mr. Renkemeyer has not shown any infirmity of proof as to the facts in his disciplinary proceeding before the Supreme Court of Kansas. The jury verdict form shows that the jury found that Mr. Renkemeyer had acted in a fraudulent manner and the Court of Appeals of Kansas, the Kansas Board of Discipline for Attorneys, and the Supreme Court of Kansas agreed. See Monarch Transport, 2012 WL 3629861, *11, *13; In re Renkemeyer, 359 P.3d at 86-88. Finally, Mr. Renkemeyer has not shown any “other grave reason” not to give effect to the action of the Supreme Court of Kansas. See Selling v. Radford, 243 U.S. at 51. Accordingly, we will give full effect to Mr. Renkemeyer’s suspension by the Supreme Court of Kansas.

Considering the entire record in this matter, we conclude that Mr. Renkemeyer 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.
October 12, 2016