



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF PROFESSIONAL RESPONSIBILITY

**RECEIVED**

OCT 19 2012

S.C. SUPREME COURT

The Office of Bar Admission  
The Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211

Dear Sir or Madame:

I am writing to request information regarding Mr. James C. Sexton's educational background and admission history. Please provide me with the following information:

**I. Educational Background:**

- A. From which college or university did Mr. Sexton receive his undergraduate degree? When did he receive that degree?
- B. From which law school did he receive his Doctor of Jurisprudence? When did he receive that degree?
- C. Did he receive any other degrees (including, but is not limited to, a master of laws)? From which university did he receive that degree? When did he receive that degree?

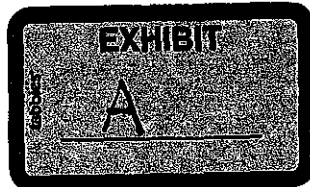
**II. Admission History**

- A. When was Mr. Sexton admitted to practice law in the State of South Carolina?

Thank you for your assistance. If you have any questions or concerns, please contact Ms. Dinh Tran, an Attorney-Advisor, by telephone (202) 622 -8216, by fax at (202) 622 -0261, by email (non-secure) at [Dinh.Tran@IRS.gov](mailto:Dinh.Tran@IRS.gov), or by correspondence at the Internal Revenue Service, Office of Professional Responsibility, 1111 Constitution Avenue, N.W., Attn: SE:OPR-Room 7238/IR, Washington, DC 20224.

Sincerely,

John T. Manhire, Jr.  
Chief of Legal Analysis Branch  
Office of Professional Responsibility





DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF PROFESSIONAL RESPONSIBILITY

**FEB 25 2013**

BY REGULAR  
AND CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

James C. Sexton, Jr.  
President  
Esquire Group, LLC  
633 South 4<sup>th</sup> Street, Suite 7  
Las Vegas, Nevada 89101

**Re: Suspected Practitioner Misconduct under Circular 230**

Dear Mr. Sexton:

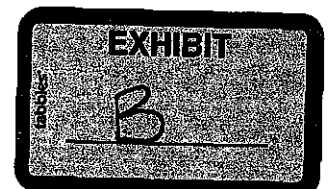
The Office of Professional Responsibility (OPR) received a referral of suspected practitioner misconduct on September 5, 2012. The conduct described in the referral suggested that you may have violated one or more of the regulations governing practice before the Internal Revenue Service, as set forth in Treasury Department Circular No. 230<sup>1</sup>. Below are the allegations of misconduct and a list of essential information OPR is requesting that pertains to the allegations. Providing the requested information will assist OPR in making a determination on the allegations against you.

**I. Allegations of Misconduct**

On January 28, 2008, OPR issued a decision to suspend you from practicing before the Internal Revenue Service pursuant to section 10.82. Section 10.2(a)(4) defines "practice before the Internal Revenue Service" to:

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<sup>1</sup> Unless otherwise stated, all section references are to the Treasury Department Circular No. 230 (31 C.F.R., Part 10, effective August 2, 2011), which may be retrieved at: <http://www.irs.gov/pub/irs-pdf/pcir230.pdf>.



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February 25, 2013  
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[comprehend] all matters connected with a presentation to the Internal Revenue Service... such presentations include, but are not limited to, preparing documents; filing documents; corresponding and communicating with the Internal Revenue Service; rendering written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion; and representing a client at conference, hearings, and meeting.

During your suspension you allegedly "practiced before the Internal Revenue Service" within the meaning of section 10.2(a)(4) and therefore, may have violated section 10.82(f). Engaging in such misconduct can subject you to sanctions pursuant to sections 10.50 and 10.52.

## **II. Information Required for a Determination on the Alleged Misconduct**

**Within sixty (60) days of the date of this letter, please provide the following information as required under section 10.20(a)(3).** The term "information" as defined under section 10.51(a)(4) includes, but is not limited to, facts or other matters contained in testimony, Federal tax returns, financial statements, applications for enrollment, affidavits, declarations, or any other documents or statements. Also, the term "documents" includes, but is not limited to, videos, pamphlets, presentations, reports, handwritten or typed notes, internal memoranda, or any correspondence via email or letter. Furthermore, the designation of "Esquire Group, LLC" (Esquire Group) means any of the following entities and its related entities: Esquire Group, LLC (Nevada); Esquire Group, LLC (Arizona); and Esquire Group, LLC (Vienna, Austria).

- (1) List all undergraduate, graduate, and professional degrees you earned, and the college or university from which you received those degrees. Provide any and all documents supporting the fact that you earned those undergraduate, graduate, and professional degrees.
- (2) Explain the purpose and the organizational structure of Esquire Group from the date of incorporation to the present. Provide any and all documents with respect to and/or any and all information relating to the incorporation of Esquire Group and any and all changes with respect to Esquire Group's entity structure.
- (3) List all members, employees, and independent contractors of Esquire Group from the date of incorporation to the present, and describe each of their roles or provide their job descriptions. Provide a resume or CV for each of the Esquire Group members, employees, and independent contractors.

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- (4) Provide any and all documents with respect to and/or any and all information relating to Esquire Group's business plan.
- (5) Provide any and all documents used for and/or any and all information relating to the promotion or advertising of Esquire Group and/or Esquire Group's services.
- (6) Provide any and all documents used for and/or any and all information relating to the solicitation of clients by you individually, [REDACTED] and/or Esquire Group.
- (7) Provide any and all documents with respect to and/or any and all information relating to the actual and/or estimated fees of Esquire Group's services.
- (8) Provide any and all documents with respect to and/or any and all information relating to any and all "explanations" of Federal tax law or Federal tax consequences or Federal tax treatments rendered to clients or offered to solicit clients.
- (9) Provide copies of any and all United States Federal and State tax returns and supplemental material prepared, filed, and/or submitted by Esquire Group on behalf of clients.
- (10) Provide any and all documents used for and/or any and all information relating to the preparation, the filing, and/or the submission of the clients' Federal and State tax returns and the supplemental material prepared, filed and/or submitted by Esquire Group.
- (11) Provide any and all documents with respect to and/or any information relating to any and all entities, transactions, plans, or arrangements that you individually or Esquire Group educated or explained to clients and/or explained or educated to solicit clients.

Regarding the information requested, section 10.20(a)(3) **requires** you to submit records or information upon a proper and lawful request, unless you believe in good faith and have reasonable grounds that the information is privileged. Failure to submit records or information without stating the basis of the asserted privilege may result in further allegations against you. Also, while preparing this information, please be aware that it is a violation of section 10.51(a)(4) to give false or misleading information, or participate in any way in the giving of false or misleading information to the Department of Treasury or any officer or employee thereof, in connection with any matter pending or likely to be pending before them, knowing such information to be false or misleading.

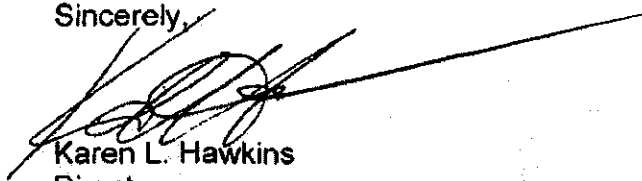
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OPR will begin an investigation of the allegations contained in the referral and will make an independent determination as to whether the issuance of a formal allegation letter with respect to the matters contained therein, or with respect to any other violations discovered during our investigation, is necessary.

Any submissions concerning this investigation should be addressed to Ms. Dinh Tran, Attorney-Advisor, Internal Revenue Service, Office of Professional Responsibility, 1111 Constitution Avenue, N.W., Attn: SE:OPR, Room 7238/IR, Washington, DC 20224.

Should you have any questions, please contact Ms. Tran by telephone at (202) 622-8216, by fax at (202) 622-0261, by email (non-secure) at [Dinh.Tran@IRS.gov](mailto:Dinh.Tran@IRS.gov), or by correspondence at the above address.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Hawkins', is written over a horizontal line.

Karen L. Hawkins  
Director  
Office of Professional Responsibility

KLH/dt

**Desa Ballard**

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**From:** Tran Dinh T <Dinh.Tran@irs.gov>  
**Sent:** Friday, April 12, 2013 3:44 PM  
**To:** Desa Ballard  
**Subject:** Information Request pursuant to Circular 230  
  
**Categories:** Yellow Category

Dear Ms. Ballard:

You requested clarification on which version of Circular 230 governs Mr. Sexton's conduct. As a general matter, a practitioner's conduct is regulated by the version of Circular 230 in effect at the time of the conduct; thus, conduct that occurred between September 26, 2007, and August 1, 2011, would be governed by the 2007 revised version of Circular 230, while any conduct that occurred on or after August 2, 2011, could be governed by the current version of Circular 230, which went into effect on August 2, 2011. The Office of Professional Responsibility (OPR) has authority to request documents with respect to any conduct governed by the Circular 230 that went into effect on September 26, 2007, and August 2, 2011.

Both the 2007 and 2011 revised versions of Circular 230 set forth definitions of "practice before the Internal Revenue Service" that included the preparation and filing of tax returns. Prior to the effective date of the 2011 revised version, OPR generally permitted practitioners who had been suspended or disbarred from practice to prepare and file tax returns. For practitioners for whom a decision imposing a term of suspension or disbarment is entered on or after Aug. 2, 2011, the sanction includes a prohibition on the preparation and filing of tax returns. However, as a matter of policy and administrative grace, OPR has stated that, for the time being, practitioners who were suspended or disbarred in a decision entered prior to Aug. 2, 2011, may continue to prepare and file tax returns.

Since Mr. Sexton was suspended by OPR for an indefinite period on Jan. 28, 2008, he has been and is permitted to prepare and file tax returns. However, if OPR were to determine that, on or after Aug. 2, 2011, he engaged in misconduct in violation of Circular 230, including engaging in practice before the IRS other than preparation and filing of tax returns in violation of the terms of the suspension, OPR would have the authority to pursue disciplinary action and request imposition of sanctions, including, while enforcing the terms of the 2008 suspension, pursue a new term of suspension, under the 2011 rules, which would prohibit a practitioner from preparing or filing tax returns.

You also requested clarification on whether Mr. Sexton's previously having obtained a provisional Preparer Tax Identification Number (PTIN) has any bearing on this case. The IRS requires that any person who prepares all or substantially all of or signs a tax return or claim for refund must apply for and obtain a PTIN; if Mr. Sexton prepares tax returns then he is required to comply with this generally applicable requirement for all tax return preparers. However, the IRS's assigning of a PTIN to a practitioner, in and of itself, does not indicate whether the practitioner is permitted to prepare and file tax returns with the agency.

In response to your March 22, 2013, letter, I would like to modify the information and document request as set forth in the February 25, 2013 letter. Nonetheless, the terms as defined in the February 25, 2013 letter governs this modified request. The term "information" as defined under section 10.51(a)(4) includes, but is not limited to, facts or other matters contained in testimony, Federal tax returns, financial statements, applications for enrollment, affidavits, declarations, or any other documents or statements. Also, the term "documents" includes, but is not limited to, videos, pamphlets, presentations, reports, handwritten or typed notes, internal



memoranda, or any correspondence via email or letter. **Please note that documents and information would include those which Mr. Sexton has in his possession and those which Mr. Sexton has the legal or contractual authority to request and obtain.** Furthermore, the designation of "Esquire Group, LLC" (Esquire Group) means any of the following entities and its related entities: Esquire Group, LLC ( Nevada); Esquire Group, LLC (Arizona); and Esquire Group, LLC (Vienna, Austria).

(1) First Request:

Original: *List all undergraduate, graduate, and professional degrees you earned, and the college or university from which you received those degrees. Provide any and all documents supporting the fact that you earned those undergraduate, graduate, and professional degrees.*

Modified: First request as made in the February 25, 2013, letter will remain as is.

(2) Second Request:

Original: *Explain the purpose and the organizational structure of Esquire Group from the date of incorporation to the present. Provide any and all documents with respect to and/or any and all information relating to the incorporation of Esquire Group and any and all changes with respect to Esquire Group's entity structure.*

Modified: Although Mr. Sexton no longer has an interest in Esquire Group LLC (Esquire Group), please provide the dates when he had an interest in Esquire Group. Please explain and provide any and all information regarding the entity structure of Esquire Group from the date of the inception to the present.

(3) Third Request:

Original: *List all members, employees, and independent contractors of Esquire Group from the date of incorporation to the present, and describe each of their roles or provide their job descriptions. Provide a resume or CV for each of the Esquire Group members, employees, and independent contractors.*

Modified: The third request requires Mr. Sexton to provide the names of those employees with whom

- a. he worked directly or indirectly to accomplish any project or task, or
- b. assisted him to prepare for or was present while he was conducting a meeting, or
- c. sought advice from or rendering advice to, or
- d. had knowledge of his work or supervise him

for the tax years 2008-2013. Please provide each of the employees' names, their job title, and their job description.

(4) Fourth Request:

Original: *Provide any and all documents with respect to and/or any and all information relating to Esquire Group's business plan.*

Modified: The Fourth request as made in the February 25, 2013 will remain as is.

(5) Fifth Request:

Original: Provide any and all documents used for and/or any and all information relating to the promotion or advertising of Esquire Group and/or Esquire Group's services.

Modified: Provide any and all documents used for and/or any and all information relating to the promotion or advising of any services involving Mr. Sexton for the tax years 2008-2013.

(6) Sixth Request:

Original: Provide any and all documents used for and/or any and all information relating to the solicitation of clients by you individually, Astrid Schwoedt, and/or Esquire Group.

Modified: Provide any and all documents used for and/or any and all information relating to the solicitation of clients made by Mr. Sexton and/or Astrid Schwoedt or on the behalf of Mr. Sexton and/or Astrid Schwoedt and/or made on the basis of Mr. Sexton's tax knowledge or experience and/or involving Mr. Sexton for the tax years 2008-2013.

(7) Seventh Request:

Original: Provide any and all documents with respect to and/or any and all information relating to the actual and/or estimated fees of Esquire Group's services.

Modified: Provide any and all documents to the actual and/or estimated fees relating to any project or potential project involving Mr. Sexton for the tax years 2008-2013.

(8) Eighth Request:

Original: Provide any and all documents with respect to and/or any and all information relating to any and all "explanations" of Federal tax law or Federal tax consequences or Federal tax treatments rendered to clients or offered to solicit clients.

Modified: Provide any and all documents respect and/ or any and all information to any and all explanations of Federal tax law or Federal tax consequences or Federal tax treatments rendered to clients or offered to solicit clients by Mr. Sexton or at his direction and/or requires the assistance of Mr. Sexton and/or involving Mr. Sexton for the tax years 2008-2013.

(9) Ninth Request:

Original: Provide copies of any and all United States Federal and State tax returns and supplemental material prepared, filed, and/or submitted by Esquire Group on behalf of clients.

Modified: Provide copies of any and all United States Federal and State tax returns and supplemental material prepared, filed, and/or submitted by Mr. Sexton or at his direction or reflects any advice rendered by Mr. Sexton or requires the assistance of Mr. Sexton and/or involving Mr. Sexton for the tax years 2008-2013.



(10) Tenth Request:

*Original: Provide any and all documents used for and/or any and all information relating to the preparation, the filing, and/or the submission of the clients' Federal and State tax returns and the supplemental material prepared, filed and/or submitted by Esquire Group.*

Modified: Provide any and all information and documents relating to the preparation, the filing, or submission of the clients' Federal and State tax returns and the supplemental material prepared filed and/or submitted by Mr. Sexton or at his direction and/or reflects any advice rendered by Mr. Sexton and/or requires the assistance of Mr. Sexton and/or involving Mr. Sexton for the tax years 2008-2013.

(11) Eleventh Request

*Original: Provide any and all documents with respect to and/or any information relating to any and all entities, transactions, plans, or arrangements that you individually or Esquire Group educated or explained to clients and/or explained or educated to solicit clients.*

Modified: Provide any and all information and documents relating to any and all entities, transactions, plan, or arrangements which Mr. Sexton educated or explained to clients and/or Mr. Sexton explained or educated to solicit clients and/or the assistance of Mr. Sexton was required or provided and/or Mr. Sexton was involved for the tax years 2008-2013.

I would like to set up a following conference with you next week. Please let me know your availability.

Best regards,  
Dinh

Ms. Dinh Tran  
Attorney-Advisor  
Internal Revenue Service  
The Office of Professional Responsibility  
1111 Constitution Avenue, NW  
SE:OPR-Room 7238  
Washington, DC 20224-002  
(202) 927 - 3272