



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

**June 25, 2004**

**By Facsimile & Regular Mail:**

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Director, Office of  
Professional Responsibility  
Internal Revenue Service  
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Washington, DC 20224**

**By Regular Mail:**

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**By Facsimile & Regular Mail:**

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Office of Chief Counsel  
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**By Facsimile & Certified & Regular Mail:**

**Robert G. Bernhoft, Esquire  
Robert E. Barnes, Esquire  
207 East Buffalo Street, Suite 600  
Milwaukee, WI 53202**

**Re: Director, Office of Professional Responsibility  
v. Joseph R. Banister, Complaint No. 2003-02**

**Gentlemen:**

**Enclosed please find the Decision on Appeal, constituting Final Agency Action in the above-referenced matter.**

**Sincerely,**

**David F. P. O'Connor**

**Special Counsel to the Senior  
Counsel  
Office of Chief Counsel  
Internal Revenue Service  
(Acting as Delegate of the  
Secretary of the Treasury)**

**United States  
Department of the Treasury**

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**Director, Office of Professional Responsibility,** )  
 )  
**Appellee-Complainant,** )  
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 v. )  
**Joseph R. Banister,** )  
 )  
**Appellant-Respondent.** )

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**COMPLAINT  
NO. 2003-02**

**Decision on Appeal**

**Under the authority of General Counsel Order No. 9 (January 19, 2001) and the authority vested in her as Acting Assistant General Counsel of the Treasury who was the Acting Chief Counsel for the Internal Revenue Service, on April 9, 2004, Emily A. Parker delegated to the undersigned the authority to decide disciplinary appeals to the Secretary of the Treasury filed under Part 10 of Title 31, Code of Federal Regulations (Rev. 7-2002) ("Practice Before the Internal Revenue Service," sometimes known and hereafter referred to as "Treasury Circular 230"). This is such an appeal by the Respondent, Joseph R. Banister, filed pursuant to §10.77 of Treasury Circular 230.**

**Pursuant to §10.91 of Treasury Circular 230, any proceedings under Treasury Circular 230 instituted after July 26, 2002, are governed by Subparts D (the Rules Applicable to Disciplinary Proceedings, §§10.60-10.82) and E (the General Provisions, §§10.90-10.93) of Treasury Circular 230, but conduct engaged in prior to July 26, 2002 is judged by the provisions of**

### **5. Final Agency Action**

**For the reasons set forth above, I:**

**AFFIRM Judge Moran's findings with respect to the charges made in the Initial Complaint;**

**VACATE, WITHOUT REMAND AND WITHOUT PREJUDICE, Judge Moran's findings with respect to the charges first made in the Amended Complaint; and**

**AFFIRM, on the basis of charges contained in the Initial Complaint, and ADOPT as FINAL AGENCY ACTION Judge Moran's Decision DISBARRING Respondent from practice before the Internal Revenue Service.**



**David F. P. O'Connor  
Special Counsel to the  
Senior Counsel  
Office of Chief Counsel  
Internal Revenue Service  
(As Authorized Delegate  
of John W. Snow,  
Secretary of the Treasury)**

**June 25, 2004  
Washington, DC**