

Motion granted.
/s/ John R. Adams
U.S. District Judge
January 17, 2012

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RALPH E. LABUS,	)	Civil No. 5:11-cv-01856-JRA
)	
Plaintiff,	)	Judge John R. Adams
)	
v.	)	Magistrate Judge George J. Limbert
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

**UNITED STATES' UNOPPOSED MOTION TO ALLOW PERSON WITH FULL
SETTLEMENT AUTHORITY TO BE AVAILABLE BY TELEPHONE FOR CASE
MANAGEMENT CONFERENCE ON FEBRUARY 2, 2012**

The defendant, the United States of America, requests the Court for relief from the requirement to have a representative with full settlement authority attend the case management conference scheduled for Thursday, February 2, 2012, at 10:00 a.m., before Judge John R. Adams. Instead, the United States asks that the Court deem this requirement met by the personal appearance of Trial Attorney Andrea Kafka, with the Chief or Acting Chief of the Tax Division

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ESTATE OF MIRIAM L. EISENBERG,
by Ralph W. Raasch,
Personal Representative,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 11-CV-312-JPS

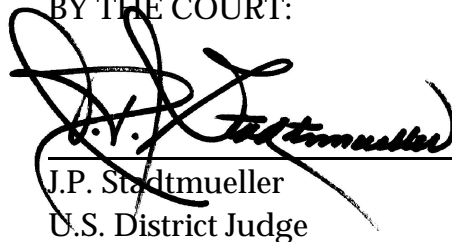
ORDER

Upon consideration of the Joint Motion to Extend Time (Docket #16)
for filing dispositive motions,

IT IS ORDERED that the parties' Joint Motion to Extend Time
(Docket #16) be and the same is hereby GRANTED; the parties are given
until February 15, 2012, to file dispositive motions in the above-entitled
matter. No further extensions will be granted by the Court.

Dated at Milwaukee, Wisconsin, this 17th day of January, 2012.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA**

CHARLES D. SPENCER,)	
)	
Plaintiff,)	
)	
v.	)	CIV-11-128-FHS
)	
SECRETARY OF TREASURY,)	
)	
Defendant.)	
)	

SCHEDULING ORDER

Having discussed with counsel their need for adequate discovery time, the complexity of the legal issues involved herein, and their caseloads, the court enters the following agreed upon Scheduling Order:

1. 2/21/12 Joinder of **Additional Parties or Amendments** to the Pleadings
2. 3/30/12 Exchange and File **Witness and Exhibit Lists**
3. 6/29/12 **Discovery** Completed
4. 6/22/12 All **Dispositive Motions** Filed
5. 7/10/12 **Written Settlement Report** Filed
6. 8/7/12 **Agreed Pretrial Order** Submitted. (*Judge Seay's form with instructions are available on the Court's website at www.oked.uscourts.gov*)
7. 7/17/12 Exchange All **Trial Exhibits** Except Demonstrative Exhibits
8. 7/17/12 Parties to exchange **Requested Jury Instructions**
9. 8/7/12 **Agreed Jury Instructions and Proposed Voir Dire, Proposed Findings of Fact and Conclusions of Law (Non-Jury), Disputed Jury Instructions (Included in Trial Brief) and Trial Briefs** filed
10. 8/14/12 **PRETRIAL CONFERENCE AT 10:00 A.M.**
11. 7/16/12 **Motions in Limine** Filed
12. 9/3/12 **Demonstrative Exhibits** Exchanged
13. 9/17/12 **TRIAL DATE:** [☐] **JURY at 9:00 a.m.** [X] **NON-JURY at 9:00 a.m.**
14. 3 days **ESTIMATED TRIAL TIME.**

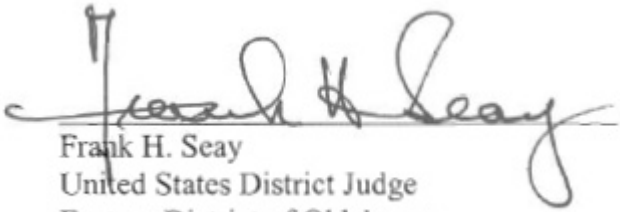
IT IS THE FURTHER ORDER OF THE COURT that the parties comply with the disclosure requirement and attendant deadlines established by Federal Rule Civil Procedure 26, unless otherwise modified by this order.

IT IS THE FURTHER ORDER OF THE COURT that all cases scheduled for jury trial will be set for a settlement conference before a District Judge or Magistrate Judge.

IT IS THE FURTHER ORDER OF THE COURT that all parties are bound by this order, that no date will be changed except by written order of this court for good cause shown, and sanctions will be imposed for failure to comply with the discretions of this order.

IT IS THE FURTHER ORDER OF THE COURT that _____

IT IS SO ORDERED this 17th day of January, 2012.


Frank H. Seay
United States District Judge
Eastern District of Oklahoma

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

* * * * *

United States,

Civ. No. 10-3898 (PJS/LIB)

Plaintiff,

vs.

SECOND AMENDED PRETRIAL
ORDER and ORDER GRANTING
MOTION TO AMEND CROSS-CLAIM

Trish Baraghoush and the Trustee
of the Marlys Hall Thomas Revocable
Trust,

Defendant,

Marlys Hall Thomas Revocable Trust
u/a May 1999,

Third-Party Plaintiff,

vs.

Steven Jacobsen and Samantha Jacobsen,

Third-Party Defendants and
Fourth-Party Plaintiffs,

vs.

Dale Smith,

Fourth-Party Defendant.

* * * * *

Pursuant to parties' Stipulation to Extend Deadlines and For Leave to Amend Crossclaim
[Docket No. 34], for good cause shown, and in accordance with provisions of Rule 16, Federal Rules
of Civil Procedure and the Local Rules of this Court, and to administer the course of this litigation

in a manner which promotes the interests of justice, economy and judicial efficiency, the following Second Amended Schedule shall govern these proceedings. **The Schedule will not be modified only upon formal Motion and a showing of good cause as required by Local Rule 16.3.**

Counsel shall also comply with the Electronic Case Filing Procedures for the District of Minnesota, pursuant to Order Adopting Electronic Case Filing, dated May 13, 2004.

THEREFORE It is --

ORDERED:

I.

That all pre-discovery disclosures required by Rule 26(a)(1) shall be completed on or before **May 15, 2011**. The period during which the parties may conduct discovery shall terminate on **December 1, 2011**. Disputes with regard to pre-discovery disclosures or discovery shall be called immediately to the Court's attention by the making of an appropriate Motion, and shall not be relied upon by any party as a justification for not adhering to this Pretrial Order. No further or additional discovery shall be permitted after the above date except by leave of the Court for good cause shown, and independent Stipulations or agreements between counsel which contravene the provisions of this Order will not be recognized. However, upon agreement of counsel, or with leave of the Court, depositions in lieu of in-Court testimony may be taken after the close of discovery.

II.

That all Motions which seek to amend the pleadings or add parties must be filed on or before **January 13, 2012**, and the Hearing thereon completed on or before **January 13, 2012**.

III.

A Jury Trial is not available as a matter of law and has not been timely demanded.

IV.

The Magistrate Judge will hold a Settlement Conference with the parties, if this case is not resolved on summary judgment or through the parties' efforts to settle the case.

V.

The parties have discussed electronically-stored information and do not believe it will be an issue in this case.

VI.

The parties will exchange privilege logs for any claims of privilege.

VII.

That all other nondispositive Motions shall be filed and the Hearing thereon completed prior to **January 1, 2012**, by calling Victoria L. Miller, Calendar Clerk for Magistrate Judge Leo I. Brisbois. All nondispositive Motions shall be scheduled, filed and served in compliance with Local Rule 7.1(a) and the Electronic Case Filing Procedures for the District of Minnesota. No discovery Motion shall be heard unless the moving party files with the Motion the statement required by Local Rule 37.1 and complies with the requirements of Local Rule 37.2.

VIII

That no more than **25** Interrogatories (counted in accordance with Rule 33(a), Federal Rules of Civil Procedure), shall be served by any party. That no more than **35** Requests for Admissions shall be served by any party.

IX.

That no more than **10** depositions (excluding expert depositions) shall be taken by any party without prior Order of the Court.

X.

That within the foregoing period allotted for discovery, but no later than the dates set forth below, the parties shall retain and disclose to opposing counsel all persons they intend to call as expert witnesses at trial. Each party's disclosure shall identify each expert and state the subject matter on which the expert is expected to testify. The disclosure shall be accompanied by a written report prepared and signed by the expert witness. As required by Rule 26(a)(2)(B), Federal Rules of Civil Procedure, the report shall contain:

- a. The qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years;
- b. The compensation to be paid for the study and testimony;
- c. A listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years;
- d. A complete statement of all opinions to be expressed and the basis and reasons therefor;
- e. The data or other information considered by the witness in forming the opinions; and

f. Any exhibits to be used as a summary of or support for the opinions.

The Plaintiff's disclosures shall be made on or before **July 1, 2011**. The Defendant's disclosures shall be made on or before **July 1, 2011**.

XI.

That the parties **do not** contemplate taking expert depositions. No more than **December 1, 2011** experts may be deposed by any party without prior Order of the Court.

XII.

That each party shall fully supplement all discovery responses according to the Federal Rules of Civil Procedure. Any evidence responsive to a discovery request which has not been disclosed on or before the discovery cutoff or other dates established herein, except for good cause shown, shall be excluded from evidence at trial.

XIII.

That all dispositive Motions (notice of motion, motion, memorandum of law, affidavits and proposed order), must be served, filed and **HEARD** by **April 16, 2012**. Counsel for the moving party shall call Calendar Clerk Caryn Glover, 612-664-5483, to schedule the Hearing. Parties are reminded that the scheduling of a dispositive Motion requires considerable advance notice (typically three to four months). Parties should attempt to schedule all dispositive Motions for the same Hearing and should strive to avoid duplication in their briefing.

All dispositive Motions must be scheduled, filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and Local Rule 7.1. When a motion,

response or reply brief is filed on ECF, two paper courtesy copies (three-hole punched and unstapled, and if warranted, exhibits appropriately tabbed) of the pleading and all supporting documents shall be mailed or delivered to Calendar Clerk Caryn Glover contemporaneously with the documents being posted on ECF.

XIV.

That this case shall be ready for trial on **August 15, 2012¹**, or 30 days after the Court renders its Order on any dispositive Motion (whichever is later), at which time the case will be placed on the Court's **non-Jury** trial calendar. That the anticipated length of Trial is **one (1) day**.

XV.

Third-Party Defendants and Fourth-Party Plaintiffs, Steven Jacobsen and Samantha Galea, f/n/a Samantha Jacobsen, are granted leave to amend their Cross-claim against Defendant, Trish Baraghoush, to add a claim for common law fraud/fraudulent misrepresentation. The Amended Cross-claim must be served and filed within 14 days of the date of this Order.

BY THE COURT:

Dated: January 16, 2012

s/Leo I. Brisbois
Leo I. Brisbois
U.S. MAGISTRATE JUDGE

¹**THIS DATE IS NOT A TRIAL SETTING DATE.** The parties will be notified by the Calendar Clerk of the assigned Judge to a case by way of a Notice of Trial as to when this case will be placed on the Trial Calendar. The above date is merely a notice to all parties to consider the case ready for trial as of this date. **DO NOT PREPARE FOR TRIAL UNTIL NOTIFIED.**

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

LINDA D. COOPER-IGWEBUIKE

PLAINTIFF

v.

Case No. 2:10-CV-02182

UNITED STATES OF AMERICA

DEFENDANT

MEMORANDUM OPINION AND ORDER

Currently before the Court are Defendant United States of America's ("United States") Motion for Summary Judgment (Doc. 12), Statement of Facts (Doc. 13), and Brief in Support (Doc. 14). Plaintiff Linda D. Cooper-Igwebuike ("Cooper-Igwebuike") did not respond to the Motion. For the reasons stated herein, Defendant United States' Motion for Summary Judgment (Doc. 12) is GRANTED.

I. Background and Procedural History

Cooper-Igwebuike filed a pro se Complaint on November 29, 2010 (Doc. 1), alleging that she was owed a tax refund for 2002 and 2003 for earned income credit totaling \$5,053. Both Cooper-Igwebuike and the United States have stipulated as to the following facts (Doc. 13-1):

1. Cooper-Igwebuike did not file her 2002 federal income tax return before March 12, 2008;
2. Cooper-Igwebuike did not file her 2003 federal income tax return before March 12, 2008; and
3. Cooper-Igwebuike was living in the United States during the entire period between January 1, 2003 and March 12, 2008.

After Cooper-Igwebuike petitioned the Internal Revenue Service ("IRS") for this refund for tax years 2002 and 2003, her claim was disallowed via letter dated December 1, 2008, "due to the

late filing of [her] returns.” (Doc. 1-1). She filed the instant lawsuit in order to contest the IRS’s decision.

II. Standard of Review

A. Summary Judgment

In determining whether summary judgment is appropriate, the burden is placed on the moving party to establish both the absence of a genuine dispute of material fact and that it is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56(c); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986); *Nat’l. Bank of Commerce of El Dorado, Ark. v. Dow Chem. Co.*, 165 F.3d 602 (8th Cir. 1999). The Court must review the facts in a light most favorable to the party opposing a motion for summary judgment and give that party the benefit of any inferences that logically can be drawn from those facts. *Canada v. Union Elec. Co.*, 135 F.3d 1211, 1212-13 (8th Cir. 1998) (citing *Buller v. Buechler*, 706 F.2d 844, 846 (8th Cir. 1983)). When the moving party has carried its burden under Rule 56(c), the non-moving party must “come forward with ‘specific facts showing that there is a genuine issue for trial.’” *Matsushita*, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(c)). In order for there to be a genuine issue of material fact, the non-moving party must produce evidence “such that a reasonable jury could return a verdict for the nonmoving party.” *Allison v. Flexway Trucking, Inc.*, 28 F.3d 64, 66 (8th Cir. 1994) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

B. Internal Revenue Code

The earned income credit is considered an “overpayment” by the taxpayer. *Sorensen v. Sec’y of the Treasury*, 475 U.S. 851, 859-63 (1986). When a taxpayer does not file taxes for a given year and later files a tax return or claim for that year for an “overpayment” or credit, the date on which

the taxpayer is constructively deemed to have paid the tax (or earned a credit) is April 15 of the year following the tax year for which the refund is requested. *McKinzy v. I.R.S.*, 335 Fed. Appx. 660, 661-62 (8th Cir. 2009). A taxpayer is limited, however, in the amount of credit or refund that he or she may receive. Specifically, the credit or refund is limited to “the portion of tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.” I.R.C. § 6511 (b) (2) (A). Except for taxpayers who live abroad, any extension of time for filing a return is limited to six months. I.R.C. § 6081 (a).

III. Discussion

It is undisputed that Cooper-Igwebuike did not file tax returns in either 2002 or 2003. (Doc. 13-1, ¶¶ 1-2). She agrees that March 12, 2008 is the earliest date on which she filed a claim for a refund of earned income credit for tax years 2002 and 2003. *Id.* Her claim is barred, however, because the Internal Revenue Code prohibits a taxpayer from recovering a refund for any tax paid or credit earned more than three years before filing a claim. See I.R.C. § 6511 (b) (2) (A). For the purpose of calculating the statute of limitations period on a claim for a tax credit or refund, according to the tax code at I.R.C. § 6513 (b) (1), any tax deducted or withheld within a given calendar year is deemed paid on the 15th day of the fourth month following the close of the tax year in which the tax is allowable as a credit. In plain English, this means that Cooper-Igwebuike’s claim for a tax credit for the year 2002 was deemed “paid” on April 15, 2003, and her claim for a tax credit for the year 2003 was deemed “paid” on April 15, 2004. A similar situation occurred in the case of *McKinzy v. I.R.S.*, 335 Fed. Appx. at 661-62, where the Eighth Circuit determined that the plaintiff was deemed to have “paid” his taxes and therefore constructively earned the child tax credit he was seeking as a refund, on April 15 of the year following the tax year in question.

Turning to the case at bar, if Cooper-Igwebuike were entitled to an earned income credit for 2002 and for 2003, such credit would be limited to the period “immediately preceding the filing of the claim equal to 3 years plus the period of any extension of time for filing the return.” I.R.C. § 6511 (b) (2) (A). As she constructively filed her claim for both 2002 and 2003 on March 12, 2008, she is limited in her recovery to credit earned for the three years prior to March 12, 2008. In other words, she would be entitled to any valid tax credits earned between March 12, 2005 and March 12, 2008. Because she lived in the United States during the entire period of time during which she could have filed a return for 2002 or 2003, she could not have received more than a six-month extension of time to file. I.R.C. § 6081 (a). So giving her the benefit of the doubt and assuming that she would have been entitled to a six-month extension of time for filing, the law would only allow her to recover tax credits for the period of time between September 12, 2004 and March 12, 2008.

As explained above, pursuant to I.R.C. § 6513 (b) (1), Cooper-Igwebuike is deemed to have constructively paid taxes or earned credits for the tax years 2002 and 2003 on April 15, 2003 and April 15, 2004, respectively. Therefore, her claim falls outside the allowable window of September 12, 2004 to March 12, 2008, and is accordingly unrecoverable.

IV. Conclusion

For the foregoing reasons, IT IS HEREBY ORDERED Defendant United States’ Motion for Summary Judgment (Doc. 12) is GRANTED. This case is hereby dismissed with prejudice. An order of judgment shall be filed contemporaneously herewith, with all parties instructed to bear their own fees and costs.

IT IS SO ORDERED this 17th day of January, 2012.

/s/ P.K. Holmes III

P.K. HOLMES, III
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

LINDA D. COOPER-IGWEBUIKE

PLAINTIFF

v.

Case No. 2:10-CV-02182

UNITED STATES OF AMERICA

DEFENDANT

JUDGMENT

For the reasons set forth in the Court's Order filed contemporaneously herewith, IT IS HEREBY ORDERED AND ADJUDGED that Defendant United States of America's Motion for Summary Judgment (Doc. 12) is GRANTED. This case is accordingly dismissed with prejudice, and the parties are instructed to bear their own fees and costs.

IT IS SO ORDERED this 17th day of January, 2012.

/s/ P. K. Holmes III

P.K. HOLMES, III
UNITED STATES DISTRICT JUDGE

In the United States Court of Federal Claims

* * * * *

THE BANTENOVA TRUST DOLIOS LIMITED,
TRUSTEE

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

* * * * *

No.10-679T

(Filed: January 17, 2012)

ORDER

Defendant's unopposed motion filed December 22, 2011 for a fourteen-day enlargement of time (from January 3, 2012, to and including January 17, 2012), and an eight-day enlargement of time (from January 9, 2012, to and including January 17, 2012) in which to respond to Plaintiff's Motion to Remand for an Administrative Review, Request to Grant Summary Judgment as an Alternative (filed December 14, 2011), and Plaintiff's Motion for a Protective Order Excusing Plaintiff from Further Discovery or, Alternatively, Staying Further Discovery Pending Resolution of Plaintiff's Motion to Remand (filed December 21, 2011) is **GRANTED**.

s/Lawrence S. Margolis

LAWRENCE S. MARGOLIS
Senior Judge, U.S. Court of Federal Claims

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
BETH P. GESNER
UNITED STATES MAGISTRATE JUDGE

101 WEST LOMBARD STREET
BALTIMORE, MARYLAND 21201
(410) 962-4288

January 17, 2012

Alexei M. Silverman, Esquire
5325 Westbard Avenue
Apt. 322
Bethesda, MD 20816

Gerald Alan Role, Esquire
Melissa Anemojanis Holton, Esquire
United States Department of Justice, Tax Division
P.O. Box 227
Washington, DC 20044

Subject: Ford T. Johnson, Jr. v. United States of America
Civil Action No.: WDQ-98-3050

Dear Counsel:

I have reviewed the parties' submissions regarding the United States' Motion for Installment Payment Order. (ECF Nos. 45, 46, 62, 63.) I am scheduling a hearing on the United States' Motion (ECF No. 45) for **Tuesday, January 31, 2012 at 10:00 a.m.** The hearing will be held in the courthouse, located at 101 W. Lombard Street, Baltimore MD 21201. On January 31, 2012, please check with the guard upon entering the courthouse for courtroom designation. In addition, the parties are directed to submit any additional documents or exhibits by **Tuesday, January 24, 2012.**

Despite the informal nature of this letter, it will constitute an Order of the court and will be docketed accordingly.

Very truly yours,

/s/

Beth P. Gesner
United States Magistrate Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE: CHARLES W. DOWDY
Debtor

CHAPTER 11
CASE NO. 11-03329-KMS

AGREED ORDER AUTHORIZING DEBTOR TO EMPLOY SPECIAL COUNSEL

THIS CAUSE having come on for consideration of the Application of Debtor to Employ Special Counsel (the "Application") [DK#52], and the Objection of the United States Trustee ("UST") [DK#82], the Court having heard and considered the Application and the Objection, and having been advised that the parties have resolved their differences is of the opinion that the agreement of the parties, and granting of the Application should be memorialized by this Agreed Order.

1. On September 22, 2011 (the "Petition Date"), the Debtor filed with this Court his Voluntary Petition for relief under Chapter 11 of Title 11, United States Code. The Debtor remains in possession of his assets and properties as debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

2. This Court has jurisdiction of the subject matter herein and the parties hereto pursuant to 28 U.S.C. §§ 157 and 1334; 11 U.S.C. §§ 105, 364, 541, 1107 and related statutes, rules and various orders of reference. This is a core proceeding.

3. To perform his duties as Debtor-in-Possession, the Debtor requires the services of Joan Stewart ("Ms. Stewart") of the law firm of Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006, to act as his special FCC counsel for the Debtor and to represent him in any regulatory issues and efforts involving the FCC licenses in which the Debtor may have an interest and in any ensuing litigation related thereto.

4. Ms. Stewart is experienced in, and is familiar with, the regulatory issues and efforts involving the FCC licenses and is fully qualified to represent the interests of the Debtor therein.

5. Ms. Stewart has the appropriate skills and expertise needed to serve as the Debtor's special counsel in the regulatory issues and efforts involving the FCC licenses. Ms. Stewart has agreed to perform these services in accordance with the Engagement Letter attached to the Application as Exhibit "A" and incorporated herein by reference, to seek interim compensation as permitted by 11 U.S.C. §331 and to accept as her fees such amounts as determined by the Court.

6. As set forth in Ms. Stewart's Affidavit attached to the Application as Exhibit "B" and incorporated herein by reference, Ms. Stewart is a "disinterested person" as contemplated by the applicable statutory authority under which she is to be employed and applicable Bankruptcy Rules.

7. The Debtor has discussed with Ms. Stewart her availability to be employed as the Debtor's special counsel and to perform the services required by this estate. For the foregoing and all other necessary and proper purposes, the Debtor is authorized to retain Ms. Stewart as his special counsel.

8. The Objection of the UST is resolved as follows:

- (a) Attached to this Agreed Order, and incorporated herein as Exhibit "A" is an Affidavit from Ms. Stewart, which has attached to it sample billings which represent and establish Ms. Stewart's hourly rate that she bills clients similarly situated to the Debtor in this case are normal and customary for Ms. Stewart's location and type of work. Accordingly, Ms. Stewart's hourly rates are approved.
- (b) The retainer as received by Ms. Stewart's firm from the Debtor remains property of the estate until it is earned, and it is subject to the application, notice and a hearing process as provided for Bankruptcy Code.
- (c) In the event Ms. Stewart and the law firm are presented with an opportunity, in the future, to represent other clients that may present a potential, or an

actual, conflict of interest with respect to her representation of the Debtor in this case, Ms. Stewart shall properly notify the Debtor, the UST and the Court of that potential representation. In the absent of such a notice, neither Ms. Stewart nor her firm will engage in the representation of future clients who may have potential, or actual, adverse interests to the Debtor.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the employment of Joan Stewart of the law firm of Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006, as special counsel for the Debtor-in-possession be, and it hereby is, approved.

IT IS FURTHER ORDERED AND ADJUDGED that Ms. Stewart shall, within ten days of the entry hereof, file with the Court the statement of compensation required by 11 U.S.C. Section 329 and Rule 2016 (b), Federal Rules of Bankruptcy Procedure, if said report has not been filed.

IT IS FURTHER ORDERED AND ADJUDGED that Ms. Stewart shall be entitled to receive reasonable compensation, and to receive reimbursement of actual, necessary expenses only after notice and a hearing as contemplated by 11 U.S.C. Section 330, Rule 1016, Federal Rules of Bankruptcy Procedure, and any other application or related statutes and rules.

IT IS FURTHER ORDERED AND ADJUDGED that this Agreed Order applies to any funds that might have been received by Ms. Stewart as a retainer or of a similar nature.

IT IS FURTHER ORDERED AND ADJUDGED that any application for compensation and reimbursement for expenses filed herein by Ms. Stewart shall set forth the date of entry of all previous orders allowing compensation and expenses and the amounts so allowed.

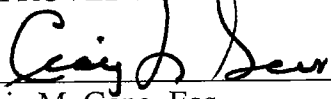
SO ORDERED.



Katharine M. Samson
United States Bankruptcy Judge

Dated: January 17, 2012

APPROVED FOR ENTRY:



Craig M. Geno, Esq.
Attorney for the Debtor

(See attached signature page)

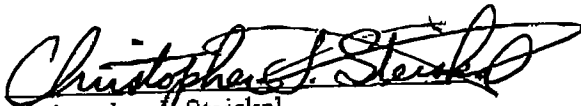
Christopher J. Steiskal
Trial Attorney
Office of the U.S. Trustee

PRESENTED BY:

Craig M. Geno, Esq.; MSB No. 4793
LAW OFFICE OF CRAIG M. GENO, PLLC
587 Highland Colony Parkway (39157)
P. O. Box 3380
Ridgeland, MS 39158-3380
601-427-0048 - Telephone
601-427-0050 - Facsimile

APPROVED FOR ENTRY:

Craig M. Geno, Esq.
Attorney for the Debtor


Christopher J. Steiskal
Trial Attorney
Office of the U.S. Trustee

PRESENTED BY:

Craig M. Geno, Esq.; MSB No. 4793
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**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE: CHARLES W. DOWDY
Debtor

CHAPTER 11
CASE NO. 11-03329-KMS

AFFIDAVIT

PERSONALLY APPEARED BEFORE ME, the undersigned authority, in and for the jurisdiction aforesaid, Joan Stewart (the "Affiant") of the law firm of Wiley Rein LLP, 1776 K Street NW, Washington C 20006, who after having been by me duly sworn, stated on oath the following:

1. I am over the age of eighteen and have personal knowledge of the matters and facts set forth in this Affidavit. I solemnly affirm under penalty of perjury that these matters and facts are true and correct to the best of my knowledge, information and belief and that I am competent to testify to these matters and facts.

2. I am Special Counsel at the law firm Wiley Rein LLP ("Wiley Rein"), counsel for Charles W. Dowdy ("Debtor"), respondent to the Objection filed by the United States Trustee to Debtor's Application to Employ Joan Stewart as Special Counsel ("Debtor's Application").

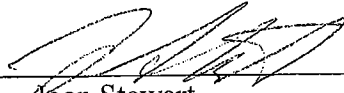
3. I am familiar with the hourly rates charged in the District of Columbia for similar regulatory filings and matters before the Federal Communications Commission by comparably sized firms and state that the rates set forth in Debtor's Application are reasonable and fair in light of the rates currently charged in the District of Columbia. Attached at Exhibit 1 are sample bills representing similar work performed by me as Special Counsel.

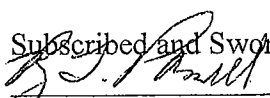


4. Ari Meltzer, an Associate at Wiley Rein, may also assist on these matters.

Mr. Meltzer's hourly rates are reasonable and fair in light of the rates currently charged in the District of Columbia for similar regulatory filings and matters before the Federal Communications Commission. Attached at Exhibit 2 are sample bills representing similar work performed by Mr. Meltzer as an Associate.

FURTHER AFFIANT SAYETH NOT:


Joan Stewart


Subscribed and Sworn to before me this 12th day of January 2012.

Notary Public

My Commission Expires: 12/14/16

DISTRICT OF COLUMBIA: SS

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 12th DAY OF January, 2012.



NOTARY PUBLIC

My Commission Expires 12/14/16

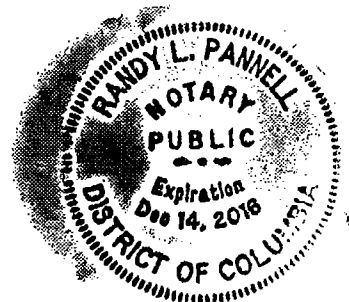


Exhibit 1

Sample bill for Joan Stewart

Fed. ID#

Invoice No.

General FCC Advice

For Professional Services Rendered Through November 30, 2011

PROFESSIONAL FEES:

\$

SERVICES:

Office Copying Service

TOTAL SERVICES:

\$

TOTAL AMOUNT DUE THIS INVOICE:

\$

OUTSTANDING ACCOUNTS RECEIVABLE

INVOICE NUMBER	DATE	INVOICE AMOUNT	PAYMENTS AGAINST INVOICE	INVOICE BALANCE
			.00	

Attorney-Client Privileged and Confidential.

WILEY REIN LLP
Professional Fees
November 30, 2011

General FCC Advice

DATE	INIT	HOURS	DESCRIPTION OF PROFESSIONAL SERVICES
11/08/11	JDS	.80	Work on biennial ownership reports.
11/09/11	JDS	1.60	Work on biennial ownership reports.
11/14/11	JDS	1.10	Work on biennial ownership report filings.
11/16/11	JDS	2.60	Work on biennial ownership reports.
11/17/11	JDS	5.50	Work on biennial ownership reports.
11/25/11	JDS	7.60	Work on biennial ownership reports.

TOTAL

TOTAL PROFESSIONAL FEES

\$

WILEY REIN LLP
Professional Fees
November 30, 2011

General FCC Advice

SUMMARY OF PROFESSIONAL FEES

JDS	Joan D. Stewart	Special Counsel	19.20	520.00	9,984.00
-----	-----------------	-----------------	-------	--------	----------

Exhibit 2

Sample bill for Ari Meltzer

December 22, 2011
Wiley Rein LLP

1776 K STREET NW
WASHINGTON, DC 20006

Fed. ID#

Invoice No.

IN THE MATTER OF Routine FCC Advice (Retainer)

For Professional Services Rendered Through November 30, 2011

PROFESSIONAL FEES:

SERVICES:

Office Copying Service
Postage

TOTAL SERVICES:

TOTAL AMOUNT DUE THIS INVOICE:

OUTSTANDING ACCOUNTS RECEIVABLE

INVOICE NUMBER	DATE	INVOICE AMOUNT	PAYMENTS AGAINST INVOICE	INVOICE BALANCE
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Attorney-Client Privileged and Confidential.

WILEY REIN LLP
Professional Fees
November 30, 2011

Routine FCC Advice (Retainer)

DATE	INIT	HOURS	DESCRIPTION OF PROFESSIONAL SERVICES
11/25/11	ASM	3.25	Research and draft biennial ownership reports.
11/27/11	ASM	2.50	Draft biennial ownership reports; revise and edit corporate structure chart.
11/28/11	ASM	1.25	Review and analyze biennial ownership reports.
11/29/11	ASM	3.25	Draft ownership spreadsheets to reflect revisions to officers and directors; revise and edit biennial ownership reports to reflect same.
11/30/11	ASM	1.50	Review and edit biennial ownership reports; prepare same for final approval.

WILEY REIN LLP
Professional Fees
November 30, 2011

3

Routine FCC Advice (Retainer)

DATE	INIT	HOURS	DESCRIPTION OF PROFESSIONAL SERVICES
------	------	-------	--------------------------------------

TOTAL

TOTAL PROFESSIONAL FEES

WILEY REIN LLP
Professional Fees
November 30, 2011

Routine FCC Advice (Retainer)

SUMMARY OF PROFESSIONAL FEES

			HOURS	RATE	AMOUNT
ASM	Ari S. Meltzer	Attorney	11.75	295.00	3,466.25

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

**CHARLES W. DOWDY,

DEBTOR**

CASE NO. 11-03329-KMS

AGREED ORDER

This cause came before the Court upon the Ole Brook Broadcasting, Inc.'s Motion to Extend Deadline to File Complaint to Determine Dischargeability of a Debt Pursuant to 11 U.S.C. § 523. Debtor, Charles W. Dowdy, has consented to the requested extension of the deadline. Accordingly,

IT IS THEREFORE ORDERED that Ole Brook Broadcasting Inc., is hereby granted an additional sixty (60) days from the current deadline, until March 13, 2012, to file a Complaint to Determine the Dischargeability of a Debt Pursuant to 11 U.S.C. § 523.

SO ORDERED.



Katharine M. Samson
United States Bankruptcy Judge
Dated: January 17, 2012

APPROVED AS TO FORM AND CONTENT:

s/John D. Moore

John D. Moore, MSB No. 10610

John D. Moore, P.A.

Post Office Box 3344

Ridgeland, MS 39154-3344

Counsel for Ole Brook Broadcasting, Inc.

s/Craig M. Geno

Craig M. Geno, MSN NO. 4793

Counsel for Debtor

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

United States of America,	)	C/A No.: <u>2:11-3141-PMD</u>
)	
Plaintiff,)	
	)	CONFERENCE AND
vs.	)	SCHEDULING ORDER
)	
Anthony Azzolino and Rose Marie Benigno,	)	Judge Patrick Michael Duffy
)	
Defendant.)	

Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules of this Court, the following schedule is established for this case. This order is entered to administer the trial of cases in a manner consistent with the ends of justice, in the shortest possible time, and at the least possible cost to litigants. Discovery may begin upon receipt of this order.

1. Rule 26(f) Conference: A conference of the parties pursuant to Fed. R. Civ. P. 26(f) shall be held no later than **February 6, 2012**.¹
2. Rule 26(a)(1) Initial Disclosures: No later than **February 21, 2012**, the required initial disclosures under Fed. R. Civ. P. 26(a)(1) shall be made.²
3. Rule 26(f) Report: No later than **February 21, 2012**, the parties shall file a Fed. R. Civ. P. 26(f) Report in the form attached to this order.³
4. Amendment of Pleadings: Motions to join other parties and amend the pleadings shall be filed no later than **March 9, 2012**.
5. Expert Witnesses: Parties shall file and serve a document identifying by full name, address, and telephone number each person whom they expect to call as an expert at trial

¹ Plaintiff's counsel shall initiate the scheduling of the Rule 26(f) conference with all counsel known to plaintiff regardless of whether they have filed appearances. At conference, the parties shall confer concerning all matters set forth in Rule 26(f) and whether the schedule set forth in this order is appropriate and, if not, what modifications are necessary. See attached form – RULE 26(F) REPORT. The parties shall also consider whether they wish to consent to trial before a United States Magistrate Judge (form available on web site).

² Pursuant to Fed. R. Civ. P. 26(a)(1), the parties may, by stipulation, agree not to make some or all of the Rule 26(a)(1) initial disclosures. If such a stipulation is made, it shall be confirmed in writing between the parties. See Fed. R. Civ. P. 29 and Local Civil Rule 29.01. Unless contained in the Rule 26(f) Report, the written confirmation of stipulation should not be filed unless and until a dispute arises.

³ Parties are hereby notified that Local Civil Rule 26.03 lists additional queries to be answered in the Rule 26(f) Report. See also Local Civil Rule 26.02 (rules for answering court interrogatories).

by the following dates:⁴

Plaintiff: **April 9, 2012**
Defendant: **May 8, 2012**

6. Records Custodian Witnesses: Counsel shall file and serve no later than **May 8, 2012** affidavits of records custodian witnesses proposed to be presented by affidavit at trial. Objections to such affidavits must be made within 14 days after service of the disclosure.
7. Discovery: Discovery shall be completed no later than **July 9, 2012**. All discovery requests shall be served in time for the responses thereto to be served by this deadline.
8. Motions in Limine: Motions in limine must be filed at least three weeks prior to **October 11, 2012**.
9. Dispositive Motions: All dispositive motions shall be filed on or before **July 23, 2012**.
10. Mediation: Mediation, pursuant to Local Civil Rules 16.04-16.12, shall be completed in this case on or before **September 20, 2012**.
11. Rule 26(a)(3) Pretrial Disclosures: No later than **October 5, 2012**, the parties shall file and exchange Fed. R. Civ. P. 26(a)(3) pretrial disclosures.
12. Pretrial Briefs: Parties shall provide the Court with pretrial briefs no later than **October 26, 2012**.⁵
13. Trial: This case will go to trial during the term of court beginning **November 1, 2012**.

January 17, 2012
Charleston, South Carolina

s/Patrick Michael Duffy
United States District Judge

Attachments:

- ▶ Special Instructions of Judge Patrick Michael Duffy
- ▶ Rule 26(f) Report

⁴ See Fed. R. Civ. P. 26(a)(2) and (a)(2)(B). Note that while Fed. R. Civ. P. 26(a)(2) does not require filing any portion of the written report or disclosure, Judge Duffy requires filing of a document which identifies the expert and certifies compliance with this rule.

⁵ Pretrial briefs are to be provided to the Judge's Chambers only. They are not filed with the court.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

United States of America	)	C/A No.: <u>2:11-3141-PMD</u>
)	
v.	)	RULE 26(F) REPORT
)	
Anthony Azzolino and Rose Marie Benigno)	
_____)	

The parties, having consulted pursuant to Rule 26(f), Fed. R. Civ. P., hereby report as follows (check one below):

_____ We agree that the schedule set forth in the Conference and Scheduling Order issued **January 17, 2012** is appropriate for this case. The information required by Local Civil Rule 26.03 is attached.

_____ We agree that the schedule set forth in the Conference and Scheduling Order issued **January 17, 2012** requires modification as set forth in the attached proposed Consent Amended Scheduling Order (use same format as the Court's standard scheduling order attached hereto). The information required by Local Civil Rule 26.03 is attached.

_____ We are unable, after consultation, to agree on a schedule for this case. Therefore, we request a scheduling conference with the Court. The parties' proposed discovery plan as required by 26(f) Fed. R. Civ. P., with disagreements noted, is attached. The information required by Local Civil Rule 26.03 is also attached.

Plaintiff(s)

Defendant(s)

Signature of Plaintiff's Counsel

Signature of Defendant's Counsel

Printed Name of Plaintiff's Counsel
and Party Represented

Printed Name of Defendant's Counsel
and Party Represented

Signature of Plaintiff's Counsel

Signature of Defendant's Counsel

Printed Name of Plaintiff's Counsel
and Party Represented

Printed Name of Defendant's Counsel
and Party Represented

Dated: _____

Dated: _____

SPECIAL NOTICE TO COUNSEL
WITH CASES BEFORE
JUDGE PATRICK MICHAEL DUFFY,
UNITED STATES DISTRICT JUDGE

Please carefully review the following instructions which relate to problems which frequently arise regarding scheduling orders and related litigation management issues.

COURTESY COPIES

Unless specifically requested, you should **not** send a “courtesy copy” of any filed document to Judge Duffy’s chambers. The court is automatically provided with the copy when the original document is filed with the Clerk’s Office. If it is necessary to file a document in another courthouse and if time is critical, you should first call chambers to determine if Judge Duffy would like a copy sent directly to chambers.

CORRESPONDENCE BETWEEN COUNSEL

Attorneys frequently copy the court on correspondence between counsel. This is seldom appropriate. Unless correspondence is directly related to a pending motion, there is no reason to copy the court. If it relates to a *pending* motion and is relevant to issues before the court, the correspondence should be filed as an exhibit. If it merely relates to an anticipated motion (usually a discovery dispute), it would be more appropriate simply to hold such correspondence and to attach it as an exhibit if a motion becomes necessary.

EXTENSION OF DEADLINES

If it becomes necessary to seek an extension, you may submit a letter or motion addressing the following:

- Date of the current deadline;
- Whether the deadline has been extended before;
- The number of additional days requested, and proposed new deadline;
- Whether the extension would affect other deadlines; and
- If opposing counsel agrees to or opposes the extension.

Do not wait until the last day before the deadline to request an extension. **Do not** call chambers to determine if the extension has been granted. You may, however, call the docket clerk in the Clerk’s Office. Absent extraordinary circumstances, requests should be made sufficiently in advance to allow you to receive a response before the deadline passes. *See* Local Civil Rule 6.01 and 6.02.

FACSIMILE USAGE

The District of South Carolina does not allow for documents to be filed by facsimile and Judge Duffy discourages the use of facsimile transmissions to chambers. Under certain compelling circumstances, however, counsel may correspond with the court by facsimile. The following guidelines apply:

- Facsimile should **not** be used unless a member of chambers staff has requested or approved the use of facsimile;
- Facsimile should **not** be used unless hand delivery is impractical and *the court* needs to have the information more quickly than could be accomplished by regular mail;
- Facsimile is *not* a substitute for filing any document required to be filed;
- **Do not** send chambers a hard copy of documents sent by facsimile unless specifically requested.

AMENDMENT OF PLEADINGS

This is the earliest deadline for a very important reason: to allow discovery to address all issues and all potential parties. Late requests to amend are, therefore, strongly discouraged. This is especially true if the amendment would add a party. Any request to amend after the scheduling order deadline should include an explanation of why the amendment could not have been sought earlier. Parties who delay seeking to amend until late in the litigation, especially as to known potential parties, risk denial of their motions.

FILING OF CONFIDENTIAL MATERIAL

The parties' attention is specifically directed to Local Civil Rule 5.03 regarding the filing of confidential material.

WEB SITE

The District of South Carolina maintains a web site with various forms and resources at:

www.scd.uscourts.gov

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA



**CONFERENCE AND SCHEDULING ORDER
AND RULE 26(F) REPORT FORM**

C/A No.: 2:11-3141-PMD

JUDGE PATRICK MICHAEL DUFFY

NOTICE TO COUNSEL

Attached please find a proposed scheduling order for your review and comment. The 2000 Amendments to the Federal Rules of Civil Procedures, and subsequent amendments to the local rules for this district, now require that, early in the litigation, counsel meet, confer, and submit certain information to the court. Some of the requested information is needed to formulate a scheduling order. The judges of this district have determined that the most feasible way of accomplishing this is for the court to enter a tentative scheduling order with a request that the parties meet and determine if the dates proposed by the court are acceptable.

The deadline for meeting and conferring in this case is set out in Paragraph 1 of the attached scheduling order. A form (RULE 26(F) REPORT) is attached and must be completed and returned indicating your acceptance of, or suggested changes to, the scheduling order.

A scheduling order "is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril." *Forstmann v. Culp*, 114 F.R.D. 83, 85 (M.D.N.C. 1987) (quoting *Gestetner Corp. v. Case Equipment Co.*, 108 F.R.D. 138, 141 (D. Me. 1985). "The use of discovery closure dates and deadlines for disclosure of experts are important tools for case management." *Serrano-Perey v. F.M.C. Corp.*, 985 F.2d 625, 628 (1st Cir. 1993).

The Local Civil Rules for the District of South Carolina, as well as the forms referenced in this order, are available on this District's website at:

www.scd.uscourts.gov

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JOHN L. HILL,

Petitioner,

-vs-

11-cv-2047
Case No. 6:11-me-104-Orl-28KRS
18

INTERNAL REVENUE SERVICE,

Respondent.

REPORT AND RECOMMENDATION

TO THE UNITED STATES DISTRICT COURT:

This cause came on for consideration without oral argument on the following motion filed

herein:

**MOTION: UNITED STATES' MOTION TO DISMISS PETITION
TO QUASH**

FILED: October 21, 2011

Petitioner John L. Hill initiated this matter by filing a petition to quash an administrative summons that was issued to Bank of America by Respondent Internal Revenue Service (IRS). Doc. No. 1. Hill contends that 26 U.S.C. § 7602 requires the IRS to give notice to him of the summons. He submits that Bank of America is in error in its statement to him that it must comply with the summons, citing section 655.059(e), Fla. Stat. Finally, he contends that the United States can only obtain financial records pursuant to an administrative subpoena or summons for the purpose of a criminal investigation, citing 12 U.S.C. § 3402 and 26 U.S.C. § 7608(b).

*Approved
for the Order
14 Jan 12
ml*
G. KENDALL SHARP
J. C. DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JOHN L. HILL,

Plaintiff,

-vs-

Case No. 6:11-cv-2047-Orl-28KRS

INTERNAL REVENUE SERVICE,

Defendant.

ORDER

Local Rule 1.04(a) provides in relevant part: "Whenever a case, once docketed and assigned, is terminated by any means and is thereafter refiled without substantial change in issues or parties, it shall be assigned, or reassigned if need be, to the judge to whom the original case was assigned." A review of Case No. 6:11-cv-2047-Orl-18DAB reflects that this case is a subsequent filing without substantial change in issues or parties to Case No. 6:11-mc-104-Orl-28KRS. Therefore,

IT IS HEREBY ORDERED that this case is transferred to the Honorable John Antoon, II for all further proceedings, pursuant to Local Rule 1.04(a), M.D. of Florida.

DONE and ORDERED in Orlando, Florida on this 14 day of January, 2012.



G. KENDALL SHARP
SENIOR UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE:
NORTH SHORE BROADCASTING CO., INC.**

CASE NO. 11-03330

AGREED ORDER AUTHORIZING DEBTOR TO EMPLOY SPECIAL COUNSEL

THIS CAUSE having come on for consideration of the Application of Debtor to Employ Special Counsel (the "Application") [DK#28], and the Objection of the United States Trustee ("UST") [DK#55], the Court having heard and considered the Application and the Objection, and having been advised that the parties have resolved their differences is of the opinion that the agreement of the parties, and granting of the Application should be memorialized by this Agreed Order.

1. On September 22, 2011 (the "Petition Date"), the Debtor filed with this Court his Voluntary Petition for relief under Chapter 11 of Title 11, United States Code. The Debtor remains in possession of his assets and properties as debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

2. This Court has jurisdiction of the subject matter herein and the parties hereto pursuant to 28 U.S.C. §§ 157 and 1334; 11 U.S.C. §§ 105, 364, 541, 1107 and related statutes, rules and various orders of reference. This is a core proceeding.

3. To perform his duties as Debtor-in-Possession, the Debtor requires the services of Joan Stewart ("Ms. Stewart") of the law firm of Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006, to act as his special FCC counsel for the Debtor and to represent him in any regulatory issues and efforts involving the FCC licenses in which the Debtor may have an interest and in any ensuing litigation related thereto.

4. Ms. Stewart is experienced in, and is familiar with, the regulatory issues and efforts involving the FCC licenses and is fully qualified to represent the interests of the Debtor therein.

5. Ms. Stewart has the appropriate skills and expertise needed to serve as the Debtor's special counsel in the regulatory issues and efforts involving the FCC licenses. Ms. Stewart has agreed to perform these services in accordance with the Engagement Letter attached to the Application as Exhibit "A" and incorporated herein by reference, to seek interim compensation as permitted by 11 U.S.C. §331 and to accept as her fees such amounts as determined by the Court.

6. As set forth in Ms. Stewart's Affidavit attached to the Application as Exhibit "B" and incorporated herein by reference, Ms. Stewart is a "disinterested person" as contemplated by the applicable statutory authority under which she is to be employed and applicable Bankruptcy Rules.

7. The Debtor has discussed with Ms. Stewart her availability to be employed as the Debtor's special counsel and to perform the services required by this estate. For the foregoing and all other necessary and proper purposes, the Debtor is authorized to retain Ms. Stewart as his special counsel.

8. The Objection of the UST is resolved as follows:

- (a) Attached to this Agreed Order, and incorporated herein as Exhibit "A" is an Affidavit from Ms. Stewart, which has attached to it sample billings which represent and establish Ms. Stewart's hourly rate that she bills clients similarly situated to the Debtor in this case are normal and customary for Ms. Stewart's location and type of work. Accordingly, Ms. Stewart's hourly rates are approved.
- (b) The retainer as received by Ms. Stewart's firm from the Debtor remains property of the estate until it is earned, and it is subject to the application, notice and a hearing process as provided for Bankruptcy Code.
- (c) In the event Ms. Stewart and the law firm are presented with an opportunity, in the future, to represent other clients that may present a potential, or an

actual, conflict of interest with respect to her representation of the Debtor in this case, Ms. Stewart shall properly notify the Debtor, the UST and the Court of that potential representation. In the absent of such a notice, neither Ms. Stewart nor her firm will engage in the representation of future clients who may have potential, or actual, adverse interests to the Debtor.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the employment of Joan Stewart of the law firm of Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006, as special counsel for the Debtor-in-possession be, and it hereby is, approved.


IT IS FURTHER ORDERED AND ADJUDGED that Ms. Stewart shall, within ten days of the entry hereof, file with the Court the statement of compensation required by 11 U.S.C. Section 329 and Rule 2016 (b), Federal Rules of Bankruptcy Procedure, if said report has not been filed.

IT IS FURTHER ORDERED AND ADJUDGED that Ms. Stewart shall be entitled to receive reasonable compensation, and to receive reimbursement of actual, necessary expenses only after notice and a hearing as contemplated by 11 U.S.C. Section 330, Rule 1016, Federal Rules of Bankruptcy Procedure, and any other application or related statutes and rules.

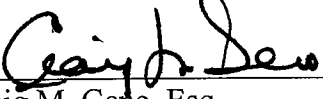
IT IS FURTHER ORDERED AND ADJUDGED that this Agreed Order applies to any funds that might have been received by Ms. Stewart as a retainer or of a similar nature.

IT IS FURTHER ORDERED AND ADJUDGED that any application for compensation and reimbursement for expenses filed herein by Ms. Stewart shall set forth the date of entry of all previous orders allowing compensation and expenses and the amounts so allowed.

SO ORDERED.


Katharine M. Samson
United States Bankruptcy Judge
Dated: January 17, 2012

APPROVED FOR ENTRY:



Craig M. Geno, Esq.
Attorney for the Debtor

(See attached signature page)

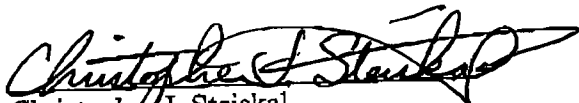
Christopher J. Steiskal
Trial Attorney
Office of the U.S. Trustee

PRESENTED BY:

Craig M. Geno, Esq.; MSB No. 4793
LAW OFFICE OF CRAIG M. GENO, PLLC
587 Highland Colony Parkway (39157)
P. O. Box 3380
Ridgeland, MS 39158-3380
601-427-0048 - Telephone
601-427-0050 - Facsimile

APPROVED FOR ENTRY:

Craig M. Geno, Esq.
Attorney for the Debtor


Christopher J. Steiskal
Trial Attorney
Office of the U.S. Trustee

PRESENTED BY:

Craig M. Geno, Esq.; MSB No. 4793
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**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE: NORTH SHORE BROADCASTING CO., INC. CHAPTER 11
Debtor CASE NO. 11-03330-KMS**

AFFIDAVIT

PERSONALLY APPEARED BEFORE ME, the undersigned authority, in and for the jurisdiction aforesaid, Joan Stewart (the "Affiant") of the law firm of Wiley Rein LLP, 1776 K Street NW, Washington C 20006, who after having been by me duly sworn, stated on oath the following:

1. I am over the age of eighteen and have personal knowledge of the matters and facts set forth in this Affidavit. I solemnly affirm under penalty of perjury that these matters and facts are true and correct to the best of my knowledge, information and belief and that I am competent to testify to these matters and facts.

2. I am Special Counsel at the law firm Wiley Rein LLP ("Wiley Rein"), counsel for North Shore Broadcasting Co., Inc. ("Debtor"), respondent to the Objection filed by the United States Trustee to Debtor's Application to Employ Joan Stewart as Special Counsel ("Debtor's Application").

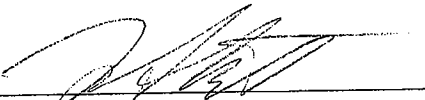
3. I am familiar with the hourly rates charged in the District of Columbia for similar regulatory filings and matters before the Federal Communications Commission by comparably sized firms and state that the rates set forth in Debtor's Application are reasonable and fair in light of the rates currently charged in the District of Columbia. Attached at Exhibit 1 are sample bills representing similar work performed for clients of Wiley Rein.



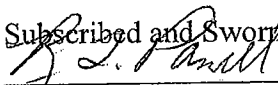
4. Ari Meltzer, an Associate at Wiley Rein, may also assist on these matters.

Mr. Meltzer's hourly rates are reasonable and fair in light of the rates currently charged in the District of Columbia for similar regulatory filings and matters before the Federal Communications Commission. Attached at Exhibit 2 are sample bills representing similar work performed by Mr. Meltzer as an Associate.

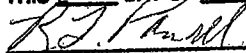
FURTHER AFFIANT SAYETH NOT:


Joan Stewart

Subscribed and Sworn to before me this 12th day of January 2012.


Notary Public

My Commission Expires: 12/14/16

DISTRICT OF COLUMBIA: SS
SUBSCRIBED AND SWORN TO BEFORE ME
THIS 12th DAY OF January, 2012.

NOTARY PUBLIC
My Commission Expires 12/14/16

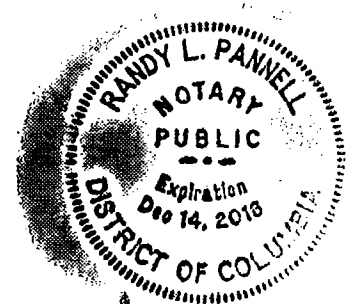


Exhibit 1

Sample bill for Joan Stewart

Fed. ID#

Invoice No.

General FCC Advice

For Professional Services Rendered Through November 30, 2011

PROFESSIONAL FEES: \$

SERVICES:

Office Copying Service

TOTAL SERVICES: \$

TOTAL AMOUNT DUE THIS INVOICE: \$

OUTSTANDING ACCOUNTS RECEIVABLE

INVOICE NUMBER	DATE	INVOICE AMOUNT	PAYMENTS AGAINST INVOICE .00	INVOICE BALANCE
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Attorney-Client Privileged and Confidential.

WILEY REIN LLP
Professional Fees
November 30, 2011

General FCC Advice

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TOTAL

TOTAL PROFESSIONAL FEES

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WILEY REIN LLP
Professional Fees
November 30, 2011

General FCC Advice

SUMMARY OF PROFESSIONAL FEES

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Exhibit 2

Sample bill for Ari Meltzer

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Wiley Rein LLP

1776 K STREET NW
WASHINGTON, DC 20006

Fed. ID#

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TOTAL AMOUNT DUE THIS INVOICE:

OUTSTANDING ACCOUNTS RECEIVABLE

INVOICE NUMBER	DATE	INVOICE AMOUNT	PAYMENTS AGAINST INVOICE	INVOICE BALANCE
-------------------	------	-------------------	--------------------------------	--------------------

Attorney-Client Privileged and Confidential.

C
601

WILEY REIN LLP
Professional Fees
November 30, 2011

Routine FCC Advice (Retainer)

DATE	INIT	HOURS	DESCRIPTION OF PROFESSIONAL SERVICES
11/25/11	ASM	3.25	Research and draft biennial ownership reports.
11/27/11	ASM	2.50	Draft biennial ownership reports; revise and edit corporate structure chart.
11/28/11	ASM	1.25	Review and analyze biennial ownership reports.
11/29/11	ASM	3.25	Draft ownership spreadsheets to reflect revisions to officers and directors; revise and edit biennial ownership reports to reflect same.
11/30/11	ASM	1.50	Review and edit biennial ownership reports; prepare same for final approval.

WILEY REIN LLP
Professional Fees
November 30, 2011

Routine FCC Advice (Retainer)

1

DATE	INIT	HOURS	DESCRIPTION OF PROFESSIONAL SERVICES
------	------	-------	--------------------------------------

TOTAL

TOTAL PROFESSIONAL FEES

WILEY REIN LLP
Professional Fees
November 30, 2011

Routine FCC Advice (Retainer)

SUMMARY OF PROFESSIONAL FEES

			HOURS	RATE	AMOUNT
ASM	Ari S. Meltzer	Attorney	11.75	295.00	3,466.25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-62322-Civ-WILLIAMS

UNITED STATES OF AMERICA,

Petitioner,

vs.

JOHN P. TYRRELL,

Respondent.

_____ /

ORDER GRANTING MOTION FOR EXTENSION OF TIME

This MATTER is before the Court on Petitioner's Motion to Extend Time to Effectuate Personal Service and for Permission to Serve Responded by Publication Pursuant to FRCP Rule 4(e)(1) [D.E. 7]. The motion is **GRANTED**. Petitioner shall serve Respondent by April 13, 2012. Petitioner may effectuate service under Rule 4)(e)(1), including by publication pursuant to Fla. Stat. §§ 49.011(1) and 49.02(1).

DONE AND ORDERED in Chambers, at Miami, Florida, this 17th day of January, 2012.


KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

JOHN A. DiCICCO
Principal Deputy Assistant Attorney General
RICK WATSON
Trial Attorney, Tax Division
U.S. Department of Justice
PO Box 683, Ben Franklin Station
Washington DC 20044-0683
Telephone: (202) 353-0300
Facsimile: (202) 307-0054
E-mail: Rickey.Watson@usdoj.gov
Attorneys for the United States

FLORENCE NAKAKUNI 2286
United States Attorney
District of Hawaii
EDRIC M. CHING
Assistant U.S. Attorney
Room 6-100, PJKK Federal Bldg.
300 Ala Moana Boulevard
Honolulu, Hawaii 96850
Telephone: (808) 541-2850
Email: Edric.Ching@usdoj.gov
Of Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAIANAE COMMUNITY DEVELOPMENT)	CIVIL NO. 11-00733 SOM-KSC
PROJECT ASSOCIATION, by its)	ORDER GRANTING
Board of Directors,)	UNITED STATES' SECOND
)	UNOPPOSED MOTION FOR
Plaintiff,)	EXTENSION OF TIME TO
)	RESPOND TO COMPLAINT;
)	CERTIFICATE OF SERVICE
v.)	
)	
LINDA FAYE ABBOTT; RONNIE)	
ABBOTT; AMERICAN SAVINGS)	
BANK, F.S.B; UNITED STATES)	
OF AMERICA, DEPARTMENT OF)	
TREASURY, INTERNAL REVENUE)	
SERVICE; JOHN DOES 1-10;)	
JANE DOES 1-10; DOE)	
PARTNERSHIPS 1-10; DOE)	
CORPORATIONS 1-10; DOE)	
ENTITIES 1-10; and DOE)	
GOVERNMENTAL UNITS 1-10)	
)	
<u>Defendants,</u>)	

**ORDER GRANTING UNITED STATES' UNOPPOSED MOTION FOR SECOND
EXTENSION OF TIME TO RESPOND TO COMPLAINT**

Based on the United States' Unopposed Motion for Extension of Time to Respond to the Complaint and Continue the Rule 16 Scheduling Conference and good cause having been shown, the Court orders that the United States shall file a response to the complaint in this case no later than January 23, 2012.

DATED: Honolulu, Hawaii, this 17th day of January, 2012.





Kevin S.C. Chang
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

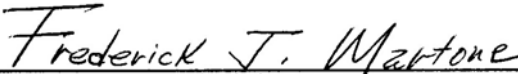
Alterra Property Owners Association,
Plaintiff,
v.
Ramsey D. Gordon et al.,
Defendants.

Civil Case No. CV 11-02494-PHX-FJM

**ORDER ESTABLISHING UNITED
STATES' PERIOD OF TIME TO
RESPOND**

Upon review of the pleadings, and for good cause shown, it is hereby ORDERED that the United States of America, for the Department of Treasury - Internal Revenue Service, has 60 days from the date of service upon the U.S. Attorney, or until January 20, 2012, to respond to Plaintiff's Complaint.

DATED this 17th day of January, 2012.



Frederick J. Martone
United States District Judge

DAVID B. BARLOW (13117)
United States Attorney
JOHN MANGUM (#2072)
Assistant United States Attorney
185 South State Street, Suite 300
Salt Lake City, UT 84111
Telephone: (801) 524-5682

RICK WATSON
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044-0683
Tel: (202) 353-0300

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

BCBU)	
	)	Civil No. 2:11-CV-0339 PMW
Plaintiff,)	
	)	ORDER GRANTING
v.	)	UNITED STATES' THIRD STIPULATED
	)	MOTION TO EXTEND TIME TO ANSWER
UNITED STATES OF AMERICA,	)	OR OTHERWISE RESPOND TO
	)	COMPLAINT
)	
Defendant.)	
)	
)	
)	

Upon consideration of the United States' Third Stipulated Motion to Extend Time to Answer or Otherwise Respond to Complaint,¹ and good cause having been shown, it is hereby

¹ See docket no. 22.

ORDERED that the United States' deadline to answer or otherwise respond to the complaint in this matter is extended until March 16, 2012.

DATED this 17th day of January, 2012.

A handwritten signature in black ink, appearing to read "Paul M. Warner", is written above a horizontal line.

PAUL M. WARNER
United States Magistrate Judge

ORDERED that the United States' deadline to answer or otherwise respond to the complaint in this matter is extended until March 16, 2012.

DATED this 17th day of January, 2012.

A handwritten signature in black ink, appearing to read "Paul M. Warner", is written above a horizontal line.

PAUL M. WARNER
United States Magistrate Judge

**MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

UNITED STATES OF AMERICA v. *JOSEPH J. LIPARI, et al.*

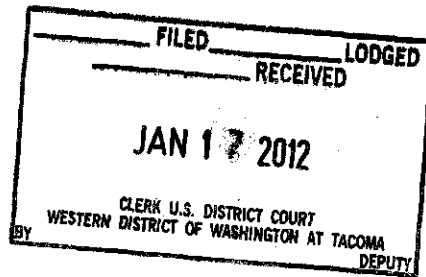
THE HONORABLE JOHN W. SEDWICK

CASE NO. 3:10-cv-08142 (JWS)

PROCEEDINGS: **ORDER FROM CHAMBERS** Date: January 13, 2012

The stipulation at docket 50 is Approved. The plaintiff's reply to the motion at docket number 37 and plaintiff's response to the motion at docket 47 are due on or before January 30, 2012.

The Honorable Robert J. Bryan



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA

Plaintiff,

v.

TERRY L. SMITH, both individually and as
trustee for the TERRY L. SMITH AND LOUISE A.
SMITH FAMILY REVOCABLE LIVING TRUST;
LOUISE A. SMITH, both individually and as
trustee for the TERRY L. SMITH AND LOUISE
A. SMITH FAMILY REVOCABLE LIVING
TRUST; BLUE BEAR COMPANY; HSBC BANK
NEVADA, N.A.; and JEFFERSON COUNTY

Defendants.

Civil No. 11-05101-RJB

ORDER GRANTING UNITED STATES'
MOTION FOR RELIEF FROM DISCOVERY
MOTION DEADLINE

Upon review of the documents before the Court and upon good cause shown,

IT IS HEREBY ORDERED THAT the United States' Motion to for Relief from Discovery Motion
Deadline is GRANTED.

//

//

//



11-CV-05101-ORD

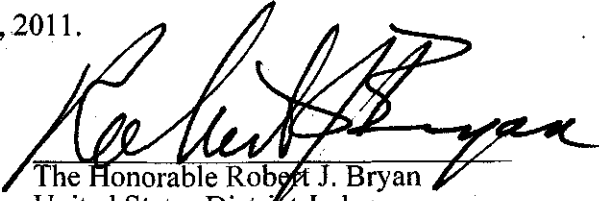
ORDER
Civil No. 11-05101-RJB

- 1 -

United States Department of Justice
Tax Division
P.O. Box 683
Washington, D.C. 20044
(202) 353-1844

1 The United States shall file its Motion to Compel the Depositions of Terry L. Smith and Louise
2 A. Smith within five days of the date of this ORDER.

3
4 DATED this 17 day of Jan, 2011.

5
6 
7 The Honorable Robert J. Bryan
8 United States District Judge

9 Presented by:

10 JOHN A. DICICCO
11 Principal Deputy Assistant Attorney General

12 /s/ Quinn P. Harrington
13 MICHAEL P. HATZMICHALIS
14 QUINN P. HARRINGTON
15 Trial Attorneys, Tax Division
16 U.S. Department of Justice
17 Post Office Box 683
18 Ben Franklin Station
19 Washington, D.C. 20044
20 Telephone: (202) 353-1844
21 Michael.P.Hatzimichalis@usdoj.gov
22 Quinn.P.Harrington@usdoj.gov

23 JENNY A. DURKAN
24 United States Attorney
25 Of Counsel

26
27
28 ORDER
Civil No. 11-05101-RJB

United States Department of Justice
Tax Division
P.O. Box 683
Washington, D.C. 20044
(202) 353-1844

Below is the Order of the Court.



A handwritten signature in dark ink, reading "Karen A. Overstreet", is written over a horizontal line.

Karen A. Overstreet
U.S. Bankruptcy Judge
(Dated as of Entered on Docket date above)

Karen A. Overstreet
Bankruptcy Judge
United States Courthouse
700 Stewart Street, Suite 6310
Seattle, WA 98101
206-370-5330

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re

John Allen Bosch and
Elizabeth Maxine Bosch,

Debtor(s).

Chapter 11

Case No. 11-14667

ORDER TO HOLD SECTION 105
CONFERENCE BY TELEPHONE

Pursuant to 11 U.S.C. §105(d), Fed. R. Civ. P. 16, and Bankruptcy Rule 7016 and 9014, a case management conference is scheduled for January 18, 2012, at 9:30 a.m. The Court finds that holding the case management conference by telephone is appropriate. Now, therefore, it is hereby,

ORDERED that the case management conference shall be held by telephone on January 18, 2012 at 9:30 a.m. This hearing will be held by phone regardless of whether the Seattle courthouse is closed due to inclement weather. At 9:25 a.m. on the day of the hearing,

1 participants should use the following procedure:

- 2 • Dial: 1-888-363-4749
- 3 • Enter Access Code: 8955076#
- 4 • Press the # sign
- 5 • Enter Security Code: 3564#
- 6 • Speak your name when prompted

7 IT IS FURTHER ORDERED that debtors' counsel shall provide notice to the debtors of
8 the change in procedure and provide the call-in instructions set forth above to the debtors, who
9 are required to attend the conference.

10 ///END OF ORDER///

Below is the Order of the Court.



A handwritten signature in dark ink, reading "Karen A. Overstreet", is written over a horizontal line.

Karen A. Overstreet
U.S. Bankruptcy Judge
(Dated as of Entered on Docket date above)

Karen A. Overstreet
Bankruptcy Judge
United States Courthouse
700 Stewart Street, Suite 6310
Seattle, WA 98101
206-370-5330

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re

John Allen Bosch and
Elizabeth Maxine Bosch,

Debtor(s).

Chapter 11

Case No. 11-14667

ORDER TO HOLD SECTION 105
CONFERENCE BY TELEPHONE

Pursuant to 11 U.S.C. §105(d), Fed. R. Civ. P. 16, and Bankruptcy Rule 7016 and 9014, a case management conference is scheduled for January 18, 2012, at 9:30 a.m. The Court finds that holding the case management conference by telephone is appropriate. Now, therefore, it is hereby,

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7 IT IS FURTHER ORDERED that debtors' counsel shall provide notice to the debtors of
8 the change in procedure and provide the call-in instructions set forth above to the debtors, who
9 are required to attend the conference.

10 ///END OF ORDER///

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARK STROM, *et al.*,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

No. C06-802RSL

MINUTE ORDER

The following Minute Order is made and entered on the docket at the direction of the
HONORABLE ROBERT S. LASNIK, UNITED STATES DISTRICT JUDGE:

Per the request from counsel, the deadline for the Combined Joint Status Report and Discovery
Plan has been extended to Friday, July 20, 2012.

DATED this 17th day of January, 2012.

/s/Kerry Simonds
by Kerry Simonds, Deputy Clerk
To Robert S. Lasnik, Judge
206-370-8519

Copy to the Court
and Counsel

MINUTE ORDER

Dated: January 17, 2012



Eileen W. Hollowell
Eileen W. Hollowell, Bankruptcy Judge

Mark J. Giunta (#015079)
Law Office of Mark J. Giunta
245 W. Roosevelt St. Suite A
Phoenix, AZ 85003
Phone (602) 307-0837
Fax (602) 307-0838
Email markgiunta@giuntalaw.com

Attorney for Debtor

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:	Chapter 11 Proceeding
DANNY'S HAPPY VALLEY, LLC, et al.,	Case No. 2:10-bk-02794-EWH
Debtors.	Jointly Administered With

This filing applies to:

☐ All Debtors
☒ Specified

Debtors:

Daniel L. Hendon

2:10-bk-02796-EWH	2:10-bk-02799-EWH
2:10-bk-02802-EWH	2:10-bk-05580- EWH
2:10-bk-05583- EWH	2:10-bk-05585- EWH
2:10-bk-05588- EWH	2:10-bk-05792- EWH
2:10-bk-05793- EWH	2:10-bk-05794- EWH
2:10-bk-05795- EWH	2:10-bk-05796- EWH
2:10-bk-05797- EWH	2:10-bk-05798- EWH
2:10-bk-05799- EWH	2:10-bk-05800- EWH
2:10-bk-05801- EWH	2:10-bk-05802- EWH
2:10-bk-05805- EWH	2:10-bk-05806- EWH
2:10-bk-05772- EWH	2:10-bk-05774- EWH
2:10-bk-05775- EWH	
2:10-bk-05776- EWH	2:11-bk-21164- EWH

**ORDER APPROVING FINAL APPLICATION FOR FEES AND EXPENSES
INCURRED BY ATTORNEY FOR DEBTOR, DANIEL L. HENDON.**

Applicant Mark J. Giunta having filed Final Application For Fees And Expenses Incurred
By Attorney For Debtor, Daniel L. Hendon, in the above-captioned matter for services rendered
between July 25, 2011 through December 16, 2011, no objections having been filed after
sufficient notice to all interested parties and creditors and good cause appearing.

IT IS HEREBY ORDERED approving Applicant's request for fees in the above
captioned matter in the amount of \$ 113,539.50 together with reimbursement of expenses in the

1 amount of \$ 1,056.53 for the period between July 25, 2011 through December 16, 2011 and
2 allowing the same as an administrative priority claim.

3 IT IS FURTHER ORDERED directing the debtor to pay these fees and costs to the
4 Applicant.

5
6 **DATED AND SIGNED ABOVE.**
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January 17, 2012

Clerk, U.S. Bankruptcy Court

Below is an Order of the Court.


TRISH M. BROWN
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Stephen Miles Munson,

Debtor.

Case No. 10-39795-tmb11

STIPULATED ORDER ALLOWING
EMPLOYMENT OF VALUATION
CONSULTANTS FOR DEBTOR AND
UNSECURED CREDITORS COMMITTEE
AND ESTABLISHING PROCEDURES FOR
VALUATION AND DISSEMINATION OF
VALUATION REPORT

This matter came before this Court on the Application of Unsecured Creditors Committee for Authority to Employ Stock Appraiser (Jacob Securities, Inc.) (Docket No. 411) (the "Committee Application") and the Debtor's Application to Employ Consultant for Debtor (Duff & Phelps, LLC) (Docket No. 427) (the "Debtor Application"). The Debtor objected to Committee Application in Debtor's Motion to Continue Hearing on Unsecured Creditors Committee's Application to Employ Jacob Securities, Inc. (the "Motion to Continue") (Docket No. 428). The Committee objected to the Debtor Application at the hearing held on the Motion to Continue. Gradient Resources, Inc. ("Gradient") filed objections to both the Committee Application (Docket No. 412) and the Debtor Application (Docket No. 455).

The Court having reviewed the Committee Application, the Debtor Application,

and being advised that the Unsecured Creditors Committee, the Debtor and Gradient have reached an agreement regarding the Committee Application, the Debtor Application and the procedures to be followed by the parties with respect to the valuations to be conducted of the estate's Gradient stock (the "Gradient Stock"), and the Court being otherwise fully advised in the premises; it is hereby

ORDERED as follows:

1. The Committee Application to employ Jacob Securities, Inc. ("JSI") as a valuation consultant is granted;
2. The Debtor Application to employ Duff & Phelps, LLC ("D&P") as a valuation consultant is granted;
3. The Unsecured Creditors Committee and the Debtor shall coordinate and cooperate in good faith to formulate joint lists of documents, site visits, depositions or other reasonably necessary information requests to be produced by Gradient for their respective valuation consultants to complete their reports, which cooperation and coordination shall include an in-person meeting between the valuation consultants, the Debtor, and a representative of the Unsecured Creditors Committee or counsel for the Unsecured Creditors Committee;
4. The reports (and any draft reports generated by the valuation consultants) shall be made available only to the members of the Unsecured Creditors Committee, the Debtor, certain Gradient representatives (Craig Mataczynsky, Michael Hamilton, David Lloyd, and Richard Atkinson) and Gradient Investment Holdings LLC (Tony Fiore), certain Valley Energy Investment Fund U.S., LP ("Valley") representatives (Shabaner Qaiser, Jill Fairbrother, William Wallace) and the parties' respective counsel. Those parties and their counsel shall not further distribute the reports, or any other information contained in the reports, except as set forth in this order or further order of this Court;
5. JSI and D&P are prohibited from disclosing their reports and any information Gradient provides to them in connection with their appraisal, except by further order

of this Court, excluding any information obtained prior to entry of this order or obtained from a source other than Gradient;

6 . Gradient and Valley shall have seven (7) days after notice is given to Gradient and Valley that the JSI and/or D&P valuation reports are complete, whichever is later (the "Objection Deadline"), within which to file an objection to the potential dissemination of such reports to anyone, including potential purchasers of the Gradient Stock who execute a nondisclosure agreement; otherwise, if Gradient and/or Valley file no objection(s) by the Objection Deadline, the Unsecured Creditors Committee and the Debtor shall have the right to utilize the reports for approved uses.

#

PRESENTED BY:

FARLEIGH WADA WITT

By: /s/ Tara J. Schleicher
Tara J. Schleicher, OSB #954021
Of Attorneys for Debtor Stephen Munson

IT IS SO STIPULATED:

FARLEIGH WADA WITT

By: /s/ Tara J. Schleicher
Tara J. Schleicher, OSB #954021
Of Attorneys for Debtor Stephen Munson

SUSSMAN SHANK LLP

By: /s/ Howard M. Levine
Howard M. Levine, OSB #800730
Of Attorneys for Gradient Resources, Inc.

TONKON TORP LLP

By: /s/ Leon Simson

Leon Simson, OSB #753429
Of Attorneys for Unsecured Creditors Committee

cc: Tara J. Schleicher
Leon Simpson
Howard Levine
U.S. Trustee
Gib Masters

January 17, 2012

Clerk, U.S. Bankruptcy Court

Below is an Order of the Court.


TRISH M. BROWN
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Stephen Miles Munson,

Debtor.

Case No. 10-39795-tmb11

STIPULATED ORDER ALLOWING
EMPLOYMENT OF VALUATION
CONSULTANTS FOR DEBTOR AND
UNSECURED CREDITORS COMMITTEE
AND ESTABLISHING PROCEDURES FOR
VALUATION AND DISSEMINATION OF
VALUATION REPORT

This matter came before this Court on the Application of Unsecured Creditors Committee for Authority to Employ Stock Appraiser (Jacob Securities, Inc.) (Docket No. 411) (the "Committee Application") and the Debtor's Application to Employ Consultant for Debtor (Duff & Phelps, LLC) (Docket No. 427) (the "Debtor Application"). The Debtor objected to Committee Application in Debtor's Motion to Continue Hearing on Unsecured Creditors Committee's Application to Employ Jacob Securities, Inc. (the "Motion to Continue") (Docket No. 428). The Committee objected to the Debtor Application at the hearing held on the Motion to Continue. Gradient Resources, Inc. ("Gradient") filed objections to both the Committee Application (Docket No. 412) and the Debtor Application (Docket No. 455).

The Court having reviewed the Committee Application, the Debtor Application,

and being advised that the Unsecured Creditors Committee, the Debtor and Gradient have reached an agreement regarding the Committee Application, the Debtor Application and the procedures to be followed by the parties with respect to the valuations to be conducted of the estate's Gradient stock (the "Gradient Stock"), and the Court being otherwise fully advised in the premises; it is hereby

ORDERED as follows:

1. The Committee Application to employ Jacob Securities, Inc. ("JSI") as a valuation consultant is granted;
2. The Debtor Application to employ Duff & Phelps, LLC ("D&P") as a valuation consultant is granted;
3. The Unsecured Creditors Committee and the Debtor shall coordinate and cooperate in good faith to formulate joint lists of documents, site visits, depositions or other reasonably necessary information requests to be produced by Gradient for their respective valuation consultants to complete their reports, which cooperation and coordination shall include an in-person meeting between the valuation consultants, the Debtor, and a representative of the Unsecured Creditors Committee or counsel for the Unsecured Creditors Committee;
4. The reports (and any draft reports generated by the valuation consultants) shall be made available only to the members of the Unsecured Creditors Committee, the Debtor, certain Gradient representatives (Craig Mataczynsky, Michael Hamilton, David Lloyd, and Richard Atkinson) and Gradient Investment Holdings LLC (Tony Fiore), certain Valley Energy Investment Fund U.S., LP ("Valley") representatives (Shabaner Qaiser, Jill Fairbrother, William Wallace) and the parties' respective counsel. Those parties and their counsel shall not further distribute the reports, or any other information contained in the reports, except as set forth in this order or further order of this Court;
5. JSI and D&P are prohibited from disclosing their reports and any information Gradient provides to them in connection with their appraisal, except by further order

of this Court, excluding any information obtained prior to entry of this order or obtained from a source other than Gradient;

6 . Gradient and Valley shall have seven (7) days after notice is given to Gradient and Valley that the JSI and/or D&P valuation reports are complete, whichever is later (the "Objection Deadline"), within which to file an objection to the potential dissemination of such reports to anyone, including potential purchasers of the Gradient Stock who execute a nondisclosure agreement; otherwise, if Gradient and/or Valley file no objection(s) by the Objection Deadline, the Unsecured Creditors Committee and the Debtor shall have the right to utilize the reports for approved uses.

#

PRESENTED BY:

FARLEIGH WADA WITT

By: /s/ Tara J. Schleicher
Tara J. Schleicher, OSB #954021
Of Attorneys for Debtor Stephen Munson

IT IS SO STIPULATED:

FARLEIGH WADA WITT

By: /s/ Tara J. Schleicher
Tara J. Schleicher, OSB #954021
Of Attorneys for Debtor Stephen Munson

SUSSMAN SHANK LLP

By: /s/ Howard M. Levine
Howard M. Levine, OSB #800730
Of Attorneys for Gradient Resources, Inc.

TONKON TORP LLP

By: /s/ Leon Simson

Leon Simson, OSB #753429
Of Attorneys for Unsecured Creditors Committee

cc: Tara J. Schleicher
Leon Simpson
Howard Levine
U.S. Trustee
Gib Masters

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff(s),)	
vs.	)	No. 11-01181-CV-W-DGK
)	
RICHARD C. WALDEN,)	
)	
Defendant(s).)	

**ORDER SETTING DEADLINES FOR FILING OF JOINT PROPOSED
SCHEDULING ORDER AND FOR RULE 26(f) CONFERENCE**

Appended to this order is the “Tenets of Professional Courtesy” adopted by the Kansas City Metropolitan Bar Association. COUNSEL SHOULD BE AWARE THAT THE COURT EXPECTS ADHERENCE TO THE TENETS BY ATTORNEYS APPEARING IN THIS DIVISION. FURTHER, THE COURT BELIEVES IT TO BE IN THE INTEREST OF ALL CONCERNED FOR PARTIES TO BE AWARE OF THE COURT’S EXPECTATION. TO THAT END, COUNSEL SHALL FORWARD A COPY OF THE TENETS TO ALL CLIENTS INVOLVED IN THIS ACTION.

Pursuant to Rule 26(f) and Local Rule 26.1(a) the parties shall meet to discuss settlement, make or arrange for Rule 26(a)(1) disclosures, and develop a proposed discovery plan as required by Rule 26(f). This meeting shall take place no later than February 17, 2012. Discovery shall commence immediately after this conference is held.

The parties shall file a joint proposed scheduling order/discovery plan by March 2, 2012. Plaintiff’s counsel shall take the lead in preparing the proposed plan. The proposed plan shall comply with Local Rules 16.1 (d), 16.1(f), 26.1(c) and 26.1(d). The proposed plan shall state whether the case will be tried to the Court or to a jury and the anticipated length of the trial. The

proposed trial date shall not be sooner than 180 days after the deadline proposed for filing of dispositive motions.

Pursuant to Rule 26(f)(3)(C) the proposed plan should address any concerns or issues relating to electronically stored information (ESI). If applicable, the plan should address (1) what ESI is available and where it resides; (2) preservation of information; (3) the ease/difficulty and cost of producing such information; (4) the schedule and format of production; and (5) agreements about privilege or work-product protection.

Within fifteen days from the date of this Order, each non-governmental corporate party must file a statement identifying all parent companies, subsidiaries (except wholly owned subsidiaries) and affiliates that have issued shares to the public.

These deadlines will not be stayed absent leave of court. Counsel are directed that the filing of motions, including motions to dismiss or remand, does not automatically stay any of the preceding deadlines.

Counsel are advised that the Court does not wish to receive courtesy copies of motions and other filings unless requested. Rulings on unopposed, non-dispositive motions will be expedited if a proposed order is provided. The proposed order should be typed in WordPerfect 5.1 or later versions or Word format and e-mailed to the courtroom deputy.

With respect to discovery, counsel are reminded that:

1. The number and form of interrogatories and depositions are governed by Rules 30, 31, and 33.
2. The procedure for resolving discovery disputes is governed by Local Rule 37.1.
3. The form of answers to certain discovery requests and the disclosures required by Rule 26 are provided in Local Rule 26.2.
4. The filing of motions does not postpone discovery. See Local Rule 26.1(b).

IT IS SO ORDERED

Date: January 17, 2012

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT

TENETS OF PROFESSIONAL COURTESY

I

A LAWYER SHOULD NEVER KNOWINGLY DECEIVE ANOTHER LAWYER.

II

A LAWYER SHOULD HONOR PROMISES OR COMMITMENTS MADE TO ANOTHER LAWYER.

III

A LAWYER SHOULD MAKE ALL REASONABLE EFFORTS TO SCHEDULE MATTERS WITH
OPPOSING COUNSEL BY AGREEMENT.

IV

A LAWYER SHOULD MAINTAIN A CORDIAL AND RESPECTFUL RELATIONSHIP
WITH OPPOSING COUNSEL.

V

A LAWYER SHOULD SEEK SANCTIONS AGAINST OPPOSING COUNSEL ONLY WHERE REQUIRED
FOR THE PROTECTION OF THE CLIENT AND NOT FOR MERE TACTICAL ADVANTAGE.

VI

A LAWYER SHOULD NOT MAKE UNFOUNDED ACCUSATIONS OF UNETHICAL CONDUCT
ABOUT OPPOSING COUNSEL.

VII

A LAWYER SHOULD NEVER INTENTIONALLY EMBARRASS ANOTHER LAWYER AND SHOULD
AVOID PERSONAL CRITICISM OF ANOTHER LAWYER.

VIII

A LAWYER SHOULD ALWAYS BE PUNCTUAL.

IX

A LAWYER SHOULD SEEK INFORMAL AGREEMENT ON PROCEDURAL AND PRELIMINARY
MATTERS.

Dated: January 17, 2012



Redfield T. Baum

Redfield T. Baum, Bankruptcy Judge

DENNIS J. WORTMAN, P.C.
202 E. Earll Drive, Ste. 490
Phoenix, Arizona 85012
(602) 257-0101
Fax: (602) 279-5650

State Bar No. 002136
Attorney for Debtor(s)
djwortman@azbar.org

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re:)
JOHN HOREJS and ELAINE HOREJS,)
Debtors.)
_____)
WELLS FARGO BANK, N.A.,)
Movant,)
vs.)
JOHN HOREJS and ELAINE HOREJS,)
Respondents.)
_____)

Chapter 13

Case No. 2:09-bk-26391-RTB

ORDER VACATING FINAL HEARING

Hearing Date: January 26, 2012
Hearing Time: 10:00 a.m.

THE DEBTORS having filed their Notice of Withdrawal of Objection to Proof of claim of Wells Fargo Bank, N.A. and Request to Vacate Hearing, and the Court having considered the record and circumstances,

IT IS ORDERED vacating the final hearing set for January 26, 2012 at 10:00 a.m.

DATED AND SIGNED ABOVE.

In the United States Court of Federal Claims

No. 07-739 T

(E-Filed: January 17, 2012)

INTERSPORT FASHIONS WEST, INC.,

Plaintiff,

V.

THE UNITED STATES,

Defendant.

ORDER

The court held a telephonic status conference (TSC) on January 17, 2012. Plaintiff's counsel has agreed to file a statement on or before Wednesday, January 18, 2012 outlining for the court why Intersport Fashions West, Inc. is a proper party in this action in light of its involvement in bankruptcy proceedings.

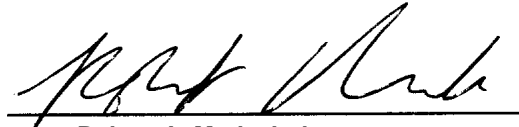
The court will hold oral argument on defendant's motion for summary judgment on Monday, January 30, 2012 at 3:30 p.m. Eastern Standard Time. Argument will be conducted telephonically with defendant to make the initial argument and plaintiff to respond. The court will hear responses and replies to each party's initial arguments.

IT IS SO ORDERED.

s/ Emily C. Hewitt
EMILY C. HEWITT
Chief Judge



ORDERED in the Southern District of Florida on January 14, 2012.


Robert A. Mark, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
www.flsb.uscourts.gov

In re:

JET NETWORK, LLC,

Debtor.

Case No. 08-11165-RAM

Chapter 7

**ORDER GRANTING MOTION OF UNITED STATES FOR LEAVE TO AMEND
IRS CLAIM AND TO FURTHER INCREASE SAID CLAIM, IF NECESSARY, UPON
ENTRY OF A FINAL JUDGMENT IN THE TRUSTEE'S PREFERENCE ACTION**

This matter came before the Court for hearing on January 3, 2012, upon the *Motion of United States for Leave to Amend IRS Claim and to Further Increase Said Claim, if Necessary, Upon Entry of a Final Judgment in the Trustee's Preference Action* (ECF #568) (the "**Motion**") filed by creditor, the United States of America (the "**IRS**"). Upon consideration of the Motion, the Response thereto (ECF #572) filed by the Chapter 7 Trustee, Alan Goldberg (the "**Trustee**"), the arguments of counsel, and the record in this case, and after considering the competing forms of Order submitted by the Trustee and the IRS, it is -

ORDERED:

1. The Motion is granted, as set forth herein.
2. The IRS is granted leave to amend its proof of claim no. 33-3 in respect of asserted tax liabilities for tax periods September 30 and December 31, 2005 that arose or were revived by the return of certain levied funds, totaling \$467,979, to Jet Network's customers. Any such amended claim must be filed within thirty days of the date of entry of this Order. The Trustee reserves the right to object to such amended claim on any grounds other than the timeliness of the amendment, provided that such amendment is timely filed in accordance with this paragraph.
3. The IRS is also granted leave to amend its proof of claim to assert a claim under 11 U.S.C. § 502(h) or otherwise in the event the Trustee obtains a judgment against the IRS in the adversary proceeding *Goldberg v. United States*, Adv. Proc. 08-01515-RAM (Bankr. S.D. Fla.) (the "**Preference Adversary**"). The amended claim shall be filed within 30 days after any judgment entered in the Preference Adversary becomes final unless the deadline is extended by the Court by further Order. The Trustee reserves the right to object to such amended claim on any grounds other than the timeliness of the amendment, provided that such amendment is timely filed in accordance with this paragraph.

#

Submitted by:

Scott M. Grossman, Esq.
Greenberg Traurig, P.A.
401 E. Las Olas Blvd., Suite 2000
Fort Lauderdale, FL 33301
Telephone: (954) 765-0500
Facsimile: (954) 765-1477
E-mail: grossmansm@gtlaw.com

(Attorney Grossman shall serve a conformed copy of this Order upon all interested parties and shall file a certificate of service.)
MIA 182,305,262v2 1-5-12

ORDERED in the Southern District of Florida on Jan. 17, 2012




Robert A. Mark, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

JUAN E. PUIG, ¹

Debtor.

Case No. 07-15259-RAM
Chapter 7

In re:

DIANA B. PUIG, ²

Debtor.

Case No. 07-15261-RAM
Chapter 7

ALAN L. GOLDBERG,
as Chapter 7 Trustee of the estates
of the Debtors, Juan E. Puig and Diana B. Puig,

Plaintiff,

v.

ADV. NO. 11-02145-RAM

THE UNITED STATES OF AMERICA,
DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, a delegate
of the Secretary of the Treasury, and
DOUGLAS SHULMAN, COMMISSIONER
OF THE INTERNAL REVENUE SERVICE,

Defendants.

¹ The last four digits of the Social Security Number of the Debtor are

b3

² The last four digits of the Social Security Number of the Debtor are

b3

b6

**ORDER GRANTING THIRD AGREED *EX PARTE* MOTION TO CONTINUE
PRETRIAL CONFERENCE AND RELATED DATES AND DEADLINES**

This matter came before the Court on Plaintiff's Third Agreed Motion (ECF No. 22) (the "Motion") to Continue Pretrial Conference and Related Dates and Deadlines. The Court has determined that the pretrial conference in this proceeding should be rescheduled. Therefore, it is

—

ORDERED as follows:

1. The Motion is GRANTED.
2. The Pretrial Conference of this adversary proceeding scheduled for February 1, 2012 is CANCELED and RESCHEDULED for ~~February~~ 10:30 a.m. on April 5, 2012. The pretrial conference and trial will be conducted at the U.S. Bankruptcy Court, 51 S.W. 1st Avenue, Courtroom 1406, Miami, Florida.

3. The parties shall comply with the requirements set forth in the initial Order Setting Filing and Disclosure Requirements for Pretrial. The time deadlines in the Order, as they relate to the Pretrial Conference, shall refer to the rescheduled date.

####

Copies furnished to:

Pascale Guerrier, Esq.
Drew M. Dillworth, Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

VICTORIA JOHNSON,)	
)	
Plaintiff and)	
Counterclaim Defendant,)	
)	
v.	)	1:09CV957
)	
UNITED STATES OF AMERICA,)	
)	
Defendant, Counterclaim)	
Plaintiff, and Third-)	
Party Plaintiff,)	
)	
v.)	
)	
SAMMY E. JOHNSON, J. HUNTER)	
SCHOFIELD, and MATTHEW SCHOFIELD,)	
)	
Third-Party Defendants.)	

MEMORANDUM OPINION, RECOMMENDATION, AND ORDER
OF UNITED STATES MAGISTRATE JUDGE

The instant matter comes before the undersigned United States Magistrate Judge for a recommended ruling on the United States' Motion for Summary Judgment (Docket Entry 47) and the Motion of Victoria Johnson for Summary Judgment (Docket Entry 49), as well as for disposition of Plaintiff's counsel's Motion to Withdraw (Docket Entry 60). For the reasons that follow, the United States' Motion for Summary Judgment should be granted, the Motion of Victoria Johnson for Summary Judgment should be denied, and Plaintiff's counsel's Motion to Withdraw will be granted.

Background

In 1997, Plaintiff Victoria Johnson's ("Victoria's") husband, Sammy Johnson ("Sammy"), was fired from his job at Colonial Life & Accident Insurance Co. ("Colonial Life"). (See Docket Entry 48 at 2.) Sammy sued Colonial Life for breach of contract and wrongful discharge. (See Docket Entry 50 at 2.) After a lengthy legal proceeding, a jury awarded Sammy a judgment of \$1,613,661.00 plus interest and costs in March 2006. (See Docket Entry 48 at 2; see also Docket Entry 48-6.) Sammy received a net award of \$1,049,444.45 after legal fees and expenses, which he directed to be placed into his wife's checking account because (according to Sammy) "he wanted nothing to do with the money." (Docket Entry 50 at 3; see also Docket Entry 48 at 2-3.)

Roughly six months after Sammy's receipt of the funds (and the transfer to Victoria), Sammy and Victoria began to investigate whether the judgment award was taxable. (See Docket Entry 48 at 3; see also Docket Entry 48-4 at 66-67.) Sammy and Victoria first contacted an accountant who advised them that, in his opinion, the funds were taxable, but also suggested that they seek a second opinion. (See Docket Entry 48 at 4; see also Docket Entry 48-1 at 65-67; Docket Entry 48-4 at 66-67.) Sammy subsequently contacted a second accountant, Keith Pleasant ("Pleasant"), who advised Sammy that based on the recent opinion of the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") in

Murphy v. United States, 460 F.3d 79 (D.C. Cir.), vacated, 2006 WL 4005276 (D.C. Cir. Dec. 22, 2006), a portion of the award may not be taxable. (See Docket Entry 48 at 3-4.) Pleasant advised Sammy to delay filing his tax return until the appeals process was complete with respect to the Murphy decision. (See id. at 4.) Accordingly, Pleasant prepared an extension request for Sammy's 2006 income tax return filing. (See id.)

After vacating its original decision in Murphy, the D.C. Circuit held that the funds at issue in that case were taxable. Murphy v. Internal Revenue Service, 493 F.3d 170 (D.C. Cir. 2007). Sammy then filed his 2006 income tax return reporting \$1,021,024 of taxable income and an income tax owed of \$358,223. (See Docket Entry 48 at 5.) Sammy, however, submitted a payment of only \$1,000. (See Docket Entry 48 at 5.) The unpaid balance continues to accrue interest and penalties, which, as of May 15, 2011, resulted in Sammy owing \$503,980.47 to the United States for the 2006 income tax year (see id.).

Upon the original transfer from Sammy to Victoria in March 2006, Victoria had deposited the funds into a money market account. (See id. at 6.) She subsequently used the funds in various ways, including to build the home where she and Sammy now live, to establish an investment account, and to make gifts to three of her children. (Id.; see also Docket Entry 48-4 at 56, 71-74.) In early 2008, Victoria, along with two of her children, J. Hunter

Schofield ("Hunter") and Matthew Schofield ("Matthew"), formed Schofield-Johnson, LLC ("Schofield-Johnson"). (See Docket Entry 48 at 6.) Victoria contributed nearly all of the entity's assets, including the home she built and the investment accounts she had established with the funds from Sammy's lawsuit. (Id.) Sammy has no ownership interest in Schofield-Johnson. (See Docket Entry 50 at 3.)

In July 2009, the United States Internal Revenue Service ("IRS") filed a nominee lien against Victoria and a separate lien against Schofield-Johnson for the debt owed by Sammy. (See id. at 5.) The IRS subsequently levied on Victoria's personal accounts at the State Employee Credit Union, from which the IRS eventually obtained over \$20,000. (See id.) Victoria filed a Complaint in this Court alleging wrongful levy on the basis that she is not a nominee of Sammy. (Docket Entry 1.) The United States answered Victoria's Complaint (Docket Entry 14) and asserted a counter-claim against Victoria and a third-party claim against Sammy for fraudulent transfer (see id. at 14). After discovering that Victoria had transferred \$25,000 to both Hunter and Matthew, the United States filed an Amended Counterclaim and Third-Party Complaint to include Hunter and Matthew in the fraudulent transfer claim. (See Docket Entry 24.)

In a separate action, Schofield-Johnson filed for bankruptcy protection, effectively staying the levies against it. (See Docket

Entry 50 at 5.) That case remains pending in the United States Bankruptcy Court for the Middle District of North Carolina. In re Schofield-Johnson, LLC, Case No. 09-81347 (Bankr. M.D.N.C.). Of particular relevance to the instant proceeding, Schofield-Johnson initiated an adversary proceeding in the bankruptcy action seeking "a judgment declaring that the levy by the IRS was wrongful and that its account may not be used to satisfy Sammy's individual tax liability." (See Docket Entry 59-1 at 1; see also Schofield-Johnson, LLC v. United States of America, Commissioner of Internal Revenue Service, Adv. No. 09-09067 (Bankr. M.D.N.C.).) In response, the IRS sought "a ruling that Schofield-Johnson is merely the nominee of Sammy Johnson or that Sammy's transfer of certain funds to Victoria was fraudulent, and that therefore, the IRS may properly levy upon Schofield-Johnson's account to satisfy Sammy's tax liability." (See Docket Entry 59-1 at 1-2; see also Docket Entry 48 at 6.)

Trial was held in the adversary proceeding in August 2011. (See Docket Entry 59-1 at 1.) Thereafter, the bankruptcy court issued a Memorandum Opinion in which it determined that, in order to decide whether Schofield-Johnson was the nominee of Sammy, the bankruptcy court first had to analyze whether the transfer between Sammy and Victoria was fraudulent (see id. at 5). After concluding that state law provided the appropriate decisional authority for

that determination (see id.), the bankruptcy court looked to N.C. Gen. Stat. § 39-23.4(a), which states that:

A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligations was incurred, if the debtor made the transfer or incurred the obligation . . . [w]ith intent to hinder, delay or defraud any creditor of the debtor.

After addressing each of the relevant factors provided in N.C. Gen. Stat. § 39-23.4(b) to determine intent, the bankruptcy court held that, "[s]ince the overwhelming majority of the factors favors the position of the IRS, . . . the transfer from Sammy to Victoria was fraudulent under North Carolina law." (Docket Entry 59-1 at 11.) Although that decision was subsequently appealed, see Schofield-Johnson, LLC v. Internal Revenue Service, 1:11-cv-00960 (M.D.N.C.), said appeal was ultimately withdrawn, see id., Docket Entries 14, 15, leaving the bankruptcy court's Memorandum Opinion as the final judgment in that matter.

In the instant action between Victoria and the United States, the Court is now asked to address Victoria's and the United States' cross-motions for summary judgment (see Docket Entries 47, 49), which, as discussed below, require findings nearly identical to those already determined by the bankruptcy court in the adversary proceeding between Schofield-Johnson and the United States. Under these circumstances, this Memorandum Opinion will evaluate whether either party is entitled to judgment as a matter of law on the following two issues: (1) is Victoria a nominee of Sammy; and

(2) was the transfer from Sammy to Victoria fraudulent under 28 U.S.C. § 3304(b).

Motions for Summary Judgment

Under Fed. R. Civ. P. 56(a), "[t]he [C]ourt shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." In considering that question, the Court "may not make credibility determinations or weigh the evidence." Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 150 (2000). However, "unsupported speculation is not sufficient to defeat a summary judgment motion if the undisputed evidence indicates that the other party should win as a matter of law." Francis v. Booz, Allen & Hamilton, Inc., 452 F.3d 299, 308 (4th Cir. 2006).

Victoria as a Nominee of Sammy

The United States may enforce federal tax liens against property owned by a third-party that is a nominee or alter ego of a delinquent tax payer. G.M. Leasing Corp v. United States, 429 U.S. 338, 350-51 (1977). To decide if an individual qualifies as a nominee, the Court must first determine whether the delinquent taxpayer has any rights in the property under state law. Drye v. United States, 528 U.S. 49, 58 (1999); see also OMOA Wireless, S. De R.L. v. United States, No. 1:06CV148, 2010 WL 3199959, at *4 (M.D.N.C. Aug. 12, 2010) (Osteen, Jr., J.) (unpublished) ("The

initial inquiry in any case involving a federal tax lien is to determine what rights the taxpayer has to the property in question under state law.").

The Court, by way of opinion of Judge Osteen, Jr., previously has held that the state law of fraudulent transfers is the appropriate law by which to determine ownership status of property where the United States specifically pleads elements of that claim. OMOA Wireless, 2010 WL 3199959, at *5-6. Given that the United States has specifically pled such elements in the instant action (albeit in the context of the federal fraudulent transfer statute codified at 28 U.S.C. § 3304, rather than its state law counterpart), analysis of whether the transfer from Sammy to Victoria was fraudulent under N.C. Gen. Stat. § 39-23.4 represents the appropriate method for determining whether Sammy retains an ownership interest in the transferred funds. A finding that the transfer was fraudulent under state law (and that Sammy therefore retains ownership rights in the property) leads to the conclusions that Victoria qualifies as a nominee of Sammy and that the United States had authority to levy on her accounts. See OMOA Wireless, 2010 WL 3199959, at *9.

The specific issue of whether the transfer from Sammy to Victoria was fraudulent under state law was litigated and decided in the adversary proceeding related to the bankruptcy action of Schofield-Johnson. Because "[t]he normal rules of res judicata

and collateral estoppel apply to the decisions of bankruptcy courts,'" Neighbors Law Firm, P.C. v. Highland Capital Mgmt., L.P., No. 5:09-CV-352-F, 2010 WL 5477260, at *3 (E.D.N.C. Dec. 28, 2010) (unpublished) (quoting Turshen v. Chapman, 823 F.3d 836, 839 (4th Cir. 1987)), the Court must consider the applicability of the collateral estoppel doctrine to the instant proceeding.¹

Collateral estoppel "operates to bar subsequent litigation of those legal and factual issues common to both actions that were 'actually and necessarily determined by a court of competent jurisdiction in the first litigation.'" In re Varat Enters., Inc., 81 F.3d 1310, 1315 (4th Cir. 1996) (quoting Montana v. United

¹ Collateral estoppel was not (and, at the relevant time, could not have been) raised as an affirmative defense by the United States. (See Docket Entries 14, 24.) The United States Court of Appeals for the Fourth Circuit, however, has held:

To be sure, certain affirmative defenses implicate important institutional interests of the court, and may sometimes be properly raised and considered sua sponte. For example, the affirmative defense of res judicata-which serves not only 'the defendant's interest in avoiding the burden of twice defending a suit,' but also the important judicial interest in avoiding resolution of an issue that the court has already decided-may, in 'special circumstances,' be raised sua sponte. Arizona [v. California], 530 U.S. 392, 412-13, 120 S. Ct. 2304, 147 L. Ed.2d 374; see also Doe v. Pfrommer, 148 F.3d 73, 80 (2d Cir.1998) (concluding that policy of "avoiding relitigation" justified sua sponte consideration of defense of collateral estoppel).

Eriline Co. S.A. v. Johnson, 440 F.3d 648, 655 (4th Cir. 2006). Given the identity of issues between the instant case and the adversary proceeding, the privity of interest of the parties, and the inability of the United States to raise this issue as an affirmative defense at the pleading stage due to the procedural posture of the bankruptcy proceeding at that time, addressing this issue sua sponte is appropriate in the instant action. See, e.g., Saudi v. V. Shp Switzerland, S.A., 93 Fed. Appx. 516, 520-21 (4th Cir. 2004) ("[G]iven the indisputable privity of the parties and the identity of the issues between the instant case and the case upon which the res judicata holding rested, we believe that sua sponte invocation of the bar was permissible.")

States, 440 U.S. 147, 153 (1979)). Its application is appropriate where:

(1) the issue sought to be precluded is identical to the one previously litigated; (2) the issue must have been actually determined in the prior proceeding; (3) determination of the issue must have been a critical and necessary part of the decision in the prior proceeding; (4) the prior judgment must be final and valid; and (5) the party against whom estoppel is asserted must have had a full and fair opportunity to litigate the issue in the previous forum.

Sedlack v. Braswell Servs. Grp., Inc., 134 F.3d 219, 224 (4th Cir. 1998).

The record before the Court satisfies all of the above criteria. First, the bankruptcy court examined the discrete issue of whether the transfer from Sammy to Victoria was fraudulent as to the United States under N.C. Gen. Stat. § 39-23.4. (See Docket Entry 59-1 at 5-11 ("The [bankruptcy court] should first consider whether the transfers at issue were fraudulent").)

Second, said issue was actually determined in that action. After addressing the relevant factors to determine intent under N.C. Gen. Stat. § 39-23.4(b), the bankruptcy court found explicitly "that the transfer from Sammy to Victoria was fraudulent under North Carolina law." (Docket Entry 59-1 at 11.)

Third, determination of that issue was critical to the bankruptcy court's ultimate conclusion that Schofield-Johnson is a nominee of Sammy. The bankruptcy court noted that the IRS's "nominee claim should be considered together with its fraudulent

conveyance claim." (Id. at 5.) Accordingly, the bankruptcy court decided it "should first consider whether the transfers at issue were fraudulent in order to determine whether Sammy retains any property rights in the [j]udgment [p]roceeds that are now in possession of Schofield-Johnson. If the transfers are fraudulent - and therefore Sammy still retains property rights in the proceeds - Schofield-Johnson may be the nominee of Sammy and the IRS may enforce its lien and levy [against Schofield-Johnson]." (Id.)

Fourth, given the withdrawal of the appeal of the bankruptcy court's Memorandum Opinion as described above, see discussion supra p. 6, that decision stands as the final judgment in the matter.

Fifth, as to the requirement that "the party against whom estoppel is asserted must have had a full and fair opportunity to litigate the issue in the previous forum," Sedlack, 134 F.3d 219, 224, "[i]t is important to note in this regard that collateral estoppel binds not only the parties to the underlying case, but also those in privity with them," Universal Furniture Intern., Inc. v. Frankel, No. 1:08CV395, 2011 WL 6843001, at *4 (M.D.N.C. Dec. 29, 2011) (Osteen, Jr., J.) (unpublished) (citing Weinberger v. Tucker, 510 F.3d 486, 491 (4th Cir. 2007)). "The test for privity is 'whether the interests of one party are so identified with the interests of another that representation by one party is a representation of the other's legal right.'" Id. (quoting Weinberger, 510 F.3d at 491); see also Weinberger, 510 F.3d at 492

("The concept of privity requires an alignment of interests and not an exact identity of parties.").

In the instant case, Victoria, Sammy, Hunter and Matthew are in privity of interest with Schofield-Johnson - the relevant party in the bankruptcy action. As an initial matter, Schofield-Johnson is owned solely by Victoria, Hunter and Matthew, who, accordingly, had the ability to control its litigation of the adversarial proceeding. (See Docket Entry 48-4 at 47-48.) Sammy, although not an owner of Schofield-Johnson, shared an identical interest with that party with respect to the fraudulent transfer. See Jones v. SEC, 115 F.3d 1173, 1178 (4th Cir. 1997) ("[T]he privity requirement assumes that the person in privity is so identified with a party to former litigation that he represents precisely the same legal right in respect to the subject matter involved." (internal quotation marks and citation omitted)). Furthermore, given that nearly all of the funds from Sammy's judgment are now held by Schofield-Johnson and that Sammy was essentially judgment proof given his lack of assets, Schofield-Johnson was an appropriate party to adequately represent those interests, and did so with the same legal counsel that Sammy and Victoria retained in the instant action. Accordingly, on these facts, the fifth factor for a finding of collateral estoppel is satisfied, and the Court should conclude that the transfer from Sammy to Victoria was

fraudulent under N.C. Gen. Stat. § 39-23.4 based on the findings of the bankruptcy court.²

As a remedy for a fraudulent transfer, state law allows a creditor to avoid the transfer "to the extent necessary to satisfy [its] claim." N.C. Gen. Stat. § 39-23.7. Therefore, Sammy is considered to have ownership rights to the transferred funds for the purpose of the United States collecting its debt, see OMOA Wireless, 2010 WL 3199959, at *7, such that Victoria qualifies as Sammy's nominee. Accordingly, the levy on Victoria's account was not wrongful. See id. ("[S]ince Mr. Boggs retains ownership rights to the properties under North Carolina law in regard to his debts, the nominee or alter ego liens against the properties are proper under 26 U.S.C. § 6321 (2006)").

Fraudulent Transfer Under 28 U.S.C. § 3304(b)

Although the foregoing discussion resolves Victoria's wrongful levy claim by examining whether the transfer from Sammy to Victoria was fraudulent under N.C. Gen. Stat. § 39-23.4 (making her a nominee), resolution of the United States' counter-claim against Victoria, Sammy, Matthew and Hunter for fraudulent transfer under 28 U.S.C. § 3304(b) requires further consideration. The doctrine

² North Carolina law provides that "[a] transfer or obligation is not voidable under G.S. 39-23.4(a)(1) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee." N.C. Gen. Stat. § 39-23.8(a). Victoria has not asserted that she took "in good faith and for a reasonably equivalent value," id. (See Docket Entries 48, 52, 58.) Moreover, the record establishes that Victoria received the funds gratuitously from Sammy. (See Docket Entry 50 at 3 ("Sammy held no monies back for himself and gave the [p]roceeds to his wife unequivocally and absolutely.").)

of collateral estoppel, however, remains relevant on this issue as well. Indeed, the prior analysis, see discussion supra, pp. 10-13, applies verbatim, with the exception that further attention is warranted to whether application of the state law of fraudulent transfers adequately addresses the issues relevant to a claim brought under the federal counterpart.

The relevant state and federal statutory provisions regarding fraudulent transfer are nearly identical. Compare N.C. Gen. Stat. § 39-23.4 with 28 U.S.C. § 3304(b). North Carolina law provides in relevant part:

A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation . . . [w]ith intent to hinder, delay, or defraud any creditor of the debtor.

N.C. Gen. Stat. § 39-23.4(a).

Similarly, the federal statute states:

[A] transfer made or obligation incurred by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made or the obligation is incurred, if the debtor makes the transfer or incurs the obligation . . . with actual intent to hinder, delay, or defraud a creditor.

28 U.S.C. § 3304(b).

Furthermore, both provisions contain an exception to the ability to avoid such a transfer in the case of a person "who took in good faith and for a reasonably equivalent value or against any transferee or obligee." N.C. Gen. Stat. § 39-23.8(a); 28 U.S.C.

§ 3307(a). In addition, both statutes provide a list of factors pertinent to a determination of intent. See N.C. Gen. Stat. § 39-23.4(b); 28 U.S.C. § 3304(b)(2). The North Carolina statute encompasses all of the factors listed in the United States Code, but also includes two additional items. See N.C. Gen. Stat. § 39-23.4(b)(12), (13). As neither list is exclusive, see N.C. Gen. Stat. § 39-23.4(b); 28 U.S.C. 3304(b)(2), this distinction is immaterial.

Based on the similarity of the two statutes, no basis exists for this Court to find differently when applying 28 U.S.C. § 3304(b) than the bankruptcy court did when it applied N.C. Gen. Stat. § 39-23.4. In other words, the bankruptcy court analyzed the discrete issue of whether the transfer between Sammy and Victoria was fraudulent (for the purposes of deciding if a fraudulent transfer occurred under N.C. Gen. Stat. § 39-23.4) in a fashion that directly addresses the issue presented in the instant action (as to whether a fraudulent transfer occurred within the meaning of 28 U.S.C. § 3304(b)).

Given a finding that the transfer between Sammy and Victoria was fraudulent, the United States is entitled to a judgment against Victoria, Sammy, Matthew and Hunter on its fraudulent transfer counter-claim. Specifically, in the case of a fraudulent transfer, the United States:

may recover a judgment for the value of the asset transferred, but not to exceed the judgment on a debt. The judgment may be entered against--

(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

(2) any subsequent transferee, other than a good faith transferee who took for value or any subsequent transferee of such good-faith transferee.

28 U.S.C. § 3307(b). As the entirety of Sammy's judgment was transferred to Victoria as the first transferee, the United States may seek from Victoria the entirety of Sammy's debt under 28 U.S.C. § 3307(b)(1). Furthermore, because the evidence shows that Matthew and Hunter each received \$25,000 without giving reasonably equivalent value, to the extent Victoria cannot satisfy the debt, the United States may seek payment from Matthew and Hunter up to that amount. 28 U.S.C. 3307(b)(2).

Motion to Withdraw

As a final matter, Plaintiff's counsel has filed a Motion to Withdraw as counsel for Victoria and Sammy. (Docket Entry 60.) In support of said motion, Plaintiff's counsel has asserted that Victoria and Sammy "have advised [Plaintiff's counsel] that they no longer wish for [Plaintiff's counsel] to represent them" in this action. (Id., ¶ 2.) The motion further notes that Plaintiff's counsel and Victoria/Sammy "have had significant and apparently irreconcilable differences in handling the next phase" of this action. (Id., ¶ 3.) Under these circumstances, Plaintiff's counsel's motion will be granted.

Conclusion

Because the discrete issue of whether the transfer of funds from Sammy to Victoria was fraudulent under N.C. Gen. Stat. § 39-23.4 has been previously litigated before and decided by the United States Bankruptcy Court for the Middle District of North Carolina, this Court should not re-decide that issue. Given that finding, Sammy is considered to have an ownership interest in the transferred funds such that Victoria qualifies as his nominee and the United States' levy on Victoria's accounts thus was proper. See OMOA Wireless, 2010 WL 3199959, at *7. Furthermore, in light of the nearly identical language of N.C. Gen. Stat. § 39-23.4 and 28 U.S.C. § 3304(b), the bankruptcy court's prior decision under state law addresses the same issue raised under the federal fraudulent transfer statute. As a result, collateral estoppel warrants judgment for the United States on its counter-claim against Victoria, Sammy, Matthew and Hunter, under the provisions of 28 U.S.C. § 3307(b).

IT IS THEREFORE ORDERED that the Motion to Withdraw (Docket Entry 60) is **GRANTED**.

IT IS RECOMMENDED that the United States' Motion for Summary Judgment (Docket Entry 47) be **GRANTED**.

IT IS FURTHER RECOMMENDED that the Motion of Victoria Johnson for Summary Judgment (Docket Entry 49) be **DENIED**.

_____/s/ L. Patrick Auld_____
L. Patrick Auld
United States Magistrate Judge

January 17, 2012