

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Honorable Eugene R. Wedoff Hearing Date January 26, 2012

Bankruptcy Case No. 11 B 31930 Adversary No. 11 A 01671

Title of Case Nicks v. United States of America (In re Nicks)

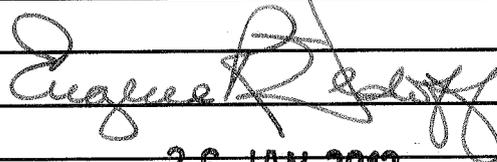
Brief Statement of Motion Plaintiff's Complaint

Names and Addresses of moving counsel

Representing

ORDER

For the reasons stated on the record, the Plaintiff's Complaint is dismissed.



26 JAN 2012

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

United States of America,)	
)	
Plaintiff,)	
)	
v.	)	No. 1:10-cv-12811-TLL-CEB
)	
Timothy Walraven,	)	Judge Ludington
Debra Walraven,)	
William Walraven, Jr.,)	
Raye Lynn Walraven,)	
William Walraven, Sr., and)	
Marlene M. Walraven,)	
)	
Defendants.)	

ORDER REVISING RECEIVER’S DEED

The plaintiff, the United States of America, having requested the entry of an order revising certain aspects of the form of a Receiver’s Deed that this Court previously approved in its November 3, 2011 “Agreed Order Approving Sale of Real Property” (ECF No. 3), counsel for Defendants concurring in the relief sought, and good cause having been found,

IT IS THEREFORE ORDERED THAT:

Plaintiff’s motion for order correcting receiver’s deed (ECF No. 36) is **GRANTED**.

Amicus Management, Inc. (hereinafter “Amicus”) Amicus is authorized and directed to issue a Receiver’s Deed, substantially in the form attached hereto as Exhibit 1, for the real property located at 1002 North State Street, Gladwin, Gladwin County, Michigan, and more specifically described in the attached Receiver’s Deed, to The City of Gladwin, subject to the terms and conditions in this Court’s November 3, 2011 “Agreed Order Approving Sale of Real Property” (ECF No. 35).

IT IS SO ORDERED.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: January 26, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 26, 2012.

s/Tracy A. Jacobs
TRACY A. JACOBS

RECEIVER'S DEED

WHEREAS, the United States District Court for the Eastern District of Michigan, in a civil action titled United States of America v. Timothy Walraven, et al., Case No. 1:10-cv-12811-TLL-CEB, having on October 29, 2010, appointed Amicus Management, Inc., as Receiver, to enforce federal tax liens that attached to all of the membership interests in Lucy Kar Wash, L.L.C., and to arrange for the sale of each of the assets of Lucy Kar Wash, L.L.C., and Lucy Kar Wash, L.L.C., holding title to the real property commonly known as 1002 North State Street, Gladwin, Michigan, and whereas the members of Lucy Kar Wash, L.L.C. (Timothy Walraven and William Walraven, Jr.), having consented to the appointment of this Receiver for these purposes; and

WHEREAS, the real property located at 1002 North State Street, Gladwin, Michigan, having been offered for sale at a public auction on October 6, 2011, at which The City of Gladwin was the high bidder for such real property at a price of \$14,310.00; and

WHEREAS, the Court having entered an order approving the sale of such real property to The City of Gladwin, for the sum of \$14,310.00, approving the form of this deed, and authorizing and directing Amicus Management, Inc., as Receiver, the address of which is 500 Cascade West Parkway, Grand Rapids, Michigan, to convey the North State Street real property to the purchaser; and

WHEREAS, such real property has been sold pursuant to the Court's order, for the sum of \$14,310.00 and other consideration.

NOW KNOW YE, THAT Amicus Management, Inc., as Receiver, pursuant to the authority and direction given to it, does hereby bargain, sell, transfer, and convey to The City of Gladwin, of 1000 West Cedar Ave, Gladwin, Michigan 48624, all of the rights, titles, claims, and interests that Lucy Kar Wash, L.L.C., has in the following-described real property, to have and to hold by The City of Gladwin, and its heirs and assigns, forever, for their own use and disposition:

The land, along with all improvements, buildings, and appurtenances thereon, now known and numbered as 1002 North State Street, Gladwin, Michigan, and more fully described as follows:

Part of the Southwest 1/4 of Section 31, Town 19 North, Range 1 West, City of Gladwin, Gladwin County, Michigan, described as: Beginning 297 feet, N02°54'42"W from the Southwest corner of the Southwest 1/4 of the Southwest 1/4 of said Section 31; thence N02°54'52"W, 66 feet; thence N89°59'49"E, 173.34 feet parallel with the South line of said Section 31; thence S00°00'11E, 10.15 feet; thence S89°53'08"E, 157.59 feet; thence S02°54'42"E, 55.51 feet; thence S89°59'49"W, 330.41 feet (recorded as 330 feet) to the West line of said Section 31 and the Point of Beginning, containing 0.5 acres of land. Subject to the rights of the public over the West 33 feet in N. State Street.

(Tax Item No. 170-631-300-011-00).

(Being a portion of the property conveyed to Lucy Kar Wash, L.L.C., from Timothy Walraven and Debra Walraven, husband and wife, and William Walraven and Raye Lynn Walraven, husband and wife, by deed dated June 20, 2006, and recorded on July 24, 2008, at the Clare County Register of Deeds, at Liber 871, Page 419.)

Said premises are conveyed to The City of Gladwin free and clear of all rights, titles, claims, and interests of Timothy Walraven, Debra Walraven, William Walraven, Jr., Raye Lynn Walraven, William Walraven, Sr., Marlene Walraven, the United States of America, and Amicus Management, Inc., including Lucy Kar Wash, L.L.C., by its members Timothy Walraven and William Walraven, Jr., subject to any sums which may be due for municipal property, water, or sewer taxes, or any special use charges or assessments, and subject to all laws, ordinances, and governmental regulations affecting said premises, and any easements and restrictions appearing of record, if any.

I have hereunto set my hand and seal, this ____ day of _____, 2012.

DANIEL YEOMANS
President
Amicus Management, Inc.,
As Receiver

STATE OF MICHIGAN
COUNTY OF _____

On this date _____, the signer and sealer of the foregoing instrument, personally appeared before me and acknowledged the same to be his free act and deed.

_____, (State), _____ day of _____, 2012.

Notary Public

Return to The City of Gladwin, 1000 West Cedar Ave, Gladwin, Michigan 48624.

Document prepared by William C. Elwell, Trial Attorney, Tax Division, U.S. Department of Justice, P.O. Box 55, Ben Franklin Station, Washington, D.C. 20044, Telephone: (202) 307-1038.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN THE MATTER OF:

ADVERSARY PROCEEDING NO.
11-3071 HJB

Laurette Ratte

Plaintiff/Defendant-in-
Counterclaim

vs.

United States of America, Department of the Treasury, Internal Revenue Service

Defendant/Plaintiff-in-Counterclaim

PRELIMINARY PRETRIAL ORDER

COUNSEL FOR ALL PARTIES ARE HEREBY ORDERED to confer with opposing counsel, pursuant to Fed. R. Civ. P. 26(f), as made applicable by Fed. R. Bankr. P. 7026, as soon as practicable but no later than 21 calendar days prior to the date of the pretrial scheduling conference set forth in the Notice served herewith, and together prepare in writing and file with the Court no more than 14 days following such conference a JOINT DOCUMENT, captioned "PRETRIAL STIPULATION," containing the following:

1. The theory of each party's cause of action or defense;
2. Each party's contention of facts in support of that party's cause of action or defense;
3. A discovery plan, pursuant to Fed. R. Civ. P. 26(f);
4. Any additional pleadings or motions to be filed by each party;
5. Each party's good faith estimate of the time required for trial; and
6. The date, time and location of the aforesaid Rule 26(f) conference.

All of the above is to be incorporated in one document which is to be signed by all attorneys prior to being filed.

ATTORNEYS WHO DO NOT TIMELY COMPLY WITH THE TERMS OF THIS ORDER WILL BE SUBJECT TO SANCTIONS UNDER BANKRUPTCY RULE 7016 (FED. R. CIV. P. 16 (f)).

If one or both of the parties file a motion no later than 14 days after the pretrial scheduling conference, seeking relief which will obviate the necessity of a trial (e.g., dismissal or summary judgment), the parties' obligation to submit the Pretrial Stipulation shall be suspended. If the motion(s) is (are) resolved in a manner which continues the necessity of a trial on one or more issues, the Court shall fix a new pretrial date and/or a new deadline for the filing of the Pretrial Stipulation.

DATED: January 26, 2012

By the Court:

Paula J. Fontaine

Deputy Clerk

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 4.2
Eastern Division**

United States of America

Plaintiff,

v.

Case No.: 1:11-cv-04713
Honorable John W. Darrah

Tracy L Sunderlage, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Thursday, January 26, 2012:

MINUTE entry before Honorable John W. Darrah: Status hearing and ruling on motion hearing held. Government's motion for alternative service is withdrawn without prejudice [77]. The Court will review the final judgment and permanent injunction that was submitted for certain defendants. Status hearing set for 2/28/12 at 9:30 a.m. for the remaining defendants. Mailed notice (maf)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

KEARNEY PARTNERS FUND, LLC, by and
through Lincoln Partners Fund, LLC, Tax Matters
Partner,

Plaintiff,

-vs-

Case No. 2:10-cv-153-FtM-99SPC

UNITED STATES OF AMERICA, by and through
its agent, the Internal Revenue Service,

Defendant.

_____ /

ORDER

This matter comes before the Court on the Defendant, the United States of America's Unopposed Motion to Extend Time to Comply with Order on Motion to Compel and to Modify Scheduling Order (Doc. #93) filed on January 18, 2012. On October 18, 2011, the Court granted in part and denied in part the Plaintiff's Motion to Compel Documents from the Defendant. The Defendant now moves the Court for additional time to produce the documents compelled by the Court's Order. The Defendant moves the Court for an extension of time up to and including May 15, 2012, to comply with the Court's Order. As grounds, the Defendant states the information is spread over a wide range of files and offices and is extremely voluminous. Pursuant to Local Rule 3.01(g), the Defendant conferred with the Plaintiffs who do not oppose the requested extension.

After a review of the Motion, the Court finds good cause to grant the requested extension. However, because of the length of time requested, the Court will need to modify the remaining case

management and scheduling order deadlines to offset the lengthy discovery extension.

Accordingly, it is now

ORDERED:

The Defendant, the United States of America’s Unopposed Motion to Extend Time to Comply with Order on Motion to Compel and to Modify Scheduling Order (Doc. #93) is

GRANTED. The Case Management and Scheduling Order is Modified as follows:

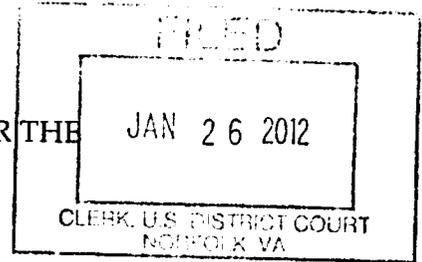
Disclosure of Experts	Plaintiff: Defendant: Rebuttal:	June 15, 2012 July 16, 2012 July 31, 2012
Discovery Deadline		August 24, 2012
Mediation	Deadline: Mediator: Address: Telephone: If no Mediator is selected herein the Parties shall file a stipulation selecting a mediator within eleven days of the date of this Order	August 31, 2012
Dispositive Motions, <i>Daubert</i> , and <i>Markman</i> Motions		September 21, 2012
Meeting In Person to Prepare Joint Final Pretrial Statement (Including a Single Set of Jointly Proposed Jury Instructions and Verdict Forms (With diskette), Voir Dire Questions, Witnesses Lists, Exhibit Lists on Approved Form)		November 16, 2012
All Other Motions Including Motions <i>In Limine</i> , Trial Briefs		November 16, 2012
Final Pretrial Conference	Date: Time: Judge:	December 18, 2012 1:00pm Unassigned Docket
Trial Term Begins (Trials Before Magistrate Judges Begin on Date Certain)		January 7, 2013

Estimated Length of Trial	20 days
Jury/Non Jury	Non-Jury

DONE AND ORDERED at Fort Myers, Florida, this 26th day of January, 2012.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record



IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,)
)
Petitioner,)
v.)
)
DELTON L. DUNBAR,)
)
Respondent.)

No. 2:11-cv-00599-RBS-FBS

AGREED ORDER APPROVING LEVY UPON PRINCIPAL RESIDENCE

The Petitioner, the United States of America, by its undersigned counsel, and the Respondent, Delton L. Dunbar, by its undersigned counsel, agree that, pursuant to 26 U.S.C. § 6334(e)(1), the Court should enter an order granting the United States' petition for judicial approval of levy upon the Respondent's principal residence located in Norfolk, Virginia. Accordingly, it is

ORDERED that the United States' petition for judicial approval of levy upon the Respondent's principal residence is GRANTED; it is further

ORDERED that on or after March 25, 2012, the Internal Revenue Service may levy upon the Respondent's principal residence to satisfy part or all of his federal tax liabilities for the tax years 2006, 2008 and 2009, and trust fund recovery penalty liabilities for tax periods ending 3/31/1999, 3/31/2003 - 6/30/2005, 12/31/2005 - 12/31/2007, 12/31/2008 - 9/30/2009, and the levy may be executed by any authorized officer of the Internal Revenue Service; and it is further

Date:



Joseph T. Liberatore,
Virginia State Bar No.32302
Crowley Liberatore Ryan & Brogan, P.C.
Town Point Center - Suite 300
150 Boush Street
Norfolk, Virginia 23510
Phone (757) 333-4500
Facsimile (757) 333-4512
Email: jliberatore@clrbfirm.com

Counsel for Respondent Delton L. Dunbar

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

CLASTON, LLC by and through)	CIVIL CASE NO. 08-0048
SUNSET HOLDINGS, LLC)	
)	
Plaintiff,	)	ORDER GRANTING JOINT MOTION TO
	)	SET BRIEFING SCHEDULE AND
vs.	)	HEARING DATES
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

The Court, having reviewed the parties' JOINT MOTION TO SET BRIEFING SCHEDULE AND HEARING DATES, and good cause appearing therefor, hereby GRANTS the Joint Motion. The briefing schedule and hearing dates modify the Court's prior scheduling order dated December 1, 2011, Dkt. No. 120, and are as follows:

- a. The hearing on motions *in limine* is reset for March 29, 2012;
- b. Plaintiff's response shall be served and filed on February 8, 2012;
- c. Defendant's reply shall be served and filed on February 22, 2012; and
- d. The hearing on any motion for summary judgment is set for May 17, 2012 instead of the currently scheduled hearing date of April 5, 2012.

SO ORDERED on January 26, 2012.



RAMONA V. MANGLONA, Chief Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

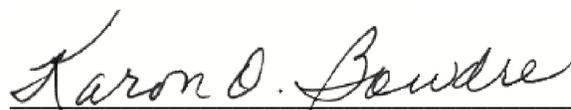
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil No. 2:11-CV-02764-KOB
)	
LAKEISHA PEARSON,)	
)	
Defendant.)	

MEMORANDUM OF OPINION

On January 5, 2012, the magistrate judge entered a report and recommendation setting out uncontested facts, conclusions of law, and recommended relief, based on a hearing for a default order against the defaulted defendant, Lakeisha Pearson. The parties have filed no objections.

Based upon a careful consideration of the record, including the entry of default and the hearing transcript, the court adopts the facts, the conclusions of law, and the recommended injunctive relief set out in the report and recommendation as the facts and conclusions of law of the court, and as being the relief to which the plaintiff is due. An appropriate order will be entered.

DONE & ORDERED this 26th day of January, 2012.



 KARON OWEN BOWDRE
 UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil No. 2:11-CV-02764-KOB
)	
LAKEISHA PEARSON,)	
)	
Defendant.)	

FINAL JUDGMENT AND PERMANENT INJUNCTION

In accordance with the memorandum of opinion entered contemporaneously with this order, the court ORDERS the following:

- A. The court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, PERMANENTLY ENJOINS Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her from directly or indirectly acting as a federal tax return preparer or otherwise directly or indirectly preparing or filing federal tax returns, amended returns, or other tax forms, including electronically-submitted tax forms, for others, from representing others before the IRS, and from advising anyone concerning federal tax matters;
- B. The court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, PERMANENTLY ENJOINS Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her from directly or indirectly assisting in the preparation

of federal tax returns or other tax forms, including electronically-submitted tax forms;

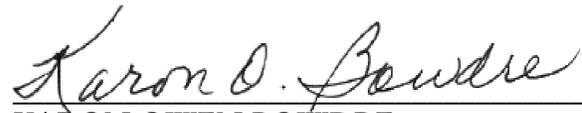
- C. The court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, PERMANENTLY ENJOINS Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her from directly or indirectly engaging in activity subject to penalty under 26 U.S.C. §§ 6694 and 6701, including preparing, advising, or assisting in the preparation of any return or claim for refund, or any part of a return or claim for refund that she knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
- D. The court, pursuant to 26 U.S.C. §§ 7402 and 7407, PERMANENTLY ENJOINS Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her from directly or indirectly engaging in activity subject to penalty under 26 U.S.C. § 6695, including failing to supply a list of clients or provide copies of clients' tax returns to the Service on request;
- E. The court, pursuant to 26 U.S.C. § 7402, PERMANENTLY ENJOINS Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her from directly or indirectly engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;

- F. The court, pursuant to 26 U.S.C. § 7402, ORDERS Pearson, at her own expense, to present a copy of this Judgment and Permanent Injunction Order to each person for whom she, or anyone at her direction or employ, prepared federal income tax returns from January 1, 2008, to the present, by sending a copy to each person by US mail or email;
- G. The court, pursuant to 26 U.S.C. § 7402, ORDERS Pearson to produce to counsel for the United States within 30 days of this Judgment and Permanent Injunction Order (1) a sworn statement evidencing her compliance with the foregoing directives; (2) a list that identifies by name, social security number, address, e-mail address, home telephone number and cellular telephone number and tax period(s) all persons for whom he has prepared federal tax returns or claims for refund since January 1, 2008; and (3) copies of all returns or claims for refund that she prepared, or directed the preparation of, for customers after January 1, 2008; and

H. The court, pursuant to 26 U.S.C. § 7402, authorizes the United States to monitor Pearson's compliance with this injunction and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure. The court retains jurisdiction over this matter to implement and enforce this Order and any additional orders necessary and appropriate to the public interest.

Costs are taxed to the defendant.

DONE and ORDERED this 26th day of January, 2012.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE

returns. Compl., Dkt. [1] ¶ 14. Since that response, Music has received “no correspondence from the Internal Revenue Service concerning tax-returns, assessments or deficiencies.” Compl., Dkt. [1] ¶ 14.

The IRS filed substitute returns for Music and assessed unpaid federal income taxes against her. Compl., Dkt. [1] ¶ 7. On November 1, 2010, the IRS issued a Notice of Levy to Music’s employer and began garnishing her wages to collect her federal income tax liabilities. Compl., Dkt. [1] ¶¶ 9, 12. Music’s employer complied with the levy, and Music subsequently resigned. Compl., Dkt. [1] ¶¶ 11, 12.

Music filed the present action on June 13, 2011, claiming that the IRS’s actions violated 42 U.S.C. § 1983, the Fifth and Fourteenth Amendments to the U.S. Constitution, Internal Revenue Code sections 6020 and 6323, and O.C.G.A. § 44-14-571. Compl., Dkt. [1] ¶ 1. Music requests the Court to order the IRS to cease filing substitute income tax returns on earned income, to order a refund of all taxes the IRS collected from her employer, and to award damages. Compl., Dkt. [1] ¶ 15.

Discussion

The United States moves to dismiss Music's Complaint for lack of subject matter jurisdiction and failure to state a claim for which relief can be granted. Dkt. [13] at 1.

I. Lack of Subject Matter Jurisdiction

A defendant may attack subject matter jurisdiction in two ways: facially or factually. McMaster v. United States, 177 F.3d 936, 940 (11th Cir. 1999).

When a defendant makes a facial attack on a complaint, the district court must determine whether the plaintiff has sufficiently alleged a basis for subject matter jurisdiction. Int'l Café, S.A.L. v. Hard Rock Café Int'l, Inc., 252 F.3d 1274, 1277 (11th Cir. 2001). For the purpose of a facial attack, the allegations of the complaint are taken as true. McMaster, 177 F.3d at 940. A federal question claim may only be dismissed for lack of subject matter jurisdiction if: (1) the alleged claim under a federal statute "clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction" or (2) such a claim is "wholly insubstantial or frivolous." Id. (citing Bell v. Hood, 327 U.S. 678, 682-83 (1946)); accord Blue Cross & Blue Shield of Ala. v. Sanders, 138 F.3d 1347, 1352 (11th Cir.1998). A factual attack challenges the existence of subject

matter jurisdiction in fact, and matters outside the pleadings like testimony and affidavits can be considered. McMaster, 177 F.3d at 940. When a factual attack is asserted, the court should dismiss for lack of subject matter jurisdiction if the federal claim is “clearly immaterial or insubstantial.” Id.

In the present case, Music asserts that jurisdiction is proper under 28 U.S.C. § 1346, which gives federal district courts original jurisdiction over

[a]ny civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws.

28 U.S.C. § 1346(a)(1) (2011). The Government asserts a facial challenge that the Anti-Injunction Act and sovereign immunity preclude this Court from exercising jurisdiction over the Plaintiff’s Complaint. Dkt. [13] at 5-9.

A. The Anti-Injunction Act

The Anti-Injunction Act provides that, barring certain statutory exceptions, “no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.” 26 U.S.C. § 7421(a) (2011). “The principal purposes of the Anti-Injunction Act were to protect the

Government's ability to 'assess and collect taxes as expeditiously as possible with a minimum of preenforcement judicial interference' and to require that a taxpayer assert his legal right to disputed sums in a suit for refund." Gulden v. United States, 287 F. App'x 813, 816 (11th Cir. 2008) (quoting Bob Jones Univ. v. Simon, 416 U.S. 725, 736 (1974)). Absent a statutory exception, a federal court may issue such an injunction only if the plaintiff can show that (1) "under no circumstances could the Government ultimately prevail" and (2) "there exists an independent basis for equity jurisdiction." Hobson v. Fischbeck, 758 F.2d 579, 581 (11th Cir. 1985) (citing Enochs v. Williams Packing & Navigation Co., 370 U.S. 1, 8 (1962)).

The Court agrees that Music's requests to order the IRS to stop filing substitute tax-returns would prevent the IRS from assessing or collecting federal income-taxes. The Eleventh Circuit has previously held that the Anti-Injunction Act bars actions brought to stop the IRS from assessing tax deficiencies on the basis of substitute tax-returns. Gulden, 287 F. App'x at 814-15. Despite Music's assertion that this Court has jurisdiction under 28 U.S.C. § 1346, that provision must be read in conjunction with other sections of the code, such as the Anti-Injunction Act, that qualify jurisdiction. See United States v.

Dalm, 494 U.S. 596, 601 (1990) (“Despite its spacious terms, § 1346(a)(1) must be read in conformity with other statutory provisions which qualify a taxpayer’s right to bring a refund suit upon compliance with certain conditions.”). Thus, the Court is without jurisdiction to award Music injunctive relief absent an exception to the Anti-Injunction Act.

Music’s Response in Opposition cites 26 U.S.C. § 7429 as such an exception. Dkt. [11] at 1-2. This provision is a statutory exception to the Anti-Injunction Act that permits judicial review of jeopardy levies and assessments made without first providing thirty days notice to the taxpayer. 26 U.S.C. § 7429. Music does not allege, however, that the levy or assessment in this case occurred less than thirty days after notice and demand for payment was made. Thus, § 7429 is inapplicable here.

Neither does the judicial exception under Enochs apply to the present case. Since Music’s claim ultimately rests on the theory that her salary was not taxable income, Compl., Dkt. [1] ¶¶ 5-8, she would be unable to satisfy the first prong of Enochs that “under no circumstances could the Government ultimately prevail.” 370 U.S. at 8. The Eleventh Circuit has long held that income from any source is taxable, finding arguments to the contrary to be

frivolous. Bierman v. Comm’r of Internal Revenue, 769 F.2d 707, 708 (11th Cir. 1986); Hyslep v. United States, 765 F.2d 1083, 1084 (11th Cir. 1985) (per curiam). Even if Music could satisfy the first prong of Enochs, she would be unable to show “an independent basis for equity jurisdiction” because adequate remedies at law are still available to her. See Hobson, 758 F.2d at 581 (holding injunctive relief to be improper when plaintiff “could pay the disputed tax and then sue for a refund”). Here, Music has not alleged that she has paid the tax or sued for a refund. Thus, the Anti-Injunction Act bars the injunctive relief Music seeks.

B. Sovereign Immunity

Music also requests that her garnished wages be returned and that she be compensated for damages. Compl., Dkt. [1] ¶ 15. The Court agrees with the Government that Music’s claims for a refund and for damages must be dismissed because the Government has not waived sovereign immunity to suit in this case.

“[T]he United States, as sovereign, ‘is immune from suit, save as it consents to be sued . . . and the terms of its consent to be sued in any court define that court’s jurisdiction to entertain the suit.’” United States v. Testan,

424 U.S. 392, 399 (1976) (quoting United States v. Sherwood, 312 U.S. 584, 586 (1941)). Such consent must be “unequivocally expressed” by Congress in the statutes granting jurisdiction. United States v. Dalm, 494 U.S. 596, 608 (1990) (quoting United States v. King, 395 U.S. 1, 4 (1969)).

1. Plaintiff’s Request for a Refund

Under 28 U.S.C. § 1346(a)(1), Congress has waived sovereign immunity for suits alleging erroneous or illegal tax assessments or collections.

Nevertheless, this waiver is conditioned on the taxpayer first complying with the Internal Revenue Code’s tax refund scheme. United States v. Clintwood Elkhorn Mining Co., 553 U.S. 1, 4 (2008) (citing Dalm, 494 U.S. at 609). As 26 U.S.C. § 7422(a) states:

No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

Thus, “a claim for refund must be filed with the Internal Revenue Service (IRS) before suit can be brought” Clintwood, 553 U.S. at 4.

Music does not allege that she filed a claim for a refund or sought any administrative remedies before bringing this action. Furthermore, Music's Response in Opposition clarifies that she was unaware of and did not follow the appropriate administrative procedures. Dkt. [11] at 2-3, 5. Thus, the Court finds that the Government has not waived sovereign immunity to Music's suit to recover her garnished wages.

2. Plaintiff's Request for Damages

Music argues in her Response in Opposition that 26 U.S.C. § 7433(a) allows a taxpayer to bring a damages action against the United States when "any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregards any provision of [Title 26]." Dkt. [11] at 5. Music's Complaint alleges that the IRS violated § 6323 by not filing the tax lien in Fannin County, Georgia, where she resides. Compl., Dkt. [1] ¶¶ 2, 14.

Section 6323, however, requires the IRS to file a tax lien only before seeking to enforce it against a third party, not against the taxpayer. 26 U.S.C. § 6323(a). Even if § 6323 were appropriate to this case, § 7433(d)(1) makes clear that "[a] judgment for damages shall not be awarded . . . unless the court

determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.” 26 U.S.C. § 7433(d)(1); see also 26 C.F.R. § 301.7433-1(d) (2011). Because Music does not allege that she has exhausted the administrative remedies available, her claim for damages, whether grounded in violations of federal or state law, must be dismissed. The Court thus finds that the Government has not waived sovereign immunity to Music’s suit for damages.

II. Failure to State a Claim

The Government also moves to dismiss under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Dkt. [13] at 9-11. Since the Court has determined that it does not have subject matter jurisdiction to hear Plaintiff’s claims, however, the Court declines to address this issue.

Conclusion

Accordingly, the United States of America’s Motion to Dismiss [13] is **GRANTED**. The Clerk is directed to close the case.

SO ORDERED, this 26th day of January, 2012.



RICHARD W. STORY
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JAMES GRAY JR. and
FAYE E. GRAY,

Plaintiffs,

vs.

Case No. 8:11-cv-1786-T-27TGW

THE INTERNAL REVENUE
SERVICE, *et al.*,

Defendants.

ORDER

BEFORE THE COURT is the Plaintiffs' Renewed Motion for Default Judgment (Dkt. 21). For the reasons discussed below, the motion will be denied. In addition, Plaintiffs are advised that their failure to timely comply with this Court's prior orders (discussed in detail below) may result in dismissal of this case or entry of a final judgment in favor of the Defendants without further notice.

Renewed Motion for Default Judgment

With respect to the Renewed Motion for Default Judgment, the Court finds that the Defendants' timely response to the Court's Order to Show Cause (Dkt. 13) and simultaneous filing of a Motion to Dismiss or in the Alternative for Summary Judgment (Dkt. 14) is sufficient to preclude the entry of a default and default judgment under Rule 55, Federal Rules of Civil Procedure. In any event, Plaintiffs are not entitled to a default judgment because they have failed to satisfy Rule 55(d), Federal Rules of Civil Procedure, which provides that "[a] default judgment may be entered against the United States, its officers, or its agencies only if the claimant establishes a claim or right

to relief that satisfies the court.”¹ Despite the Plaintiffs’ contention that they have established their claims to relief by citing specific laws and alleged violations, the record before the Court strongly suggests that Plaintiffs’ claims lack merit.²

Prior Proceedings and Orders Requiring Action by Plaintiffs

In order to both clarify any confusion that Plaintiffs may have regarding the procedural posture of this litigation and to make entirely clear the Plaintiffs’ outstanding obligations, a summary of recent proceedings in this matter is set forth below.

On December 19, 2011, Defendant responded to the Complaint by filing a Motion to Dismiss or in the Alternative for Summary Judgment. *See* Dkt. 14. On December 20, 2011, this Court entered an order directing Plaintiffs to show cause, in writing, why this action should not be dismissed under 28 U.S.C. § 1915(e)(2)(B). *See* Dkt. 16, ¶ 2.

Plaintiffs subsequently filed a motion requesting an extension of time to respond to the Order to Show Cause and the Motion to Dismiss or in the Alternative for Summary Judgment. *See* Dkt. 19. On January 6, 2012, the Court granted the Plaintiffs’ request for an extension of time through and including January 27, 2012. *See* Dkt. 20.

In the January 6, 2012 Order, the Court also reiterated its prior directive that Plaintiffs show cause why this action should not be dismissed under 28 U.S.C. § 1915(e)(2)(B). *See* Dkt. 20, ¶ 1. The Court also informed Plaintiffs that if it determined that dismissal was not warranted under 28 U.S.C. § 1915(e)(2)(B) it would dispose of the Motion to Dismiss or Alternative Motion for Summary Judgment pursuant to Rule 56, Federal Rules of Civil Procedure. *See* Dkt. 20, ¶ 3. In addition, the Court advised Plaintiffs of the procedures governing the resolution of a motion for

¹ Plaintiffs are also not entitled to a default judgment as they did not obtain a clerk’s default against Defendants as required by Rule 55(a), Federal Rules of Civil Procedure.

² Nonetheless, as discussed below, the Court has offered (and again offers) the Plaintiffs an opportunity to demonstrate why this action should not be dismissed and/or summary judgment granted in favor of Defendants.

summary judgment and directed Plaintiffs to file any memoranda and/or materials or documents (*i.e.*, sworn affidavits, deposition transcripts, interrogatory answers, admissions, *etc.*) in response to the Motion to Dismiss or in the Alternative for Summary Judgment on or before January 27, 2012. *See* Dkt. 20, ¶¶ 2, 3.

In light of the recently filed Renewed Motion for Default Judgment, the Court presumes that Plaintiffs have either ignored or misunderstood the Court's prior orders and that it is unlikely Plaintiffs will receive a copy of this Order before the current January 27, 2012 deadline. As a result, the Court will extend the deadline for Plaintiffs to respond to the order to show cause and the Motion to Dismiss or in the Alternative for Summary Judgment through and until February 8, 2012.

Accordingly, it is **ORDERED AND ADJUDGED** that:

(1) Plaintiffs' Renewed Motion for Default Judgment (Dkt. 21) is **DENIED**.

(2) Plaintiffs are directed to comply with the Court's prior orders dated December 20, 2011 (Dkt. 16) and January 6, 2012 (Dkt. 20) on or before the **February 8, 2012**.

(3) **Failure of Plaintiffs to comply with the Court's prior orders on or before the February 8, 2012 deadline may result in dismissal of Plaintiffs' claims or the entry of a judgment in favor of Defendants without further notice.**

(4) The Clerk is **DIRECTED** to mail a copy of this Order together with copies of docket entries 14, 16, and 20 to Plaintiffs.

DONE AND ORDERED in chambers this 25th day of January, 2012.


JAMES D. WHITTEMORE
United States District Judge

Copies to:
Pro Se Plaintiffs
Counsel of Record

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RITCHIE N. STEVENS and JULIE KEEN-STEVENSON
Plaintiffs,
vs.
LL BRADFORD, INC., UNITED STATES OF AMERICA,
Defendants.

Case No. 2:12-cv-00030-ECR-GWF
ORDER

This matter is before the Court on the Plaintiffs' failure to file a Certificate as to Interested Parties as required by LR 7.1-1. Counsel for Defendant United States of America removed this matter to federal court on January 9, 2012. LR 7.1-1 requires that counsel for private parties shall, upon entering a case, file a certificate as to interested parties, listing all persons, firms, partnerships or corporations, known to have an interest in the outcome of the case, including the names of all parent subsidiary, affiliate and/or insider of the named non-individual parties. If there are no known interested parties, other than those participating in the case, a statement to that effect must be filed. To date, Plaintiffs have failed to comply. Accordingly,

IT IS ORDERED that Plaintiffs shall file their Certificate as to Interested Parties, which fully complies with LR 7.1-1 no later than **February 6, 2012**. Failure to comply may result in the issuance of an order to show cause why sanctions should not be imposed.

DATED this 26th day of January, 2012.



GEORGE FOLEY, JR.
United States Magistrate Judge

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GREGORY M. GARRISON,)	Civil No.11cv1537 BEN (NLS)
)	
Plaintiff,	)	ORDER FOLLOWING EARLY
v.	)	NEUTRAL EVALUATION
	)	CONFERENCE AND SETTING
UNITED STATES OF AMERICA,	)	FURTHER CASE MANAGEMENT
	)	CONFERENCE
Defendant.)	
_____)	

The court held an Early Neutral Evaluation (ENE) and Case Management Conference (CMC) on January 25, 2012. While the case did not settle at the ENE, negotiations are ongoing. Having conferred with the attorneys, the court now **ORDERS:**

1. Plaintiff shall give to Defendant the requested documents by **February 3, 2012**.
2. Defendant’s counsel shall review the documents by **March 5, 2012** and determine whether Defendant accepts the proposed settlement recommendation.
3. The court **SETS** a further **telephonic** CMC for **March 9, 2012 at 10:00 a.m.** Plaintiff’s counsel shall arrange the conference call.

IT IS SO ORDERED.

DATED: January 26, 2012


 Hon. Nita L. Stormes
 U.S. Magistrate Judge
 United States District Court

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

CLASTON, LLC by and through)	CIVIL CASE NO. 08-0048
SUNSET HOLDINGS, LLC)	
)	
Plaintiff,	)	ORDER GRANTING JOINT MOTION TO
	)	SET BRIEFING SCHEDULE AND
vs.	)	HEARING DATES
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

The Court, having reviewed the parties' JOINT MOTION TO SET BRIEFING SCHEDULE AND HEARING DATES, and good cause appearing therefor, hereby GRANTS the Joint Motion. The briefing schedule and hearing dates modify the Court's prior scheduling order dated December 1, 2011, Dkt. No. 120, and are as follows:

- a. The hearing on motions *in limine* is reset for March 29, 2012;
- b. Plaintiff's response shall be served and filed on February 8, 2012;
- c. Defendant's reply shall be served and filed on February 22, 2012; and
- d. The hearing on any motion for summary judgment is set for May 17, 2012 instead of the currently scheduled hearing date of April 5, 2012.

SO ORDERED on January 26, 2012.



RAMONA V. MANGLONA, Chief Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOSEPH J. ZAJAC, III,

vs.

Case No. 2:11-cv-469-FtM-29SPC

UNITED STATES OF AMERICA,

Defendant.

ORDER TO SHOW CAUSE

This matter comes before the Court on petitioner's Motion for Clarification and Reconsideration of Court Order Dated January 3, 2012 (Doc. #26) filed on January 13, 2012. The government filed a Response (Doc. #27) on January 20, 2012.

This case was initiated by a Petition to Quash Third Party Summonses (Doc. #1) seeking to quash summonses served Bank of America, Charles Schwab & Co, Inc., and RBS Card Services. The government appeared and filed a Response and Counter-Petition to Enforce Summonses (Doc. #2). On September 21, 2011, the Court issued an Opinion and Order (Doc. #10) dismissing the Petition without prejudice for lack of personal jurisdiction due to incomplete service of process and with leave for petitioner to perfect service of process. The government's Counter-Petition, as a result, was also dismissed without prejudice for lack of personal jurisdiction.

Petitioner subsequently perfected service of process. The government filed a Response (Doc. #18) seeking a summary denial of the petition to quash for the reasons previously stated, but then stated that the "United States no longer seeks enforcement of the summonses." (Doc. #18, p. 1, n.1.) On January 3, 2012, the Court entered an Order (Doc. #24) denying petitioner's Petition to Quash Third Party Summonses as moot and dismissing the Petition as moot "[b]ased on the government's second Response in Opposition (Doc. #18) stating that it no longer seeks enforcement of the summonses." (Doc. #24, p. 2.) The case was closed and judgment was entered.

Petitioner now asserts, without contradiction from the United States, that the Internal Revenue Service (IRS) office contacted the third parties after the issuance of the Order and directed compliance with the summonses. The IRS officer is reported to have stated that the IRS was moving forward even if the Department of Justice (DOJ) would not be seeking enforcement. The government asserts that "Revenue Agent Clark rightly advised the summonsed parties of their obligation to comply once the Court denied Zajac's petition. . . . That decision does not relieve the summonsed financial institutions of their duty to produce response records to Revenue Agent Clark." (Id. at p. 2.) The government's position is that the party's obligation to respond to a summons "only ceases when the Court issues an affirmative order quashing the summons." (Id.)

The Court clearly denied the Petition to Quash as moot based solely on the government's position that it would no longer enforce the summonses. No decision was rendered on the merits because the United States stated it did not seek enforcement of the summonses.

Accordingly, it is now

ORDERED:

1. Petitioner's Motion for Clarification and Reconsideration of Court Order Dated January 3, 2012 (Doc. #26) is **taken under advisement.**

2. Attorney Thomas K. Vanaskie and Revenue Agent Counsel for the government and Revenue Agent John Clark shall personally appear before the undersigned on **February 9, 2012, at 9:00 a.m.** to show cause why they should not be held in contempt for telling the Court the government did not seek enforcement of the summonses, and then seeking to enforce the summonses by directing compliance by the recipients.

DONE AND ORDERED at Fort Myers, Florida, this 26th day of January, 2012.



JOHN E. STEELE
United States District Judge

Copies:
Petitioner
Counsel of record

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

USA

v.

Civil No. 09-cv-397-LM

Elizabeth Morrison et al.

J U D G M E N T

In accordance with the court's orders dated May 5, 2010, and January 26, 2012, judgment is hereby entered as follows:

(1) The United States' claims are DISMISSED WITHOUT PREJUDICE with regard

to the following four real properties:

- 59 Pleasant Street, Bethlehem, New Hampshire
- 36 Mechanic Street, Lancaster, New Hampshire
- 1264 Lost Station Road, Northumberland, New Hampshire
- 12 Bridge Street, North Stratford, New Hampshire

(2) Passumpsic Bank's counterclaim against the United States is DISMISSED

WITHOUT PREJUDICE.

(3) The United States has valid and enforceable federal tax liens for the federal income tax liabilities of Mark B. Morrison for 1996 and 1997 in the amount of \$253,567.62, plus statutory additions, including interest, accruing from and after November 15, 2009, against the following two real properties:

(a) the real property located at 2161 Main Street, Bethlehem, New Hampshire ("the First Main Street Property"), which is more specifically described as:

A certain tract of land with any buildings and improvements thereon, situated on the northerly side of Main Street, said Bethlehem, Bounded and described as follows:

Beginning at an iron pin in the northerly line of said Main Street, said pin being located 245 feet easterly from an iron pin at the intersection of the northerly line of said Main Street with the easterly line of Maple Street, so-called, and 150.5 feet easterly from the southeasterly corner of the Town Hall; thence north 33 degrees 58 minutes west passing six (6) feet easterly from an elm tree 60.7 feet to an iron pin; thence north 13 degrees 30 minutes east 76.3 feet to an iron pin at the northeasterly corner of the Cruft Town Hall plot; thence south 89 degrees 40 minutes east 124 feet to an iron pin in the line of land of Clark; thence south 2 degrees 51 minutes west 140 feet on line of land of Clark to an iron pin in the northerly line of said Main Street 101 feet to the point of beginning.

Excepting and reserving from this conveyance the water lines and sewage, and other public utilities, with the right to go on said premises for the purposes of repairing and re-laying said lines and public Utilities.

By Warranty Deed dated June 13, 1997, and recorded on June 16, 1997, with the Grafton County Registry of Deeds at Book 2255, Page 775, John L. Stevenson conveyed title to the First Main Street Property to Elizabeth A. Ruyack, Trustee of Balmoral Realty Trust.

(b) the real property located on or near 2533 Main Street, Bethlehem, New Hampshire (the "Second Main Street Property"), which is more specifically described as:

A certain tract or parcel of land, with the improvements thereon, situate on the northerly side of Route 302 in Bethlehem, Grafton County, New Hampshire, depicted as Lot #1 on a plan entitled "Lot Line Adjustment involving lands of Hilco, Inc. and the Village at Maplewood, Inc., Bethlehem, New Hampshire" by Cartographic Associates, Inc., certified by Douglas A. Grella, L.L.S., approved by the Bethlehem Planning Board and recorded in the Grafton County Registry of Deeds as Plan No. 6982 on July 5, 1991.

By Warranty Deed dated November 1, 1996, and recorded on November 1, 1996, with the Grafton County Registry of Deeds at Book 2225, Page 327, Mary Jane Marshall, f/k/a Mary Jane Johnson, trustee of the Mary Jane Johnson Revocable Trust, conveyed title to the Second Main Street Property to Elizabeth A. Ruyack, Trustee of the Balmoral Realty Trust.

(4) The federal tax liens shall be enforced, pursuant to 26 U.S.C. § 7403, through judicial sale(s) of both the First Main Street Property and the Second Main Street Property;

(5) The United States may submit a subsequent motion and proposed order setting forth the procedures for the sale(s) of the First Main Street Property and the Second Main Street Property by a licensed real estate agent to be appointed as receiver under 26 U.S.C. § 7403(d) who agrees to act as such for compensation equal to a customary real estate agent's commission.

(6) The proceeds of the judicial sale of the First Main Street Property shall be distributed as follows:

FIRST, to pay the costs of the sale, including the receiver's commission and expenses;

SECOND, to pay any local real estate taxes due and owing as of the date of the sale;

THIRD, to Passumpsic Bank for application toward its mortgage lien;

FOURTH, to the United States of America, for application toward the federal income tax liabilities of Mark B. Morrison for 1996 and 1997; and,

FIFTH, to Elizabeth Morrison in the amount of any remaining proceeds.

(7) The sale of the First Main Street Property shall be subject to the lease of the U.S. Postal Service, with the purchaser assuming the rights and obligations under said lease.

(8) If the First Main Street Property remains unsold more than nine months after the appointment of the receiver, then defendant Passumpsic Bank may move the Court to discharge the receiver with respect to the First Main Street Property and to hold its own foreclosure sale of the First Main Street Property. The United States may oppose such a motion.

(9) The proceeds of the judicial sale of the Second Main Street Property shall be

distributed as follows:

FIRST, to pay the costs of the sale, including the receiver's commission and expenses;

SECOND, to pay any local real estate taxes due and owing as of the date of the sale;

THIRD, to PNC Bank, NA (successor by merger to National City Bank, successor by merger to defendant The Provident Bank), for application toward its mortgage lien;

FOURTH, to the United States of America, for application toward the federal income tax liabilities of Mark B. Morrison for 1996 and 1997; and,

FIFTH, to Elizabeth Morrison in the amount of any remaining proceeds.

(10) If the Second Main Street Property remains unsold more than nine months after the appointment of the receiver, then PNC Bank, NA (successor by merger to National City Bank, successor by merger to defendant The Provident Bank), may move the Court to discharge the receiver with respect to the Second Main Street Property and to hold its own foreclosure sale of the Second Main Street Property. The United States may oppose such a motion.

(11) Following the distribution of the proceeds of the First Main Street Property and the Second Main Street Property, the United States of America shall direct the Internal Revenue Service to abate any remaining federal income tax liabilities of Mark B. Morrison for the years 1996 and 1997. The abatement may be reversed only if the United States identifies assets of Mr. Morrison other than the six properties involved in this suit to which its federal tax liens have attached.

By the Court,

/s/ James R. Starr

James R. Starr, Clerk

January 26, 2012

cc: Austin L. Furman, Esq.
Edward J. Murphy, Esq.
Andrew B. Livernois, Esq.
Gregory A. Moffett, Esq.
Suzanne Brunelle, Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 10-CR-615 WJ

ROBERT ALLEN FOUT,

Defendant.

ORDER GRANTING 60-DAY CONTINUANCE
OF VOLUNTARY SURRENDER DATE

THIS MATTER having come before the Court on the unopposed motion of the defendant and the Court having reviewed the motion and finding good cause therefor,

ORDERS that the current voluntary surrender date of February 8, 2012, is hereby CONTINUED for a period of 60 days from February 8, 2012.



HONORABLE WILLIAM P. JOHNSON
United States District Court Judge

APPROVED:

Telephonically approved on 1/24/2012

Ms. Cynthia Weisman

AUSA

/s/ Kimberly A. Middlebrooks

Co-Counsel for Robert Fout

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF PUERTO RICO

Minute Entry

Hearing Information:

Debtor: EVELINDA POLANCO MORENO
Case Number: 11-09719-ESL13 Chapter: 13
Date / Time / Room: 1/25/2012 9:00 AM osjcr2
Bankruptcy Judge: ENRIQUE S. LAMOUTTE
Courtroom Clerk: PATRICIA DAVILA
Reporter / ECR: ADA LOPEZ

Matter:

Confirmation Hearing of plan dated 11/09/2011 (#5)

Appearances:

ALEJANDRO OLIVERAS RIVERA M. Lopez
GLORIA M JUSTINIANO IRIZARRY J. Telecio

Proceedings:

ORDER:

(Amended) dated [Docket no.] CONFIRMED NOT CONFIRMED LBR 3015

Movant's application to withdraw motion is hereby granted. Re: Docket No.

Upon debtor[s]' failure to: to appear at the 341 meeting of creditors, make current payments to the Chapter 13 trustee, appear at the hearing on confirmation, it is now ordered that the instant petition be and it is hereby dismissed.

The trustee is awarded \$100.00 costs, balance up to balance of fee to debtor[s]' attorney.

Debtor[s]' request for conversion to Chapter 7 is hereby granted. The \$25.00 conversion fee shall be paid to the Clerk from the funds held by the Chapter 13 trustee. The Chapter 13 trustee is awarded \$100.00 costs.

Debtor[s]' request for dismissal is hereby granted. The Chapter 13 trustee is awarded \$100.00 costs.

There being no opposition, debtor[s]' request to set aside dismissal order [Docket #] is hereby granted.

The parties are granted days to file a settlement agreement.

Hearing on Confirmation/Contested Matter is continued to:

Attorney's Fees:\$3,000.00; Other:

[Signature]
/s/ Enrique S. Lamoutte
U.S. Bankruptcy Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-60341-CIV-COHN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAMON A. TOLEDO, et al.,

Defendants.

_____ /

FORECLOSURE JUDGMENT AND ORDER OF SALE

THIS CAUSE is before the Court upon the United States' Motion for Foreclosure Judgment and Order of Sale [DE 68] and Defendants' failure to respond to the motion by the deadline of January 23, 2012. Accordingly, it is hereby **ORDERED AND ADJUDGED** that the United States' Motion is hereby **GRANTED** as follows:

1. The United States has a valid and subsisting tax lien against defendant Ramon Toledo in the amount of \$349,567.39 as of April 15, 2010 for the years 1990, 1991, 1992, 1993, 1994, 1997, 1998, 1999, 2000 and 2001, plus interest and any statutory additions thereon, and the tax lien against Ramon Toledo can be foreclosed and the real property described in paragraph 2, below, can be sold in its entirety pursuant to 26 U.S.C. § 7403 and 28 U.S.C. § 2001.

2. The federal tax lien encumbers the real property that is located in Broward County, Florida and bears the street address of 17856 NW 15th Court, Pembroke Pines, Florida 33029 (hereinafter the "Subject Property"), legally described as:

LOT 25, SILVER LAKES AT PEMBROKE PINES
RESIDENTIAL PARCEL D, ACCORDING TO THE PLAT
THEREOF, AS RECORDED IN PLAT BOOK 150 AT PAGE 2,
OF THE PUBLIC RECORDS OF BROWARD COUNTY,
FLORIDA.

3. The Property Appraisal and Liquidation Specialists (“PALS”) of the Internal Revenue Service (“IRS”) is hereby authorized under 28 U.S.C. §§ 2001 and 2002, to offer for sale at public auction, the real property described in paragraph 2, above, with any improvements, buildings and appurtenances, thereunto pertaining. The sale of the property shall be free and clear of the interests of Bank of America, N.A., Countrywide Home Loans, Inc., the United States of America, Silverlakes Community Association, Inc., Ramon A. Toledo, Damary Toledo, and Anthony Torti and Sons.

4. The public auction referred to in paragraph 3, above, shall be held either on the premises themselves or at another location in Broward County in accordance with the provisions of 28 U.S.C. § 2001, the times thereof to be announced by the IRS; after the respective property is advertised once a week for four consecutive weeks preceding the date fixed for its sale in a daily newspaper of general circulation in Broward County, and by any other notice that the IRS in its discretion may deem appropriate.

5. Any rights, title, liens, claims or interests in the Subject property described in paragraph 2, above, of all parties to this action and any of their successors, heirs or assigns shall be discharged upon sale of the property and confirmation of the sale, as described in paragraph 3, above, and 13, below.

6. The minimum bid for the property will be set by PALS. If the minimum bid is not met or exceeded, PALS may, without further permission of this Court, and under the terms and conditions of this Foreclosure Judgment, hold a new public sale and reduce the minimum bid, or alternatively, sell to the highest bidder.

7. The successful bidder(s) shall be required to deposit with the IRS a minimum of twenty (20) percent of the deposit of his or her bid by certified or cashier's check made payable to the "United States District Court for the Southern District of Florida." Before being permitted to bid at the sale, bidders shall display to the IRS proof that they are able to comply with this requirement. No bids will be received from any person(s) who have not presented proof that, if they are the successful bidder(s), they can make the deposit required by this order of sale.

8. The balance of the purchase price for the Subject property shall be tendered to PALS by the successful bidder within thirty (30) days following the date of sale in the form of a certified or cashier's check payable to the "United States District Court for the Southern District of Florida." In the event that the successful bidder defaults in any deposit requirement or in payment of the balance of the purchase price, the deposit made by the successful bidder shall be forfeited and applied as part of the proceeds of sale, including but not limited to covering any expenses of sale, and the real property shall be re-offered for sale in the same manner as provided herein for the initial sale, or alternatively, sold to the second highest bidder.

9. Pending the sale of the Subject Property, PALS is authorized to have free access to the premises and to take any and all actions necessary to preserve the premises, until the deed to the property is delivered to the ultimate purchaser of the property.

10. The sale is made pursuant to 28 U.S.C. § 2001, and is made without right of redemption.

11. Until the Subject Property is sold, defendant, Ramon Toledo, shall take all reasonable steps necessary to preserve the property (including all buildings, improvements, fixtures and appurtenances on the property) in its current condition including, without limitation, maintaining fire and casualty insurance policies on the property and provide proof of such when requested by PALS. Mr. Toledo shall neither commit waste against the Subject Property nor cause or permit anyone else to do so. Mr. Toledo shall neither do anything that tends to reduce the value or marketability of the Subject Property nor cause or permit anyone else to do so. Mr. Toledo shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements or posting signs) that may directly or indirectly tend to adversely affect the value of the Subject Property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall he cause or permit anyone else to do so.

12. All persons occupying the Subject Property shall leave and vacate the property permanently within sixty (60) days of entry of this order, taking with them their

personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the property). Further, all persons occupying the Subject Property shall turn over the keys to the property to PALS and provide proof of current insurance within sixty (60) days of the date this order is entered. If any person occupying the Subject Property fails or refuses to leave and vacate the property by the time specified in this order, the PALS is authorized to coordinate with the United States Marshal Service to take all actions that are reasonably necessary to bring about the ejection of those persons. If any person fails or refuses to remove his or her personal property from the Subject Property by the time specified herein, the personal property remaining on the property thereafter is deemed forfeited and abandoned; and, the IRS is authorized to remove the personal property and dispose of it in any manner they see fit, including sale, in which case the proceeds of the sale are to be applied first to the expenses of sale with the balance being distributed as described in paragraph 16, below.

13. The sale of the property shall be subject to confirmation by this Court, and upon confirmation, PALS shall execute and deliver its deed, conveying the Subject Property to the successful purchaser.

14. When the sale is confirmed by this Court, the Register of Deeds of Broward County, Florida shall cause transfer of the Subject Property to be reflected upon that county's register of title.

15. A successful third-party bidder at the sale shall pay, in addition to the amount of the bid, any documentary stamps and Clerk's registry fees as provided by law.

16. After confirmation of the sale of the Subject property, this Court shall enter an appropriate order of distribution directing the Clerk of the Court to distribute the balance of the sale proceeds in the manner set forth below:

- (a)** First, to PALS to cover expenses of the sale, including any expenses incurred to secure or maintain the Subject Property pending sale and confirmation of the sale by the Court;
- (b)** Second, to Broward County, Florida for any matured and unpaid real property taxes for the Subject Property;
- (c)** Third to the United States to be applied to the payment of the unpaid federal income tax liability of Ramon Toledo for the tax year 1994;
- (d)** Fourth, to Bank of America, N.A. pursuant to a mortgage recorded in favor of America's Wholesale Lender on the property in the Broward County public records, Book 30680, Page 1599, on July 18, 2000;
- (e)** Fifth, to the United States to be applied to the payment of the unpaid federal income tax liabilities of Ramon Toledo for the tax years 1990, 1991, 1992, 1993, 1997, 1998, 1999, 2000 and 2001;
- (f)** Any funds remaining thereafter shall be distributed to Ramon Toledo.

17. Upon sale of the Subject Property, the respective liens and claims of the parties to this action shall attach to the sales proceeds to the same extent and in the same order of priority as such liens and claims attached to the property and as is set forth in paragraph 16, above.

18. The Court shall retain jurisdiction over this cause for purpose of entering all further orders as may be appropriate, including without limitation, deficiency and contempt of court judgments.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 26th day of January, 2012.


JAMES I. COHN
United States District Judge

Copies furnished to:

counsel of record on CM/ECF

Ramon Toledo
17856 NW 15th Court
Pembroke Pines, FL 33012

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	Chapter 11
DAVID CUTLER INDUSTRIES, LTD.	:	
Debtor(s)	:	Bky. No. 09-18716 ELF
<hr/>		
DAVID CUTLER INDUSTRIES, LTD.	:	
	:	
Plaintiff	:	
	:	
v.	:	
	:	Adv. No. 11-0830
INTERNAL REVENUE SERVICE,	:	
UNITED STATES DEPARTMENT	:	
OF THE TREASURY	:	
	:	
Defendant(s)	:	

PRETRIAL ORDER #2

AND NOW, upon consideration of the parties' Joint Discovery Conference Report ("the Report"), it is hereby **ORDERED** that:

1. The Report is **APPROVED** and the deadlines set forth in Pretrial Order are modified as set forth in the Report.
2. As set forth in the Report, all discovery shall be completed **on or before August 5, 2012**.
3. All motions to amend the pleadings, or for summary judgment, shall be filed **on or before September 5, 2012**. If such a motion or motions is/are filed, the parties are **not relieved** of their obligation to comply with the terms of the balance of this Pretrial Order.
4. All discovery disclosures pursuant to Fed. R. Civ. P. 26(a)(3) shall be served on opposing parties and filed with the bankruptcy court **on or before September 19, 2012**.
5. Any objections to Rule 26(a)(3) disclosures shall be served on opposing counsel and filed with the bankruptcy court **on or before September 26, 2012**.

6. A Joint Pretrial Statement shall be filed in the form described in Pretrial Order #1 **on or before October 10, 2012.**
7. A mandatory final pretrial/settlement conference shall be held on **October 18, 2012, at 1:00 p.m., in Bankruptcy Courtroom No. 1, Robert N.C. Nix Federal Building & Courthouse, 900 Market Street, Second Floor, Philadelphia, Pennsylvania.**
8. The deadline set forth in Paragraph 6 and the pretrial conference scheduled in Paragraph 7 shall not be extended or continued absent cause shown.

Date: January 25, 2012



ERIC L. FRANK
U.S. BANKRUPTCY JUDGE