

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

FRANCES CARLSON,

Plaintiff,

v.

Case No. 8:10-cv-900-T-24-TGW

UNITED STATES OF AMERICA,

Defendant.

\_\_\_\_\_ /

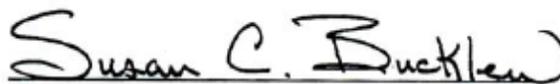
**ORDER**

This cause comes before the Court on the United States' Motion to Amend Judgment (Doc. No. 117). The United States filed a separate statement under local rule 3.01(g), which stated that Plaintiff Frances Carlson does not oppose the relief sought in the motion. (Doc. No. 119).

Accordingly, it is ORDERED AND ADJUDGED that the United States' Motion to Amend Judgment (Doc. No. 117) is GRANTED. The judgment in this case shall be amended to (i) award the United States a money judgment on its counterclaim in the amount of \$119,173.12, plus interest that accrues on the unpaid portion of the judgment under 26 U.S.C. § 6601 after February 2, 2012, and (ii) award the United States judgment for any costs that are awarded in accordance with 28 U.S.C. § 1920. The Deputy Clerk is directed to enter judgment in accordance with this order.

**DONE AND ORDERED** at Tampa, Florida, this 16th day of February, 2012.

Copies to:  
Counsel of Record

  
SUSAN C. BUCKLEW  
United States District Judge



**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In re:	)	Bankruptcy Court Case No. 10-12979-MER
<b>Edson Pamittan Mallo</b>	)	Chapter 7
	)	
<b>Liana Carol Mallo</b>	)	
	)	
	)	
Debtors.	)	
_____	)	
	)	
<b>Edson Pamittan Mallo</b>	)	Adversary Proceeding No. 11-1624
<b>Liana Carol Mallo</b>	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
<b>Internal Revenue Service</b>	)	
Defendant.	)	

**ORDER REGARDING JOINT MOTION FOR EXTENSION OF TIME TO FILE  
DISPOSITIVE MOTIONS**

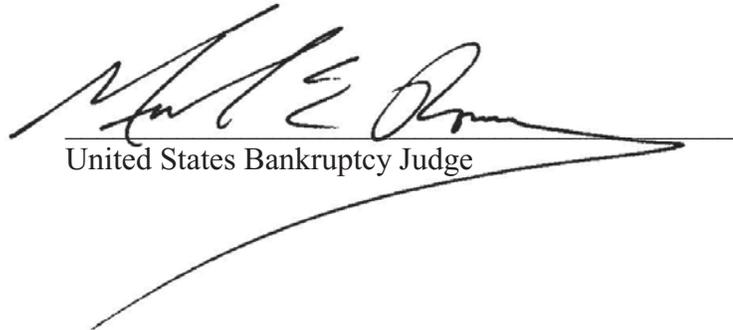
**IT IS ORDERED:**

The NOTICE OF TRIAL AND ORDER PURSUANT TO Fed.R.Bankr.P. 7016(Fed.R.Civ.P. 16(b)) is amended to reflect the following deadlines and dates:

Paragraph 5(Dispositive motions): February 27, 2012.

Dated: February 16, 2012

BY THE COURT:



United States Bankruptcy Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 4:09-cv-0126 SEB-WGH
	)	Judge Sarah Evans Barker
EDWARD B. BAKER, et al.	)	Magistrate Judge William G. Hussmann
	)	
Defendants.	)	

**ORDER APPOINTING WALTER COPPINGER AS RECEIVER FOR REAL  
PROPERTY LOCATED AT 1111 BLUEGRASS TRAIL, JEFFERSONVILLE, INDIANA**

The plaintiff United States of America, having requested an order appointing Walter Coppinger as Receiver to take possession of, and to arrange for the sale of, the real property located at 1111 Bluegrass Trail, Jeffersonville, Indiana (the "Property"), which is more particularly described as:

Lot No Seventy-Seven (77) in Suburban Acres, Section 3, in Plat Book 9, Page 52, in the Office of the Recorder of Clark County, Indiana.

and good cause having been found,

IT IS THEREFORE ORDERED THAT:

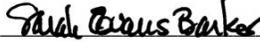
1. Walter Coppinger is appointed as a Receiver for the Property for the purposes of assisting in the enforcement of the federal tax liens against the Property, pursuant to 26 U.S.C. §§ 7402(a) and 7403(d). The Receiver is directed to take possession of the Property, including all buildings, improvements, fixtures, appurtenances, materials, and equipment on the Property, upon the vacation of the property by the current residents; to preserve and protect the value of that property; to put it into saleable condition; and to arrange for

the sale of that property, free and clear of any rights, titles, claims, or interests of any of the parties to this action.

2. The Receiver shall have the authority to arrange for sale of the Property, subject to confirmation by this Court, in any manner approved by the United States. The terms of any purchase agreement shall include the balance of the purchase price paid in cash at closing, and may include an earnest money deposit, in an amount to be approved by the United States, which will be forfeited upon the purchaser's failure to perform.
3. The closing shall not occur until after the sale has been confirmed by further order of this Court. At closing, the purchaser or purchasers shall receive a quitclaim deed to the Property executed by the Receiver. The Receiver shall hold all of the proceeds of any sale of the Property, net of any closing costs, including any earnest money deposits, in an interest-bearing account until such time as those proceeds may be distributed pursuant to the order of this Court.
4. The Receiver shall have all of the rights and powers necessary to fulfill its obligations under this order, including, but not limited to, the power to enter onto the Property, to manage the Property, to collect rents on the Property, to advertise the sale of the Property, to take any action reasonably necessary to protect and preserve the value of the Property prior to sale, and to put it into saleable condition. After receiving the prior approval of the United States, the Receiver may make expenditures of funds for reasonable and necessary maintenance and improvements, including, but not limited to, the purchase of property and liability insurance.

5. The Receiver shall be compensated from the proceeds of the sale of the Property (a) in an amount equal to six (6) percent of the gross sale proceeds, and (b) for its reasonable and necessary expenditures to protect and preserve the value of the Property and put into saleable condition, provided that such expenditures were first approved by the United States.
6. The defendants, Edward Baker, Sharon B. Palen, and Jefferson K. Streepy, and all other persons acting in concert with, or on their behalf, are hereby restrained and enjoined from interfering in any way with the Property, with the Receiver, or with the Receiver's efforts to comply with his obligations under this Order, and any violation of this Order may result in a fine, or incarceration, or both.

Date: 02/16/2012



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

Copies to:

- Laura C. Beckerman  
U.S. DEPARTMENT OF JUSTICE, TAX DIVISION  
laura.c.beckerman@usdoj.gov,northern.taxcivil@usdoj.gov
- Raagnee Beri  
U.S. DEPARTMENT OF JUSTICE, TAX DIVISION  
raagnee.beri@usdoj.gov,christina.m.bixby@usdoj.gov,northern.  
taxcivil@usdoj.gov,andra.kafka@usdoj.gov
- Lawrence J. Brokamp  
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larry@brolegal.com
- Jefferson K. Streepy  
BOEHL STOPHER & GRAVES, LLP  
jstreepy@bsg-law.com,mklein@bsg-law.com

4558943.1

JEFFERSON K. STREEPY  
AEGON Center, Suite 2300  
400 West Market Street  
Louisville, KY 40202

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

*In re:*

**AURORA OF TAMPA, INC.  
d/b/a Remington Steakhouse,**

**Case No.: 8:11-bk-21104-MGW  
Chapter 11**

**Debtor.**

\_\_\_\_\_ /

**ORDER TO EXTEND TIME BY SEVEN (7) DAYS  
TO FILE THE PLAN OF REORGANIZATION  
AND DISCLOSURE STATEMENT  
(DOC. NO. 87)**

THIS CAUSE came before this Court, without hearing, to consider the Motion to Extend Time to File the Plan of Reorganization and Disclosure Statement (Doc. No. 87) filed by the Debtor herein. The Court having reviewed the Motion and otherwise being duly advised in the premises, finds that the Motion is well taken and should be granted. Accordingly, it is

ORDERED that:

1. The Motion to Extend Time by seven (7) days to File the Plan of Reorganization and Disclosure Statement (Doc. No. 87) filed by the Debtor be, and it is hereby granted.
2. The Plan of Reorganization and Disclosure Statement shall be filed by the Debtor on or before February 22, 2012.

DONE AND ORDERED at Tampa, Florida on February 16, 2012.



**MICHAEL G. WILLIAMSON**  
United States Bankruptcy Judge

cc: David W. Steen, Esquire  
United States Trustee

**In the United States Court of Federal Claims**

**No. 03-200 T**

**IRA H. BARRY, ET AL.,**

**JUDGMENT**

**v.**

**THE UNITED STATES**

Pursuant to the court's Opinion and Order, filed February 15, 2012,

IT IS ORDERED AND ADJUDGED this date, pursuant to Rule 58, that the case is dismissed. No costs.

Hazel C. Keahey  
Clerk of Court

**February 16, 2012**

By: s/Lisa L. Reyes

Deputy Clerk

NOTE: As to appeal, 60 days from this date, see RCFC 58.1, re number of copies and listing of all plaintiffs. Filing fee is \$455.00.

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

REGINA K. BURGAN,	)	
	)	
Plaintiff,	)	
	)	Civil No. 1:11-cv-02308
v.	)	
	)	Judge Donald C. Nugent
UNITED STATES OF AMERICA	)	
	)	
Defendant.	)	

**STIPULATION AND ORDER GRANTING EXTENSION OF TIME  
FOR THE UNITED STATES TO RESPOND TO COMPLAINT**

The Plaintiff Regina K. Burgan and Defendant United States of America, with the consent of the court, as endorsed hereon, stipulate to an extension of time for the United States to serve its answer or such other response to Plaintiff's Complaint as may be permitted by the Federal Rules of Civil Procedure, until February 17, 2011.

For the United States of America:

*/s/ Carina A. Clark*

CARINA A. CLARK  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 55, Ben Franklin Station  
Washington, D.C. 20044  
Tel: (202) 353-0701  
Fax: (202) 514-5238  
Email: Carina.A.Clark@usdoj.gov

For Regina K. Burgan:

*/s/ James Konchan*

JAMES KONCHAN  
15203 Detroit Ave.  
Cleveland, OH 44107-3827  
Tel: (216) 533-1818  
Fax: 216-221-1232  
Email: jkonchanlaw@att.net

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: February 16, 2012

*Donald C. Nugent*  
\_\_\_\_\_  
U.S. DISTRICT COURT JUDGE

[87odr] [Order Directing Response]

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

Case No. 8:11-bk-23529-CPM  
Chapter 13

Gregory Albert Darst  
Post Office Box 392  
Terra Ceia, FL 34250

Debtor\* /

ORDER DIRECTING RESPONSE TO  
OBJECTION TO CLAIM #3 OF INTERNAL REVENUE SERVICE

THIS CASE came on ex parte to consider the entry of an appropriate Order in the above-captioned Chapter 7 case. The Court considered the record and finds that on February 16, 2012, Debtor filed Objection to Claim #3 of Internal Revenue Service which is a contested matter. Therefore, it is appropriate, pursuant to Fed. R. Bankr. P. 9014, to direct Parties to file a written response within twenty-one (21) days from the date of entry of this Order. (Pursuant to Fed. R. Bankr. P. 9006(f), the respondent may add three (3) days to the twenty-one day response period in calculating the response due date because this Order is served by mail or by electronic means.). Accordingly, it is

**ORDERED:**

1. That Parties are directed to file a written response to the Motion within twenty-one (21) days from the date of entry of this Order.
2. That if Parties fails to timely file a written response, the Court will consider the Motion ex parte and enter an appropriate Order, upon its submission by the moving party, without further notice.

BY THE COURT

Dated: February 16, 2012



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Catherine Peek McEwen  
United States Bankruptcy 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 APPROVING FIRST APPLICATION FOR  
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT  
OF NECESSARY EXPENSES FOR CRAIG M. GENO, PLLC**

THIS CAUSE having come on to be heard on the First Application for Allowance of Compensation and Reimbursement of Necessary Expenses for Craig M. Geno, PLLC [DK #102] (the "Application") filed herein by Charles W. Dowdy (the "Debtor), the limited objection thereto of State Bank & Trust Company, and the Court having heard and considered the Application and being fully advised in the premises, hereby finds as follows, to-wit:

1. Adequate and appropriate notice of the Application was given to all interested parties, and no responses and/or objections were filed thereto.
2. On September 22, 2011, the Debtor filed his Voluntary Petition for reorganization with this Court under Chapter 11 of the Bankruptcy Code.
3. On October 4, 2011, the Court entered an order authorizing the Debtor to employ counsel.
4. The substantial services rendered to the Debtor and the expenses incurred by Craig M. Geno, PLLC ("CMG") benefitted the estate. An Affidavit reflecting said legal services rendered and expenses incurred is attached to the Application as Exhibit "A" and is incorporated herein by reference. The Affidavit also certifies and represents to the Court that the services rendered to the Debtor were reasonable and necessary and that said services have actually been

rendered. A detailed itemization of such services and expenses is attached to the Application as Exhibit "B" and is incorporated herein by reference.

5. The fees and expenses charged and incurred represent reasonable and necessary fees and expenses that were required to be extended by counsel to the Debtor in all matters which are anticipated to arise in the functioning of litigation matters, case administration and to protect and preserve all rights of the Debtor in furtherance of counsel's obligations herein; and they are normal and customary fees and expenses incurred and charged for representation of debtors in similar cases. The time, skill and experience utilized by counsel for the Debtor justify the approval of the Application.

6. This is the Debtor's first request for allowance of compensation for professional services rendered in this proceeding by his counsel. This request covers the period from September 11, 2011, to and including January 16, 2012, and is for the sum of \$26,500.02 (\$26,302.00 in fees and \$198.02 in expenses), less pre-petition fees and expenses.

7. CMG is entitled to interim compensation for professional services rendered to the Debtor and reimbursement of expenses it has incurred on behalf of the Debtor, pursuant to the provisions of 11 U.S.C. Section 330. Therefore, the Application should be approved and granted.

IT IS ACCORDINGLY, ORDERED:

a. Craig M. Geno is hereby allowed interim compensation and reimbursement of expenses in the sum of \$26,500.02 (\$26,302.00 in fees and \$198.02 in expenses), less pre-petition fees and expenses.

b. The sum approved and allowed by this Court as interim compensation and reimbursement of expenses is a priority administrative expense as set forth in 11 U.S.C. §§ 503(b)(2) and 507(a)(1), and the Debtor is authorized and directed to pay the same to his counsel.

SO ORDERED.

Neil P. Olack  
United States Bankruptcy Judge  
Dated: February 15, 2012

APPROVED BY:

Craig M. Geno, Esq.  
Attorney for the Debtor

Kristina M. Johnson, Esq.  
Attorney for State Bank & Trust Company

PRESENTED BY:

Craig M. Geno, Esq.; MSB No. 4793  
LAW OFFICES 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

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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - DETROIT

In Re:

W.K. Industries Inc.,

\_\_\_\_\_  
Debtor(s). /

Case No. 09-74936-wsd  
Chapter 7  
Judge Walter Shapero

**Stuart A. Gold, Trustee,**

vs. Plaintiff(s),

**Adv. Proc. No. 11-7058**

**Internal Revenue Service,**

\_\_\_\_\_  
Defendant(s). /

**ADVERSARY PROCEEDING SCHEDULING ORDER**

The within proceeding being at issue by reason of the pleadings filed therein, and after consultation with the parties, pursuant to Fed. R. Bankr. P. 7016 and 7026 and the parties having conducted a conference and submitted a written report thereof ("26(f) Report") under Fed. R. Civ. P. 26(f), IT IS HEREBY ORDERED that further proceedings in this case shall be governed by the following:

I.

Discovery Plan and Other Provisions of Rule 26(f) Report

The Rule 26(f) Report is adopted as an order of this Court and incorporated herein.

II.

Filing of Joint Final Pretrial Order

A Joint Final Pretrial Order prepared in accordance with L.B.R. 7016-1(E.D.M.) shall be filed at the Final Pretrial Conference.

III.  
Mediation

As soon as possible, but in any event, not later than 45 days before the Final Pretrial Conference, plaintiff(s) attorney shall arrange for a conference call, or an in person conference with the Court, involving counsel for all parties, as well as any unrepresented party, for the purpose of discussing mediation of this case in accordance with L.B.R. 7016-2 (E.D.M.).

IV.  
Final Pretrial Conference

A final pretrial conference will be held on **August 15, 2012 at 10:00 a.m. in Chambers, Room 1029, U.S. Courthouse, 231 W. Lafayette, Detroit.**

V.  
Trial Date(s) in Bankruptcy Court

THE TRIAL OF THIS MATTER shall be held in this Court and SHALL COMMENCE on **September 11, 2012 at 9:30 a.m. in Courtroom 1042, U.S. Courthouse, 231 W. Lafayette, Detroit.**

VI.  
Miscellaneous Matters

(a) Adjournment(s) or Changes in this Order

Requests for adjournment of the trial date are governed by L.B.R. 5071-1(E.D.M.). Any changes in any other dates or provisions of this order are to be sought in accordance with L.B.R. 9014-1 (E.D.M.), or by written stipulation provided that in any case good cause shall be shown, and approval of the Court is required.

(b) Exhibits and Discovery Disputes

Exhibits to be offered in evidence are to be processed pursuant to L.B.R. 7016-1(d) (E.D.M.). Note should be taken of L.B.R. 9014-1(h) (E.D.M.) relative to discovery disputes. Parties are encouraged to resolve disputes before a motion regarding discovery is filed, and are directed to strictly comply with L.B.R. 9014-1(g) and (h) (E.D.M.) if a motion is ultimately required.

(c) Settlement

Note should be taken of L.B.R. 9019-1 (E.D.M.) relative to settlements.

(d) Status or Pretrial Conference Request

Any party may request a status conference (or a conference to discuss or further consult in reference to this order) by a communication, in writing, addressed to the Court with copies to opposing or other counsel and/or any pro se parties. Upon receipt of such a request (or sua sponte) the Court will schedule such a conference (in person or by phone) if the Court believes it will advance or be helpful in the disposition of this proceeding.

(e) Non-filing of Discovery Materials

See L.B.R. 7026-1(a) (E.D.M.).

Signed on: February 16, 2012

/s/ Walter Shapero  
Walter Shapero  
United States Bankruptcy Judge

**Phillips, Harris J. (TAX)**

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**From:** neb\_bkecf@neb.uscourts.gov  
**Sent:** Thursday, February 16, 2012 8:23 AM  
**To:** Courtmail@neb.uscourts.gov  
**Subject:** Ch-13 11-41255-TLS Mark Hysell Order on Objection to Claim

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30-page limit do not apply.**

**U.S. Bankruptcy Court**

**District of Nebraska**

Notice of Electronic Filing

The following transaction was received from drs entered on 2/16/2012 at 7:22 AM CST and filed on 2/16/2012

**Case Name:** Mark Hysell  
**Case Number:** [11-41255-TLS](#)  
**Document Number:** 70

**Docket Text:**

Order Continuing Amended Objection to Claim of IRS Filed by Debtor Mark Hysell (Related Doc # [55]). Hearing held 2/15/2012. Steven Curry appeared for Debtor and Harris Phillips appeared for IRS. Hearing is continued to 3/21/2012 @ 11:00 a.m. Separate notice to be entered by the Clerk. HEREBY ORDERED by Judge Thomas L. Saladino. (Text only order) (drs)

The following document(s) are associated with this transaction:

**11-41255-TLS Notice will be electronically mailed to:**

Steven M. Curry on behalf of Debtor Mark Hysell  
[smcurry@cconline.net](mailto:smcurry@cconline.net), [currylaw@yahoo.com](mailto:currylaw@yahoo.com)

Patricia Fahey  
[ustpreion13.om.ecf@usdoj.gov](mailto:ustpreion13.om.ecf@usdoj.gov)

Jeffrey L. Hrouda on behalf of Creditor Pinnacle Bank of Madison, Nebraska  
[jhrouda@telebeep.com](mailto:jhrouda@telebeep.com)

Kathleen Laughlin  
[ecfclerk@ne13trustee.com](mailto:ecfclerk@ne13trustee.com), [klaughlin13@ecf.epiqsystems.com](mailto:klaughlin13@ecf.epiqsystems.com)

Harris J. Phillips on behalf of Creditor United States of America  
[harris.j.phillips@usdoj.gov](mailto:harris.j.phillips@usdoj.gov), [central.taxcivil@usdoj.gov](mailto:central.taxcivil@usdoj.gov); [seth.g.heald@usdoj.gov](mailto:seth.g.heald@usdoj.gov)

Sheldon R. Singer on behalf of Creditor JPMorgan Chase Bank, N.A.  
[ssinger@stlaw.net](mailto:ssinger@stlaw.net), [awitt@stlaw.net](mailto:awitt@stlaw.net); [eyarbrough@stlaw.net](mailto:eyarbrough@stlaw.net)

**11-41255-TLS Notice will not be electronically mailed to:**

**In the United States Court of Federal Claims**

**No. 07-739 T**

**INTERSPORT FASHIONS WEST, INC.,**

**JUDGMENT**

**v.**

**THE UNITED STATES**

Pursuant to the court's Opinion and Order, filed February 13, 2012, granting defendant's motion for summary judgment,

IT IS ORDERED AND ADJUDGED this date, pursuant to Rule 58, that judgment is in favor of defendant.

Hazel C. Keahey  
Clerk of Court

**February 16, 2012**

By: s/Lisa L. Reyes

Deputy Clerk

NOTE: As to appeal, 60 days from this date, see RCFC 58.1, re number of copies and listing of all plaintiffs. Filing fee is \$455.00.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
-----X

UNITED STATES OF AMERICA

Plaintiff,

-against-

CHIN LING HAN,

Defendant.

**MEMORANDUM & ORDER**

10-CV-888 (KAM)

-----X  
**KIYO A. MATSUMOTO, UNITED STATES DISTRICT JUDGE:**

Plaintiff United States of America ("plaintiff") brought this action against defendant Chin Ling Han ("defendant") to collect outstanding unpaid liability for federal internal revenue taxes pursuant to the provisions of 26 U.S.C. §§ 7401 and 7402(a) with the authorization of the Secretary of the Treasury and at the direction of the Attorney General of the United States.

Upon failure of defendant to appear, answer, or respond to the complaint, plaintiff requested the Clerk of Court to enter a default for defendant, which was entered on July 20, 2010. (See ECF No. 4, Motion for Entry of Default; ECF No. 5, Clerk's Entry of Default ("Clerk's Default J.")) Presently before the court is plaintiff's motion for default judgment, which seeks damages in the amount of \$731,411.38. (ECF No. 7, Application for Entry of Default Judgment ("Pl. Mot."))

Defendant has not submitted any opposition to plaintiff's motion, despite receiving notice and an opportunity to do so. (See Pl. Mot. at 3 (Certificate of Service dated June 3, 2011).)

For the reasons set forth below, the court grants plaintiff's motion for default judgment for the assessed and unpaid liabilities due and owing for defendant's federal income tax returns for the periods ending December 31, 1995 and December 31, 1996 ("tax year 1995" and "tax year 1996," respectively).

#### **BACKGROUND**

According to the complaint, defendant failed to pay the amounts owed in full for her federal income tax returns for the tax years 1995 and 1996. (ECF No. 1, Complaint ("Compl.") ¶¶ 3-5.) Defendant filed United States Individual Income Tax Returns (Forms 1040) jointly with her spouse, Mao Yang Lin, for tax years 1995 and 1996 on April 15, 1996 and April 15, 1997, respectively. (See ECF No. 8, Supplemental Memorandum of Law in Support of Motion for Entry of Default Judgment ("Suppl. Mem.") at 1; ECF No. 8-1, Declaration of Andrew Barone dated October 14, 2011 ("Barone Decl.") ¶ 3.) On October 20, 1998, after the Internal Revenue Service ("IRS") determined that there were tax deficiencies with respect to both tax years 1995 and 1996, defendant and her spouse executed a Form 872 (*Consent to Extend the Time to Assess Tax*) extending to June 30, 2000 the time

within which additional federal income tax could be assessed for tax year 1995.<sup>1</sup> (Suppl. Mem. at 1-2; Barone Decl. ¶ 5.) The IRS completed its assessments for tax years 1995 and 1996 on February 28, 2000. (Suppl. Mem. at 2; Barone Decl. ¶ 6.)

The Internal Revenue Service has calculated the amount of defendant's unpaid taxes due and owing, including assessed taxes, penalties, and interest up to June 2, 2011, to be \$728,746.62 for tax year 1995 and \$2,664.76 for tax year 1996, for a total of \$731,411.38. (Pl. Mot. at 1; ECF No. 7-2, Affidavit of Debt ("Aff. of Debt").) Plaintiff alleges that defendant was sent notices of the assessment and demands for payment for each of the amounts, but defendant has nevertheless refused, failed, or neglected to pay. (Compl. ¶¶ 3-5.)

Plaintiff thereafter commenced this action on February 25, 2010, served the Complaint on defendant on June 17, 2010, (see ECF No. 3, Summons Returned Executed), and the Clerk of Court entered a default against defendant on July 20, 2010 (see Clerk's Default J.). Plaintiff now seeks a default judgment in the amount of \$731,411.38.

## **DISCUSSION**

### **I. Liability**

Rule 55(b)(2) of the Federal Rules of Civil Procedure provides that the court may enter judgment against a defaulting

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<sup>1</sup> The record does not indicate that the defendant executed a Form 872 for tax year 1996.

party when a plaintiff moves for judgment against an adverse party who has failed to answer or otherwise appear in the action. Fed. R. Civ. P. 55(b)(2). When a default judgment is entered, the defendant's failure to respond constitutes an admission of the well-pleaded factual allegations in the complaint, except as to the allegations relating to damages. See *Greyhound Exhibitgroup, Inc. v. E.L.U.L. Realty Corp.*, 973 F.2d 155, 158 (2d Cir. 1992). Moreover, an inquest by affidavit, without an in-person hearing, may be conducted so long as the court can ensure "a basis for the damages specified in the default judgment." *Transatlantic Marine Claims Agency, Inc. v. Ace Shipping Corp.*, 109 F.3d 105, 111 (2d Cir. 1997) (quoting *Fustok v. ContiCommodity Servs., Inc.*, 873 F.2d 38, 40 (2d Cir. 1989)). Thus, the movant need only show adequate support for the relief it seeks.

The United States may commence an action in federal court to collect unpaid federal taxes. See 26 U.S.C. §§ 7401, 7402(a); *Beeler v. United States*, 894 F. Supp. 761, 771-72 (S.D.N.Y. 1995) ("The Court has jurisdiction over this [tax, and tax penalties, assessment, and collection] action pursuant to 28 U.S.C. §§ . . . 7401, and 7402."). The government may seek to recover not only delinquent tax obligations but also statutory interest and penalties when the taxes are not timely paid. Section 6321 of the Internal Revenue Code provides:

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

26 U.S.C. § 6321; see also *United States v. Washington*, No. 10 Civ. 2149 (BMC), 2010 U.S. Dist. LEXIS 63111, at \*3-5 (E.D.N.Y. June 25, 2010) (awarding interest and statutory accruals in default judgment for failure to pay income tax); see also *United States v. Crichlow*, No. 02 CV 6774 (NG) (CLP), 2004 U.S. Dist. LEXIS 7719, at \*7 (E.D.N.Y. Apr. 9, 2004) (Report and Recommendation) ("It is equally clear that the government may seek to recover not only delinquent tax obligations but statutory interest and penalties when the taxes are not timely paid." (citations omitted)), adopted by 2004 U.S. Dist. LEXIS 15713 (E.D.N.Y. July 12, 2004).

## **II. Timeliness**

The statutes of limitations that govern the assessment and collection of federal income taxes are set forth in 26 U.S.C. §§ 6501 and 6502. First, Section 6501 provides that "the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) . . . and no proceeding in court without assessment for the collection of

such tax shall be begun after the expiration of such period.”

26 U.S.C. § 6501(a). An exception to this rule is contained in Section 6501(c)(4)(A), which provides that, prior to the expiration of the three-year period in which a tax must be assessed, the government and the taxpayer may consent in writing to an extension of the time to assess. 26 U.S.C.

§ 6501(c)(4)(A). The IRS assessments with respect to tax years 1995 and 1996 were completed on February 28, 2000 (Barone Decl. ¶ 6), prior to both June 30, 2000, the date to which defendant consented pursuant to Section 6501(c)(4)(A) for tax year 1995 (*id.* ¶ 5), and April 15, 2000, three years after the date of the filing of defendant’s tax return for tax year 1996 (*id.* ¶ 3). Accordingly, the assessments of defendant’s taxes for tax years 1995 and 1996 were timely.

Second, Section 6502(a)(1) of Title 26 provides for a ten-year statute of limitations to collect a tax that begins to run upon the date of the assessment of the tax:

(a) Length of period. Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun--

(1) within 10 years after the assessment of the tax, or . . .

If a timely proceeding in court for the collection of a tax is commenced, the period

during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes unenforceable.

26 U.S.C. § 6502(a). The assessments of defendant's taxes for tax years 1995 and 1996 were completed on February 28, 2000, and the statute of limitations for collection of those taxes was therefore February 28, 2010. Because the government filed its complaint on February 25, 2010 - only three days prior to the running of the statute of limitations - the government's action is timely with respect to the unpaid taxes for both tax years 1995 and 1996.

### **III. Damages**

Unlike allegations pertaining to liability, those pertaining to damages are not deemed admitted in the context of a motion for default judgment. *Greyhound Exhibitgroup*, 973 F.2d at 158 ("While a party's default is deemed to constitute a concession of all well pleaded allegations of liability, it is not considered an admission of damages." (citation omitted)). Therefore, the movant must establish its entitlement to the recovery of damages. *Id.* The Second Circuit has held, however, "that as long as a district court 'ensured that there was a basis for the damages specified in the default judgment,' such as by relying on detailed affidavits and documentary evidence,

it is not necessary for the court to hold a hearing.”

*Washington*, 2010 U.S. Dist. LEXIS 63111, at \*2 (quoting *Transatlantic Marine Claims Agency*, 109 F.3d at 111).

The government has set forth a chart in an affidavit of Mr. Andrew Barone, Technical Services Advisor with the IRS, dated June 3, 2011, detailing the unpaid tax assessments plus interest and penalties for tax years 1995 and 1996 owed by defendant. (See Aff. of Debt.) “In general, a government tax assessment is entitled to a presumption of correctness.” *United States v. McCombs*, 30 F.3d 310, 318 (2d Cir. 1994) (citations omitted); see *Crichlow*, 2004 U.S. Dist. LEXIS 7719, at \*13 (same). Additionally,

The interest and penalties to be assessed on unpaid taxes, both for failing to file tax returns and failing to make timely payments, are set forth in 26 U.S.C. §§ 6601, 6651(a), and 6654. Thus, there is a statutory basis for the interest and penalties that the government has assessed against [the defendant].

*U.S. v. Chesir*, No. 08-CV-2552 (ENV) (SMG), 2011 U.S. Dist. LEXIS 83083, at \*10 (E.D.N.Y. June 27, 2011) (Report and Recommendation), adopted by 2011 U.S. Dist. LEXIS 80836 (E.D.N.Y. July 20, 2011).

“A taxpayer who wishes to challenge the validity of the assessment, moreover, ‘bears the burdens both of production and of persuasion.’” *McCombs*, 30 F.3d at 318 (citation

omitted). Defendant has failed to respond to the complaint and has not challenged the government's assessments. Accordingly, with no rebuttal evidence from the defendant, the court finds that the amounts of tax deficiencies, interest, and penalties asserted by the plaintiff are presumed to be correct. See *Washington*, 2010 U.S. Dist. LEXIS 63111, at \*4 ("Defendants have failed to respond to the complaint and have not challenged these assessments. Accordingly, this Court finds that the amount of outstanding tax deficiencies asserted by the government, are presumed to be correct."); *Crichlow*, 2004 U.S. Dist. LEXIS 7719, at \*13-14 (finding that "amounts of tax deficiencies asserted by the plaintiff to be due and owing are presumed to be correct."). Thus, the amount of taxes, penalties, and interest due and owing for tax years 1995 and 1996 is \$731,411.38 plus interest and statutory accruals pursuant to 26 U.S.C. §§ 6601, 6621, 6622 and 28 U.S.C. § 1961(c) from June 2, 2011, until this judgment is fully paid. (See Aff. Of Debt.)

#### **CONCLUSION**

For the foregoing reasons, the court directs entry of judgment in favor of plaintiff and against the defendant in the total amount of \$731,411.38 plus interest and statutory accruals pursuant to 26 U.S.C. §§ 6601, 6621, 6622 and 28 U.S.C. § 1961(c) from June 2, 2011, until this judgment is fully paid. The Clerk of Court is respectfully requested to enter judgment

in favor of the plaintiff and against defendant in accordance with this Order and close this case. Plaintiff is ordered to serve a copy of this Memorandum and Order on defendant and file a declaration of service by February 20, 2012.

**SO ORDERED.**

Dated: Brooklyn, New York  
February 16, 2012

/s/  
\_\_\_\_\_  
**KIYO A. MATSUMOTO**  
United States District Judge  
Eastern District of New York

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN

U.S. BANK NATIONAL ASSOCIATION,	)	
AS TRUSTEE FOR THE STRUCTURED	)	
ASSET SECURITIES CORPORATION	)	
MORTGAGE LOAN TRUST 2006-BC1,	)	
	)	Civil No. 2:11-cv-11420
Plaintiff,	)	
	)	Honorable Lawrence P. Zatkoff
v.	)	
	)	Magistrate Judge R.Steven
SYDELLE R. BUNIN, ANTHONY BUNIN,	)	Whalen
COMERICA BANK, MICHIGAN	)	
DEPARTMENT OF TREASURY, and	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendants.	)	

**Stipulated Order to Remand to State Court and Conditional Dismissal of  
Defendant United States of America**

Plaintiff filed this matter for judicial foreclosure in the Oakland Circuit Court on February 18, 2011, naming the United States of America as a defendant due to senior and junior tax liens that attached to the property that is the subject of the foreclosure action. On April 4, 2011, the United States of America filed its removal to Federal Court pursuant to 28 U.S.C. §§ 1442 and 1446.

All of the other parties are in default or have been dismissed. The United States of America has settled its senior lien with Plaintiff and stipulate as follows:

1. Defendant United States acknowledges that the Notice of Federal Tax Lien (“NFTL”) against Sydelle Bunin that Plaintiff seeks to affect in this litigation, a facsimile copy of which is attached hereto as Exhibit A, recorded on June 7, 2006, in Liber 37669, Page 74, Number 145777, with the Oakland County Register of Deeds, is junior and subordinate to Plaintiff’s mortgage sought to be foreclosed in this litigation

with respect to the subject real property located at 2600 Shagbark Lane, Milford, MI 48380 and more particularly described as follows:

**Parcel I: Part of the South 1/2 of the Southeast 1/4 of Section 17, Town 2 North, Range 7 East, Township of Milford, Oakland County, Michigan, more particularly described as follows: Beginning at a point distant North 00 degrees 07 minutes 57 seconds West 1342.37 feet and North 89 degrees 35 minutes 34 seconds West 1890.16 feet from Southeast Section corner; thence North 89 degrees 35 minutes 34 seconds West 164.57 feet; thence South 00 degrees 43 minutes 03 seconds West 98.33 feet; thence South 23 degrees 50 minutes 45 seconds East 135.96 feet; thence South 15 degrees 55 minutes 15 seconds East 119.94 feet; thence South 89 degrees 33 minutes 34 seconds East 73.71 feet; thence North 00 degrees 43 minutes 03 seconds East 337.40 feet to the point of beginning.**

**Parcel II: Part of the South 1/2 of the Southeast 1/4 of Section 17, Town 2 North, Range 7 East, Township of Milford, Oakland County, Michigan, more particularly described as follows: Beginning at a point distant North 00 degrees 07 minutes 57 seconds West 1342.37 feet and North 89 degrees 35 minutes 34 seconds West 1267.63 feet from the Southeast Section corner; thence North 89 degrees 35 minutes 34 seconds West 622.53 feet; thence South 00 degrees 43 minutes 03 seconds West 337.40 feet; thence North 89 degrees 33 minutes 34 seconds West 73.71 feet; thence South 15 degrees 55 minutes 15 seconds East 165.82 feet; thence South 22 degrees 28 minutes 50 seconds East 94.88 feet; thence South 48 degrees 00 minutes 00 seconds East 100.00 feet; thence South 89 degrees 16 minutes 57 seconds East 266.00 feet; thence North 65 degrees 38 minutes 09 seconds East 304.27 feet; thence North 00 degrees 07 minutes 57 seconds West 524.28 feet to the point of beginning**

**Tax Parcel ID:**  (Parcel 1) and  (Parcel 2)

2. In the event this action results in a foreclosure and sale of the real property, any surplus proceeds derived from such sale in excess of the amount necessary to satisfy Plaintiff's claims shall be promptly paid into the Court, with the United States being entitled to apply for payment of such surplus proceeds. Plaintiff's counsel shall give written notice of any surplus to both the undersigned counsel for the United States and to the office of the United States Attorney (at 211 W.Fort Street, Suite 2001, Detroit, MI 48226 (Attn: Jennifer Bielecki)) within 10 days after receipt of sale proceeds.

3. In any foreclosure and sale Plaintiff may obtain in this litigation, Plaintiff acknowledges, in compliance with 28 U.S.C. § 2410, which provides the waiver of sovereign immunity to affect a lien of the United States, the redemption rights of the United States as specified in 28 U.S.C. § 2410(c) and for the amount set forth in 28 U.S.C. § 2410(d).

4. Further, in any foreclosure and sale that Plaintiff may obtain in this litigation, Plaintiff acknowledges, in compliance with 28 U.S.C. § 2410, that, with respect to the United States, the only lien to be divested from the subject real property in this litigation is the one specified in Paragraph 1, above, with respect to which the United States, and all other persons now or hereafter claiming by or under it, shall be barred and foreclosed from all equity of redemption and claim in and to said premises derived from the sale of the real property after expiration of the redemption period provided in 28 U.S.C. §2410(c).

5. Plaintiff's counsel shall, promptly after entry, send to the undersigned counsel for the United States a true copy of the judgment, decree, or order of foreclosure

and sale (or other final order), any notice of sale, any report of sale, any order confirming sale (or other similar papers however denominated).

6. Plaintiff and the United States agree to have this matter remanded to the Oakland County Circuit Court for the remainder of the judicial foreclosure proceedings and to have the United States dismissed as a defendant to this litigation without prejudice, conditioned on the terms outlined in this stipulated order, each side to bear its own costs, expenses, and attorneys' fees.

**IT IS HEREBY ORDERED:**

That Case No. 11-11420 is hereby remanded to the Oakland County Circuit Court Case No. 11-117045-CH.

Date: February 16, 2012

S/LAWRENCE P. ZATKOFF  
U.S. DISTRICT COURT JUDGE

Agreed as to form and content:

/s/ Julie A. Krohta

Julie A. Krohta (P39367)  
Attorney for Plaintiff  
31440 Northwestern Highway, Suite 200  
Farmington Hills, MI 48334-2525  
248.723.6009

/s/ Patrick Gushue

Patrick Gushue, Trial Attorney  
U.S. Department of Justice-  
Tax Division  
P.O. Box 55  
Washington D.C. 20044  
202.307.6010

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	Civil No. 2:10-cv-12989
Plaintiff,	)	
	)	Honorable Robert H. Cleland
v.	)	
	)	Magistrate Judge Mona K. Majzoub
JOSEPH L. ZAJAC, et al.,	)	
	)	
Defendants.	)	

**ORDER FOR SALE**

This Court entered a final judgment in favor of the United States and against defendant-taxpayer Joseph L. Zajac on February 28, 2011, in the amount of \$930,457.91, and ordered enforcement of the federal tax liens upon property commonly known as 3345 Auburn Road, Rochester, Michigan, 48309 (the "Auburn Road Property"), and ordering that the federal tax liens on the Auburn Road Property be enforced by sale under 26 U.S.C. § 7403. The Auburn Road Property is more fully described as:

Part of the Northeast 1/4 of Section 31, Town 3 North, Range 11 East, Avon Township, Oakland County, Michigan, described as: Beginning at a point distant South 89 degrees 46 minutes 10 seconds East 360 feet from the North 1/4 corner; thence South 0 degrees 10 minutes West 350 feet; thence South 89 degrees 46 minutes 10 seconds East 126.04 feet; thence North 1 degree 09 minutes 40 seconds East, 350.03 feet; thence North 89 degrees 46 minutes 10 seconds West 133.04 feet to the point of beginning.

Tax Parcel No.

Being the Property conveyed to defendant-taxpayer Joseph L. Zajac by Motion Development, Inc., by warranty deed recorded July 28, 1980, at Liber 7825, Page 752, with the Oakland County Clerk/Register of Deeds.

The United States of America, having moved for this order authorizing and ordering the judicial sale of the Auburn Road Property to Mr. Chetan Parekh, as the highest and best bidder in accordance with an order of this Court, for the sum of \$285,000.00, and good cause having been found,

**IT IS THEREFORE ORDERED THAT** the sale of the Auburn Road Property to Chetan Parekh for the sum of \$285,000.00, is hereby confirmed in all respects, free and clear of all rights, titles, claims, liens, and interests of all parties to this action, including the plaintiff United States and defendants Joseph L. Zajac, Oakland County Treasurer, Dietek Tool Company, Molly Maid of Troy, Data & Voice Solutions, Industrial Mechanical Services, Inc., The Lighting Group, Inc., Parson Adhesives, NP & Associates, Unibar, Inc., and Wirtz & Company, Inc., and upon the payment of \$285,000.00 within thirty (30) days of this order, Receiver CJV, L.L.C. d/b/a RE/MAX First is authorized and directed to issue a Receiver's Deed for the Auburn Road Property to Chetan Parekh.

The proceeds of the sale shall be distributed as follows:

- 1) First, to the Receiver in the amount of six (6) percent of gross sale proceeds;
- 2) Second, to the Oakland County Treasurer for unpaid real estate tax assessments against the Auburn Road Property pursuant to 26 U.S.C. § 6323(b)(6); and
- 3) Third, to the United States of America for application to the unpaid federal tax

assessments against Joseph L. Zajac.

**IT IS SO ORDERED.**

S/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: February 16, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, February 16, 2012, by electronic and/or ordinary mail.

S/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522

**In the United States Court of Federal Claims**

No. 10-192T

(Filed: February 16, 2012)

\*\*\*\*\* \*  
 \*  
 SALEM FINANCIAL, INC., \*  
 \*  
 Plaintiff, \*  
 \*  
 v. \*  
 \*  
 UNITED STATES, \*  
 \*  
 Defendant. \*  
 \*  
 \*\*\*\*\* \*

ORDER

On February 15, 2012, counsel for the parties submitted a joint stipulation, subject to Court approval, that the Government will conduct the depositions of six witnesses after the close of substantial fact discovery on April 2, 2012. For good cause shown, the parties' request is granted. The Government shall conduct the six additional depositions on mutually agreeable dates in April and May, 2012, as suggested in the parties' joint stipulation.

IT IS SO ORDERED.

s/Thomas C. Wheeler  
THOMAS C. WHEELER  
Judge

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

*In re:*

**ABE JOHN SROUR,  
Debtor.**

**Case No.: 8:11-bk-21105-MGW  
Chapter 11**

**ORDER TO EXTEND TIME BY SEVEN (7) DAYS  
TO FILE THE PLAN OF REORGANIZATION  
AND DISCLOSURE STATEMENT (DOC. NO. 77)**

THIS CAUSE came before this Court, without hearing, to consider the Motion to Extend Time by seven (7) days to File the Plan of Reorganization and Disclosure Statement (Doc. No. 77) filed by the Debtor herein. The Court having reviewed the Motion and otherwise being duly advised in the premises, finds that the Motion is well taken and should be granted. Accordingly, it is

ORDERED that:

1. The Motion to Extend Time by seven (7) days to File the Plan of Reorganization and Disclosure Statement (Doc. No. 77) filed by the Debtor be, and it is hereby granted.
2. The Plan of Reorganization and Disclosure Statement shall be filed by the Debtor on or before February 22, 2012.

DONE AND ORDERED at Tampa, Florida on February 16, 2012.



**MICHAEL G. WILLIAMSON**  
United States Bankruptcy Judge

cc: David W. Steen, Esquire  
United States Trustee