

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Petitioner, )  
 )  
 v. ) CIVIL ACTION NO. 17-mc-1557  
 )  
 JOHN B. TROWBRIDGE, )  
 )  
 Respondent, )

PETITIONER'S MOTION TO FILE PETITIONER'S RESPONSE TO  
RESPONDENT'S NOTICE OF READINESS TO COMPLY WITH THE ORDERS  
OF THE COURT AND REQUEST FOR GRANT OF IMMUNITY AGAINST  
POTENTIAL SELF-INCRIMINATION  
OUT OF TIME

TO THE HONORABLE JUDGE OF THE COURT:

PETITIONER MOVES, pursuant to Federal Rules of Civil Procedure ("F.R.C.P.") Rule 6(b)(B) that this Court allow petitioner to file, out of time, a Response to Respondent's Request for Grant of Immunity against potential Self-Incrimination (Document #14), as petitioner's failure to timely file a response is due to excusable neglect.

IN SUPPORT THEREOF, petitioner respectfully states:

1. This Court issued an Order Compelling Compliance with Internal Revenue Service Summons (Document #11) on September 13, 2017. This Order required respondent to

TRUE COPY I CERTIFY ATTEST:  
DAVID J. BRADLEY, Clerk of Court

By *David J. Bradley*  
Deputy Clerk

NOV 06 2017

appear before Revenue Agent Kendria Bruno on October 2, 2017.

2. Respondent appeared on October 2, 2017 pursuant to the Court's Order.

3. At the October 2, 2017 meeting, respondent refused to provide testimony and records, asserting his privilege against self-incrimination.

4. Respondent filed a Notice of Readiness to Comply with the Orders of the Court and Request for Grant of Immunity against potential Self-Incrimination on October 3, 2017.

5. This document is titled as a Notice, but is listed on the Court's Docket as a Motion.

6. Pursuant to Local Rule 7.4, petitioner's response to this Notice/Motion to Dismiss was due to be filed on October 24, 2017, 21-days after the filing of the Notice/Motion.

7. Petitioner is filing this response on November 3, 2017, 31-days after the filing of respondent's Motion to Dismiss.

8. This delay was due to petitioner's confusion regarding the appropriate title of the Notice/Motion filed by respondent. Although the Docket Sheet titles

respondent's filing as a Motion, the title reflected on the actual filing is a "Notice."

9. This delay was due to inadvertence, is not due to bad faith, is not unduly long, and does not cause any prejudice to respondent. See Lee v. ITT Standard, 268 F.Supp 2d 315 (W.D.N.Y. 2002) ("[E]xcusable neglect under Rule 6(b) is a somewhat elastic concept and is not limited strictly to omissions caused by circumstances beyond the control of movant. Rather, it may encompass delays caused by inadvertence, mistake or carelessness, at least when the delay was not long, there is no bad faith, there is no prejudice to the opposing party, and movant's excuse has some merit.")<sup>1</sup>

10. Respondent is not prejudiced by the granting of this motion, as he fully stated his grounds in his Notice/Motion, has not been granted any relief by this Court prior to the filing of petitioner's motion, and is on notice of the proceedings.

11. Concurrently filed with this motion is Petitioner's Response to Respondent's Notice/Motion.

12. Petitioner has contacted respondent to obtain his views on the granting of this Motion. As of the filing of

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<sup>1</sup>The document at issue in this case was filed 30-days after the due date.

this Motion, petitioner has not obtained respondent's views.

WHEREFORE, petitioner respectfully prays that this Court grant petitioner's Motion to file Petitioner's Notice of Readiness to Comply with the Orders of the Court and Request for Grant of Immunity against potential Self-Incrimination Out of Time.

Respectfully submitted,

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Acting United States Attorney

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