



U.S. Department of Justice

Tax Division

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DJ5-35-10644
CMN 2004106494

February 21, 2006

John Baptist Kotmair, Jr.
P.O. Box 91
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Fax: (410) 857-5249

George E. Harp, Esq.
610 Marshall St., Ste. 619
Shreveport, LA 71101
Fax: (318) 424-2060

Re: *United States v. John Baptist Kotmair, Jr., et al.*, WMN 05 CV 1297 (D. Md.)

Dear Messrs. Kotmair and Harp:

This letter is in response to your requests for a copy of the status report filed in the above-referenced case and the information you requested on February 17, 2006. Enclosed is a copy of the signed status report filed with the Court on February 17, 2006. With respect to the information you requested, this letter shall memorialize our agreement of February 17, 2006, that I will not be sending you duplicate copies of responsive documents.

If you have any questions regarding this case, please call Thomas Newman at (202) 616-9926.

Sincerely yours,

THOMAS M. NEWMAN
Trial Attorney
Civil Trial Section, Central Region

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA)	
)	
Plaintiff)	
)	
vs.)	Case No.: WMN 05 CV 1297
)	
JOHN BAPTIST)	
KOTMAIR, JR., et al.,)	
Defendants)	

STATUS REPORT

The United States files this Status Report pursuant to the Court's Scheduling Order dated October 25, 2005. As required by the Court, this report addresses the following: (a) Whether discovery is completed; (b) Whether any motions are pending; (c) Whether any party intends to file a dispositive pretrial motion; (d) Whether the case is to be tried jury or non-jury and the anticipated length of trial; (e) A certification that the parties have met to conduct serious settlement negotiations; and the date, time and place of the meeting and the names of all persons participating therein; (f) Whether each party believes it would be helpful to refer this case to another judge of this court for a settlement or other ADR conference, either before or after the resolution of any dispositive pretrial motion; (g) Whether all parties consent, pursuant to 28 U.S.C. § 636(c), to have a U.S. Magistrate Judge conduct any further proceedings in this case, either before or after the resolution of any dispositive pretrial motion, including trial (jury or non-jury) and entry of final judgment; and (h) Any other matter that the parties believe should be brought to the court's attention.

The information is reported as follows:

(a) Discovery in this case is completed with two exceptions. First, as discussed more

further below (b), Defendants have not fully responded to the United States' requests for interrogatories and production of documents. Second, on February 1, 2006, Defendants served a Notice of Deposition requiring the appearance of the "John Doe" IRS employee that the United States intended to use as a witness at trial. By letter dated February 2, 2006, the United States informed Defendants that this request would be treated a notice pursuant Federal Rule 30(b)(6), and the United States produced the IRS employee it intends to use as a witness at trial. The deponent was not the IRS Revenue Agent assigned to the case during investigation and prior to any referral. The original Revenue Agent is retired and has not been located by the Internal Revenue Service. Defendants stated that they intended to subpoena and depose the former IRS employee who was previously assigned to the case. On February 17, 2006, Defendant Save-A-Patriot's counsel stated that discovery requests were sent to the United States on January 15, 2006, which have not been received by the Plaintiff's attorney, and Defendant Save-A-Patriot requests responses to these requests. Defendant Save-A-Patriot's counsel states, however, that the request was received by the Department of Justice on January 17, 2006.

(b) On December 30, 2005, the United States filed a Motion to Compel Discovery relating to both Defendants. On January 17 and February 1, 2006, Responses in Opposition to the United States' Motion to Compel were filed by Defendants Kotmair and Save-A-Patriot, respectively. The United States filed a Reply on January 30 and February 8, 2006. The Motion to Compel is the only outstanding motion.

(c) The United States and Defendants each intend to file dispositive pretrial motions.

(d) Neither party requests a trial by jury.

(e) A Certification that the parties met to discuss settlement of this case is filed

concurrently with this report.

(f) The parties agree that referral of this case for settlement to another judge would not be helpful in resolving this case.

(g) The United States consents to have a U.S. Magistrate Judge conduct future proceedings in this case. Defendants do not consent to have a U.S. Magistrate Judge conduct any future proceedings in this case.

(h) Pursuant to L.R. 105.2.c, since all parties anticipate filing dispositive motions, the parties propose the following briefing schedule: (1) The United States' initial brief is due by March 20, 2006; (2) Defendants simultaneously file motions in opposition and in support of summary judgment by April 20, 2006; and (3) the United States shall have until May 15, 2006 to respond to Defendant's motions.

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Defendant
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concurrently with this report.

(f) The parties agree that referral of this case for settlement to another judge would not be helpful in resolving this case.

(g) The United States consents to have a U.S. Magistrate Judge conduct future proceedings in this case. Defendants do not consent to have a U.S. Magistrate Judge conduct any future proceedings in this case.

(h) Pursuant to L.R. 105.2.c, since all parties anticipate filing dispositive motions, the parties propose the following briefing schedule: (1) The United States' initial brief is due by March 20, 2006; (2) Defendants simultaneously file motions in opposition and in support of summary judgment by April 20, 2006; and (3) the United States shall have until May 15, 2006 to respond to Defendant's motions.



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