

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

|                                   |   |                      |
|-----------------------------------|---|----------------------|
| JOSEPH A. INSINGA,                | ) |                      |
|                                   | ) |                      |
| Petitioner,                       | ) |                      |
|                                   | ) |                      |
| v.                                | ) | Docket No. 9011-13W. |
|                                   | ) |                      |
| COMMISSIONER OF INTERNAL REVENUE, | ) |                      |
|                                   | ) |                      |
| Respondent                        | ) |                      |

**ORDER**

We will order attorney Dale H. Tuttle to show cause why his recent filings in this case should not be stricken.

Background

In this case, the petitioner is Joseph A. Insinga, and the respondent is the Commissioner of Internal Revenue. There are no other parties. This is a “whistleblower” case in which petitioner sought but did not receive an “award” under section 7623(b) and has now appealed to this Court, which has jurisdiction with respect to the “determination regarding the award”. For present purposes we assume (without deciding) that if petitioner prevails, we might then have jurisdiction to award to petitioner “costs” (including attorney fees) under section 7430. That is, a successful whistleblower suit might result in a decision in petitioner’s favor determining a whistleblower award and granting an award of costs.

On March 31, 2014, attorney Dale H. Tuttle filed an entry of appearance which states that he “gives notice of his representation of the law firm of Glassman, Wyatt, Tuttle & Cox, P.C. in the above-styled and numbered cause”. That law firm is not a party to this case, and it has not moved to intervene. On the same day, Mr. Tuttle filed a “Status Report” that states:

Petitioner's counsel Tim Edwards and Andrew R. Carr, Jr. are no longer associated with the law firm of Glassman, Wyatt, Tuttle & Cox, P.C. but continue their representation of Petitioner Insinga. Glassman, Wyatt, Tuttle & Cox, P.C. respectfully submits that is entitled to an attorneys' lien on any recovery Petitioner Joseph A. Insinga may obtain for attorneys' fees and expenses. As part of this status report the undersigned submits the Notice of Attorneys' Lien on Petitioner Joseph A. Insinga's Recovery as set out more fully in Exhibit A attached hereto and incorporated herein by reference as though set out herein verbatim.

Mr. Tuttle's submissions do not explain the intended significance of his submitting this notice of lien in this Court. His submissions do not request any relief nor suggest any matter as to which the Court has or might acquire jurisdiction to grant any relief.

### Discussion

The Tax Court may decide whether Mr. Insinga is entitled to any "award" and whether he is entitled to any "costs". Our determination as to petitioner's entitlement to a whistleblower award will ultimately be embodied in a "decision", pursuant to section 7459(a); and we would also include any award of costs in the decision we enter, pursuant to section 7430(f)(1).

A whistleblower award is paid by the Secretary of the Treasury (out of the tax collection proceeds made possible by the whistleblower), *see* sec. 7623(a); an award of administrative costs is made from the Judgment Fund pursuant to section 7430(d)(1) (which incorporates 31 U.S.C. sec. 1304); and an award of litigation costs is "payable ... in the same manner as such an award by a district court", sec. 7430(d)(2); *cf.* 28 U.S.C. secs. 2412(c)(2), 2414, 2517.

To repeat, however: If Mr. Insinga prevails, this Court's work will culminate in its entry of a decision. This Court does not cut checks to successful petitioners, and the undersigned judge is unaware of any grant to the Tax Court of jurisdiction to compel any agency to cut a check or to give it directions in doing so. The Tax Court does not oversee the execution of its decisions, and if the responsible agency were to fail to pay an award that the Tax Court had determined, or were to pay the award to the wrong person, we know of no statute authorizing us to entertain any request for enforcement of a judgment.

Consequently, we know of no justification for Mr. Tuttle's recent filings. It is therefore

ORDERED that, no later than April 21, 2014, Mr. Tuttle shall show cause in writing why his entry of appearance and status report filed March 31, 2014, should not be stricken. It is further

ORDERED that, no later than May 5, 2014, petitioner and respondent shall serve (both on the opposing party and on Mr. Tuttle) and shall file with the Court a reply to Mr. Tuttle's response to this order. It is further

ORDERED that, in addition to regular service of this order, the Clerk of the Court shall serve a copy of the order on Mr. Tuttle at the address given in his entry of appearance.

**(Signed) David Gustafson  
Judge**

Dated: Washington, D.C.  
April 2, 2014