

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PATRICK COMBS,)	
)	
Petitioner(s),)	
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v.)	Docket No. 22748-14.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
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Respondent)	
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ORDER

This case was on the Court’s May 23, 2016 trial calendar for San Diego, California. It arose from a notice of deficiency in which the Commissioner determined that Mr. Combs had not reported income from his business as a monologist and from some rental real estate that he owns in San Diego. We continued it because the parties agreed that some time in settlement talks and more informal discovery would be fruitful, but progress then slowed. After speaking with the parties last October, we ordered Mr. Combs to produce any remaining records within two months. We backed this up with a preclusion order -- we barred him from introducing at any trial of this case any records that he didn’t turn over to IRS counsel by the deadline.

That deadline was December 11. And the Commissioner agrees that Mr. Combs did turn over several pages of documents by that deadline. They helpfully showed Mr. Combs’s theory of the case. The Court cannot summarize this better than Mr. Combs himself did in his cover letter, which he then provided us in the form of a status report later in December:

[O]ur last phone conversation with both you and Ms. Smith [IRS counsel on the case] on 10/11/2017,

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prompted me to contact certain members of Mr. Holcomb's *private* research team for information, which along with my own research and in-depth review of all the documents over the past several months has quite frankly caused me to have an "epiphany" of sorts regarding the reality of this entire situation. I will now present the essence of that "epiphany" to you and Ms. Smith.

It turns out that Mr. Combs argues that he is a penniless artist entirely dependent on this Mr. Holcomb, to whom he has signed over all his income and property via trust or agency agreements. He continues:

Since the documentation I submitted unequivocally substantiates the *facts* regarding my lack of ownership of any and all monies derived from any and all entities and/or properties and since I have seen no statutory evidence as to how I could possibly be liable for any taxes due, I fail to see how these *facts* could leave Ms. Smith with anything except *pretense* and *presumption* as the only basis for her case If there are any taxes due they are due strictly from Robert Holcomb and that issue must be addressed directly with him.¹

But then it turns out that Mr. Combs still has access to the income he supposedly signed over:

I own no monies and he owns all monies, I have no tax liability for any monies and he has all tax liability for all monies. Further, I am authorized by Robert Holcomb to spend his funds for my personal requirements as I see fit

¹ This might be difficult. Two years ago Mr. Holcomb was indicted by a grand jury in the Southern District of California on charges including tax evasion, aiding or assisting in the preparation of false returns, and making false statements to financial institutions. *See* Indictment, *United States v. Holcomb*, No. 16-CR-01408-WQH (S.D. Cal. June 16, 2016), ECF No. 1. He recently had a jury trial and was found guilty on four counts of making a false statement to a financial institution. *See* Jury Verdict, *Holcomb*, No. 16-CR-01408-WQH, ECF No. 173. The court declared a mistrial with respect to the other charges. *See* Declaration of Mistrial, *Holcomb*, No. 16-CR-01408-WQH, ECF No. 172.

and he is the sole party liable for any taxes that may be due on whatever amount of money I personally spend. Therein lies the entire financial relationship between Robert Holcomb and myself.

This goes to the very heart of why I chose to be one of Robert Holcomb's fiduciaries in the first place. I am an artist (monologist) and there is no better space for an artist to be in other than one that frees him of all concerns relative to financial liability (income tax included), while at the same time being able to properly provide for himself and his family members. At the very core my *private* relationship with Robert Holcomb is one of "Artistic Patronage" and that kind of relationship is as old as history itself. In simple straight forward speak; I am a "kept" Man.

The barebones "trusts" and agency agreements that Mr. Combs describes in an attachment to his report follow a pattern of supposedly transferring property and future income from Mr. Combs to Mr. Holcomb as "owner" or "director" who simultaneously agrees that Mr. Combs can be the "manager" or "general manager" who can do with the property what he pleases.

In tax law, this all looked like an anticipatory assignment of income. We spoke with the parties again in January of this year to warn Mr. Combs that this kind of arrangement doesn't work to shift tax liability. *See, e.g., Rauenhorst v. Commissioner*, 119 T.C. 157, 163 (2002) (citing *Commissioner v. Sunnen*, 333 U.S. 591, 604 (1948), and *Helvering v. Horst*, 311 U.S. 112, 119 (1940)). We also warned him that, his protestations that he is a "kept man" to the contrary, he could be personally liable for a penalty under IRC § 6673 for persisting in such foolishness.

He persisted.

In letters to the Court in May and then in another in June, Mr. Combs acknowledged reviewing the record to date and declared that "I, patrick-davy: combs in context, a man not a 'person' contemplated by the federal statutes" and so forth.

We think, but are not completely sure, that these letters were prompted by the Commissioner's April 17, 2018 motion for partial summary judgment and motion for a § 6673 penalty.

In the motion for partial summary judgment the Commissioner presents admissible evidence that Mr. Combs received gross income from rental real estate and speaking engagements of \$241,141.36 in 2010; and \$82,513.04 in 2011. The bank-deposits analysis attached to the Commissioner's motion shows that Mr. Combs owned the rental property in his own name or as trustee of a trust he settled himself. He received the rent and speaking-engagement payments, deposited them into one account that he controlled; transferred money from that account to an entity that Mr. Holcomb controlled; got money from another entity that Mr. Holcomb controlled; deposited that money into a second account that he controlled, and then used that money to pay for his living expenses.

We gave Mr. Combs until May 29, 2018 to file his response to this motion. He has not done so, and it is therefore

ORDERED that respondent's motion for partial summary judgment, filed April 17, 2018, is granted insofar as it seeks a determination that petitioner received but failed to report gross taxable Schedule E income of \$241,141.36 on his return for 2010; and \$82,513.04 on his return for 2011. It is also

ORDERED that on or before September 4, 2018 the parties submit settlement documents or file a status report describing their progress toward settlement.

The Court will hold in abeyance respondent's motion for a penalty under IRC § 6673 and would expect to deny it if petitioner cooperates in bringing this case to a reasonable conclusion.

If this case is not promptly settled, the parties may expect the Court to arrange for its trial in Los Angeles in the fall.

**(Signed) Mark V. Holmes
Judge**

Dated: Washington, D.C.
August 2, 2018