

**UNITED STATES TAX COURT**  
**WASHINGTON, DC 20217**

BARCLAY L. DOUGLAS,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 22207-18.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER**

This case was calendared on the Court’s December 2, 2019, Boston, Massachusetts, trial session. On May 8, 2020, respondent filed, for the second time in this case, a Motion to Dismiss for Failure to Properly Prosecute. We will give petitioner one final chance to demonstrate a good-faith effort to cooperate with respondent’s counsel. If petitioner fails to take the steps required by this Order, we will be very strongly inclined to grant respondent’s Motion.

On October 24, 2019, respondent filed his first motion to dismiss for lack of prosecution, representing that petitioner had failed to respond to multiple letters and telephone calls. On October 28, 2019, we directed petitioner to show cause in writing by November 25, 2019, why this case should not be dismissed.

On October 31, 2019, the parties contacted the chambers of the undersigned and indicated that they intended to work together in an effort to resolve this case. Petitioner orally requested a continuance, to which respondent did not object. We accordingly denied respondent’s motion to dismiss (without prejudice) and discharged the order to show cause. We continued the case, retained jurisdiction, and directed the parties to file a joint status report on or before January 29, 2020.

On January 29, 2020, respondent filed a status report representing that petitioner had not contacted him since the October 31, 2019, conference call and had not responded to any phone calls or letters. On January 31, 2020, we directed the parties to file another status report by March 18, 2020. We cautioned petitioner that, if he had not taken meaningful steps by that time to cooperate with respon-

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dent's counsel in working toward a resolution of this case, respondent could renew his motion to dismiss this case for lack of proper prosecution by petitioner. See Tax Court Rule 123(b).

On March 16, 2020, respondent's counsel filed a status report representing that petitioner had continued in his refusal to respond to phone calls and letters. Counsel represented that, on January 3, 2020, he had sent petitioner an informal discovery request that was not returned by the Postal Service, to which petitioner did not respond. Counsel represented that, on March 6, 2020, he had left a voice message for petitioner at the number listed in the petition, to which petitioner did not respond. Counsel represented that, on March 11, 2020, he had sent petitioner a letter enclosing a copy of the Court's January 31, 2020, order, informing petitioner that if he failed to reply respondent would again move to dismiss the case for lack of prosecution. Counsel represented that petitioner had likewise failed to respond to that letter. On March 23, 2020, we directed respondent to file a further status report or "an appropriate motion" by May 8, 2020.

On May 8, 2020, respondent filed his second Motion to Dismiss for Failure to Properly Prosecute. Counsel for respondent represents that petitioner recently telephoned him inquiring about the status of the case and stating that: (1) he has engaged an accountant to prepare returns for the 2011-2016 tax years at issue, but that the returns are not yet complete; (2) he would still like to meet with the revenue agent assigned to this case; and (3) he would object to the granting of a motion to dismiss for lack of prosecution. Counsel for respondent notes that petitioner is a finance professional who had substantial income during 2011-2016, and that his failure to file returns reporting that income have generated deficiencies and additions to tax that exceed \$1 million. Respondent contends that petitioner's dilatory behavior during the 18 months in which this case has been pending justifies dismissal at this juncture.

While respondent's contentions have force, we will give petitioner one final chance to avoid dismissal of this case, influenced in part by concerns surrounding the COVID-19 epidemic. If petitioner wishes to avoid dismissal of this case he must see to it that certain steps are taken by the deadlines set in this Order. It is accordingly

ORDERED that petitioner or his representative shall supply to respondent's counsel, on or before May 28, 2020, a fully-completed Form 2848, Power of Attorney and Declaration of Representative, authorizing the accountant who is currently preparing petitioner's 2011-2016 returns (or another tax professional

authorized to practice before the IRS) to represent petitioner before the IRS with respect to the 2011-2016 tax years at issue. The Court expects that the professional who submits the Form 2848 will make himself available to speak with respondent's counsel, no later than June 11, 2020, about the time frame for completing and submitting petitioner's 2011-2016 tax returns, together with substantiating documentary information. It is further

ORDERED that respondent shall file a status report, by June 25, 2020, informing the Court of the then-current status of this case.

**(Signed) Albert G. Lauber  
Judge**

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Dated: Washington, D.C.  
May 11, 2020