

UNITED STATES TAX COURT
WASHINGTON, DC 20217

JAMES AWAD,)	
)	
Petitioner,)	
)	
v.)	Docket No. 3755-14W.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This whistleblower action was tried on December 15, 2015, in Miami, Florida. At trial the parties filed a joint stipulation of facts which included exhibits 1-J through 21-J. Petitioner's exhibits 22-P and 23-P were also entered into evidence. We held the record open for the submission of petitioner's exhibit 24-P, which was subsequently received by the Court. Thereafter both parties timely filed opening and answering briefs.

Generally, under Rule 345(b), Tax Court Rules of Practice and Procedure, in a filing with the Court in a whistleblower action, the party making the filing "shall refrain from including, or shall take appropriate steps to redact, the name, address, and other identifying information of the taxpayer to whom the claim relates." Rule 345(b) further provides that the party "filing a document that contains redacted information shall file under seal a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed."

If a document contains identifying information of the taxpayer to whom the claim relates and the extent of redactions would render the use of a reference list not practical, as an alternative to the reference list, the party may file a redacted version and an unredacted version of the same document. In such case the Court would permanently seal the unredacted version. If redacted and unredacted versions of the same document are filed, the redacted version must bear the proper caption as shown above. Any identifying information of the taxpayer to whom the

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claim relates, however, must be redacted in the redacted version, but not in the unredacted version.

The parties failed to take appropriate steps to redact taxpayer information from the stipulation of facts and exhibits thereto. Furthermore, petitioner failed to take appropriate steps to redact taxpayer information from his petition, his opening brief, and exhibits 22-P, 23-P, and 24-P. The trial transcript also contains unredacted taxpayer information. Upon due consideration, it is

ORDERED that the Clerk of the Court shall seal the petition; the stipulation of facts and all exhibits thereto; the trial transcript; petitioner's exhibits 22-P, 23-P, and 24-P; and petitioner's opening brief. It is further

ORDERED that the Clerk of the Court shall remove from the Court's public record the petition; the stipulation of facts and all exhibits thereto; the trial transcript; petitioner's exhibits 22-P, 23-P, and 24-P; and petitioner's opening brief; and such documents shall be retained by the Court in a sealed file, which shall not be inspected by any person or entity except by Order of the Court. It is further

ORDERED that, on or before May 15, 2017, Capital Reporting Company shall transmit to the chambers of Judge Vasquez for safekeeping in a double sealed envelope clearly marked with the docket number of this case and bearing the legend "SEALED": (1) the reporter's notes pertaining to that hearing, and (2) the tape recording of the hearing. It is further

ORDERED that the parties and their counsel are hereby directed to protect from disclosure the unredacted transcript and any sealed exhibits. Access to any materials placed under seal by the Court shall be limited to the parties and their legal counsel and their assistants. It is further

ORDERED that in the event any third party shall order from Capital Reporting Company a copy of the transcript of the hearing in this case, Capital Reporting Company shall not provide the unredacted transcript. It is further

ORDERED that, for purposes of facilitating the filing of properly redacted versions of the stipulation of facts (including exhibits) and the trial transcript, the parties shall at a mutually agreeable date and time, but no later than April 28, 2017, confer regarding the redactions to be made to those documents. Such redactions shall include the names, addresses, and any other identifying information of the

taxpayers to whom the whistleblower claim relates wherever such information appears. It is further

ORDERED that, on or before May 15, 2017, the parties shall file either: (1) a joint response to this Order in which the parties state that they have conferred as directed and have identified and agreed upon all redactions to be made to the documents referenced in the previous ordered paragraph, or (2) a status report concerning the then-current status of the parties' agreement as to redactions to the documents referenced in the previous ordered paragraph. It is further

ORDERED that, on or before May 15, 2017, petitioner shall file, as separate documents, redacted copies of the following unredacted documents previously filed by petitioner:

1. Petition;
2. Petitioner's Opening Brief; and
3. Petitioner's exhibits 22-P, 23-P, and 24-P

It is further

ORDERED that, on or before May 30, 2017, the parties shall jointly submit redacted copies of the following:

1. Trial Transcript; and
2. Stipulation of Facts (including exhibits)

That joint submission shall be accompanied by a stipulation, signed by the parties, affirming that the redacted documents were submitted jointly. It is further

ORDERED that any party or nonparty filing any document in this case following the issuance of this Order--where such document contains a name, address, or any other identifying information of the taxpayers to whom the whistleblower claim relates--shall file both a redacted version and an unredacted version of such document. The documents shall be clearly marked as "Unredacted" or "Redacted", as appropriate. The unredacted version shall be sealed and retained by the Court in a sealed file, be used solely for consideration by this Court for the purposes of this proceeding, and shall not be inspected by any person or entity except by an Order of the Court. The redacted version, which may be filed electronically, shall be in all respects a duplicate of the unredacted version, except that the party or nonparty filing such document shall redact, in a manner

consistent with the foregoing and with the provisions of the Tax Rules of Practice and Procedure, the names, addresses, and any other identifying information of the taxpayers to whom the whistleblower claim relates. Such redacted information shall be replaced with an **appropriate identifier**, which shall not be a numeral but rather a descriptive term (such as “Company X”, “Subsidiary Y”, “Process A”, “\$n dollars”, “Product 1”, and so forth). As much as possible, both parties shall use consistently the same identifiers in all filings. To the extent that the choice of an identifier may be controversial, the parties shall, before filing, attempt to resolve that controversy and choose a mutually agreeable identifier.

Any exhibit submitted with a filed document, if such exhibit does not contain confidential information, shall be included in both the redacted and the unredacted version of the filed document.

Any exhibit submitted with a filed document, if such exhibit does contain confidential information, shall in all events be included in unredacted form in only the unredacted version of the filed document; provided that any exhibit containing confidential information, but which may be redacted without losing its usefulness, shall be redacted and also included in the redacted version of the filed document. It is further

ORDERED that a party submitting a redacted document as described in the previous ordered paragraph shall submit a reference list identifying each item of redacted information and specifying the **appropriate identifier** (as defined in the previous ordered paragraph) that uniquely corresponds to each item listed. To the extent necessary, the parties shall accompany future filings with a supplemental reference list if new identifiers are used. Any reference in this case to a listed identifier will be construed to refer to the corresponding item of information. It is further

ORDERED that, in addition to regular service upon the parties, the Clerk of the Court shall serve a copy of this Order on Capital Reporting Company, 1250 Eye Street, N.W., Suite 350, Washington, D.C. 20005.

(Signed) Juan F. Vasquez
Judge

Dated: Washington, D.C.
April 14, 2017