

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 08-12082-GAO

UNITED STATES OF AMERICA,
Plaintiff,

v.

PAUL N. CROSSEN, VICKI CROSSEN, NATIONS RENT, NICKERSON LUMBER CO.,
ANTHONY R. PRIZZI, JR., and METAL BUILDING PRODUCTS, INC., d/b/a SPIRCO
MANUFACTURING,
Defendants.

ORDER
September 23, 2011

O'TOOLE, D.J.

After careful consideration of the matter, the Court declines to amend its July 18th Order. For the reasons pointed out by the government in its opposition to the original motion, Crossen's offer failed sufficiently to specify the offered amount. (See Mem. in Supp. of Mot. for Litigation Fees Ex. 1 (dkt. no. 50-1).) As a result, it did not amount to a "qualified offer," see 26 U.S.C. § 7430(g)(1)(B); 26 C.F.R. § 301.7430-7(c)(3), and an award of attorney's fees therefore would be inappropriate, see 26 U.S.C. § 7430(c)(4)(E). Furthermore, 26 U.S.C. § 7430(c)(4)(E)(i) merely clarifies when a party "prevails" under the general rule of § 7430(c)(4)(A)(i), and § 7430(c)(4)(B)(i) provides to this rule an exception where, as here, the government's position is substantially justified. For these two independent reasons, Crossen's Motion (dkt. no. 59) to Alter or Amend the Court's July 18th Denial is DENIED.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge