

FILED

OCT 30 2008

PATRICK E. DUFFY, CLERK
By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,) CV 07-54-H-DWM-RKS
)
Petitioner,)
)
vs.) ORDER
)
BRAD C. FISHER and JANET E. FISHER,)
)
Respondents.)
_____)

On September 13, 2007, the United States filed a Petition for judicial approval of an administrative levy by the Internal Revenue Service upon the principal residence of the Respondents to satisfy a federal income tax liability. United States Magistrate Judge Keith Strong issued a Notice of Hearing and Order to Show Cause to the Respondents on May 29, 2008. Respondents appeared on August 1, 2008, for purposes of joining in a motion to continue the hearing, which was granted. Respondents failed to attend the hearing, however, and Judge Strong issued Findings and Recommendations in this matter on October 8, 2008.

Judge Strong noted that the Respondents failed to file a written objection to the United States' Petition and, having

found all of the necessary prerequisites satisfied, recommended that the Court grant the United States' Petition and authorize the government to levy on the Respondents' residence.

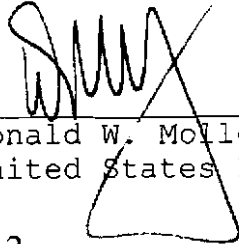
Respondents did not timely object and so have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I can find no clear error with Judge Strong's Findings and Recommendations and therefore adopt them in full.

Accordingly, IT IS HEREBY ORDERED that the United States' Petition for Judicial Approval of Levy Upon Principal Residence is GRANTED. The Internal Revenue Service is hereby authorized to levy upon Brad C. Fisher's and Janet E. Fisher's interest in the property located at 1205 LeGrande Cannon Boulevard, Helena, Montana 59601, to satisfy all or part of the unpaid tax liabilities for the taxable years 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004 and 2005, which may be executed by any authorized officer of the Internal Revenue Service.

DATED this 30th day of October, 2008. /



Donald W. Molloy, District Judge
United States District Court