

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

**DECISION
and ORDER**

v.

12-CV-6628T

JK PERIS, INC., JOHN PERIS,
and KATHY PERIS,

Defendants.

The United States of America, ("the government" or "the United States") on behalf of the Secretary of the Treasury, brings this action against defendants JK Peris, Inc., (the "Taxpayer") and John Peris, and Kathy Peris, as Officers of the Taxpayer, pursuant to 26U.S.C. §§ 7401 and 7402 claiming that the defendants have failed to pay federal and state employment taxes and unemployment taxes owed by the Taxpayer as required by state and federal law.

By Judgment dated January 29, 2013, I entered judgment in favor of the plaintiff in the amount of \$291,503.37, and ordered, inter alia, that defendants pay \$1,000.00 per month towards the judgment, and that defendants make timely income tax and withholding payments.

According to the government, the defendants, in violation of this Court's Order, failed to deposit any of the withheld FICA and income tax payment for the month of October 2013 (which were required to be deposited on or before November 15, 2013), and have failed to make all payroll tax deposits for the quarter ended

September 30, 2013. Plaintiff also contends that the defendants failed to remit required payments of \$1,000.00 per month for the months of October and November, 2013. As a result, the government now moves the Court for an Order of Contempt against the defendants, and, as a sanction, seeks incarceration of either John Peris or Kathy Peris, as corporate officers of defendant JK Peris, Inc., until such time as the defendants come into compliance with the Court's Order.

Defendants oppose plaintiff's motion, and represent to the Court that they have made the delinquent payments owed. The government has not controverted defendants' representations to the Court.

Based on the record before the Court, it appears that the delinquent payments owed by the defendants have been made. Accordingly, the government's motion for an Order of Contempt is denied at this time. The government may renew its motion for contempt should it become aware that defendants have failed to comply with this Court's December 17, 2012 Injunction Order.

ALL OF THE ABOVE IS SO ORDERED.

S/ Michael A. Telesca

MICHAEL A. TELESCA
United States District Judge

Dated: Rochester, New York
June 12, 2014