

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:15-MC-139-FDW-DCK**

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
v.)	ORDER
)	
TED A. MERRELL,)	
)	
Respondent.)	
_____)	

THIS MATTER IS BEFORE THE COURT on the Court’s “Order To Show Cause” (Document No. 2) filed in this matter on September 15, 2015. The Court conducted a hearing pertaining to this matter on October 15, 2015, which was attended by Mr. Merrell, the Respondent, who was not represented, and by Tiffany M. Mallory, Assistant United States Attorney, and Sharon Y. Cooke of the Internal Revenue Service, representing the Petitioner, the United States. For the reasons stated briefly herein, the Court continued the matter to a future date.

Revenue Officer Cooke is conducting an investigation into the collection of the civil penalties allegedly payable by Mr. Merrill for certain taxable periods set forth in the “Petition to Enforce Internal Revenue Service Summons” (Document No. 1). Revenue Officer Cooke caused the issuance of certain summonses to Mr. Merrell pertaining to this matter. (Document No. 1-1). When Mr. Merrell did not comply with the summonses, the United States sought, and the Court issued, the “Order to Show Cause” (Document No. 2).

At the hearing related to this show cause matter, the parties engaged in a productive exchange with the Court about the nature of the IRS proceeding and Mr. Merrill’s options. In the

end, the Court concluded that the fairest course was to allow Mr. Merrell a brief continuance of 30 days to allow him to consult with counsel about what options he might still have to challenge the alleged tax debt underlying the IRS collection effort, including the possible filing of a Form 843 “Claim For Refund and Request For Abatement.” The government, of course, reserves the right to continue its efforts to see that its summonses are satisfied.

IT IS, THEREFORE, ORDERED that this matter is continued to 2:00 p.m. on November 16, 2015.

As discussed at the October 15, 2015 hearing, Mr. Merrell is encouraged to consult with counsel if he so desires about his options in this matter. If he should so decide, nothing in this Order is intended to prevent Mr. Merrell from either satisfying the government’s summonses, filing Form 843, or both, prior to the November 16, 2015 continuation of the hearing in this matter.

SO ORDERED.

Signed: November 2, 2015



David C. Keesler
United States Magistrate Judge

