

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

WHISTLEBLOWER 11099-13W,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 11099-13W.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER**

We have before us four motions: Petitioner's motions to (1) compel production of documents (motion to compel production), (2) compel responses to interrogatories (motion to compel responses), and (4) impose sanctions. Respondent objects to each. We also have before us respondent's motion for extension of time to produce documents (motion for extension), to which petitioner does not object. On November 30, 2017, we held a hearing in which we heard arguments with respect to petitioner's motions and discussed certain other matters. The purpose of this Order is to memorialize our decisions with respect to the motions and certain other matters. It is, therefore:

ORDERED that with respect to petitioner's motion to compel production, so much is denied, in part, and so much is granted, in part, as herein stated below:

- (1) Petitioner's document request No. 1 is denied;
- (2) With respect to petitioner's document request No. 2, respondent shall identify and gather all documents not previously produced that satisfy document production request No. 2 and, on or before December 18, 2017, produce the documents to petitioner or, for any or all of those documents that respondent believes need not be produced because they are not within the proper scope of discovery, see Rule 70(b), Tax Court Rules of Practice or Procedure, or cannot be disclosed because of the provisions of I.R.C. sec. 6103, produce the

documents to the Court, for in camera review, along with a memorandum specifying why they should not be produced to petitioner. For documents claimed to be protected by section 6103, respondent shall inform the Court of why those documents differ from previously produced documents for which no section 6103 protection was asserted or for which the Court overruled any such claim.

(3) With respect to petitioner's document request No. 4, respondent shall, on or before December 18, 2017, produce to petitioner all drafts of IDRs referenced in an October 8, 2009, email authored by Mr. Miskiewicz and sent to Ms. Tran.

(4) With respect to petitioner's document request No. 6, respondent shall, on or before December 18, 2017, produce to petitioner all documents discussed therein.

(5) With respect to petitioner's document request No. 7, respondent shall, if he has any documents that satisfy the request and on or before December 18, 2017, produce to petitioner all such documents.

(6) Petitioner's document request No. 10 is denied.

(7) Petitioner's document request No. 11 is denied.

(8) With respect to petitioner's document request No. 13, respondent shall, if he has any documents that satisfy the request and on or before December 18, 2017, produce to petitioner all such documents. It is further

ORDERED that petitioner's motion to compel responses is granted in that, on or before December 18, 2017, respondent shall answer respondent's interrogatories Nos. 1 through 4. It is further

ORDERED that with respect to petitioner's motion to impose sanctions:

(1) The record with reference to petitioner's motion to impose sanctions filed May 5, 2017, is supplemented to include respondent's most recently produced IDRs, IDR B-443 and IDR B-486.

(2) Petitioner may redepose Ms. Tran, such deposition to take place prior to December 25, 2017.

(3) Respondent shall bear the cost and expenses associated with that deposition, including attorney's fees, upon application by motion by petitioner for reimbursement of such amounts.

(4) Petitioner's request to reset deadlines is granted and, by separate order, we have done so.

(5) Petitioner's request that we hold a hearing consider additional remedies is held in abeyance pending the Court's consideration of respondent's motion for summary judgment. It is further

ORDERED that the Court will schedule an evidentiary hearing at a Special Session of the Court scheduled to commence at 10:30 a.m., on **Wednesday, January 17, 2018**, in Tax Court (North) Courtroom, 3rd Floor, 400 Second Street, N.W., Washington, D.C. 20217. It is further

ORDERED that the motion for an extension is granted as set forth herein. It is further

ORDERED that the courtroom will be sealed to the general public for the above-referenced hearing on **Wednesday, January 17, 2018**. It is further

ORDERED that, in connection for the hearing set for January 17, 2018, each party shall file a prehearing memorandum, on or before **January 10, 2018**, containing the names and contact information for the parties and for the parties' counsel who will be attending the hearing referenced above. It is further

ORDERED that in regards to petitioner's motion for sanctions, on or before **January 10, 2018**, each party shall exchange documents and a list of witnesses. It is further

ORDERED that petitioner shall respond to respondent's motion for summary judgment, filed November 16, 2017, on or before **January 31, 2018**. It is further

ORDERED that respondent shall, if he wishes, respond to petitioner's response to his motion for summary judgment no later than **February 12, 2018**. It is further

ORDERED that the entire unredacted transcript of the above-referenced hearing will be sealed. On or before **February 14, 2018**, eScribers, LLC shall transmit to the chambers of Judge James S. Halpern for safekeeping in double-sealed envelopes clearly marked with the docket number of this case and bearing the legend "SEALED": (1) the transcript of the hearing, (2) the reporter's notes pertaining to the hearing, and (3) the tape recording of the hearing. It is further

ORDERED that the Clerk of the Court shall record the unredacted transcript of the hearing under seal, and the unredacted transcript will not be made part of the Court's public record in this case. 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 the parties, upon receipt of the unredacted transcript of the hearing, shall redact information identifying the petitioner and the taxpayer who is the subject of petitioner's whistleblower claim and petitioner's address from the transcript. It is further

ORDERED that on or before **March 14, 2018**, the parties shall file a joint report and attach thereto copies of the redacted transcript. The redacted copy of the transcript shall be clearly marked as "Redacted". It is further

ORDERED that in the event any third party shall order from eScribers, LLC a copy of the transcript of the hearing in this case, eScribers, LLC shall not provide the unredacted transcript. 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 eScribers, LLC, 7227 N. 16th Street, Suite 207, Phoenix, AZ 85020.

Only those persons listed in the parties' respective prehearing memoranda, Judicial Officers of the Court, employees and agents of the Court, the court

reporter, and those individuals authorized by the undersigned may be present in the courtroom.

This Order constitutes official notice of its contents to the parties.

**(Signed) James S. Halpern**  
**Judge**

Dated: Washington, D.C.  
December 13, 2017