

UNITED STATES TAX COURT
WASHINGTON, DC 20217

STEPHEN HOLLIS BRIGGS & PATRICIA)	
ANN BRIGGS,)	
)	
Petitioners,)	
)	
v.)	Docket No. 11940-12.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit with this order to both petitioners and respondent a copy of the pages of the transcript of the trial in this case that contain the oral findings of fact and opinion that was rendered at the trial session at Salt Lake City, Utah.

In accordance with the oral findings of fact and opinion, decision will be entered for respondent.

**(Signed) Ronald L. Buch
Judge**

Dated: Washington, D.C.
February 9, 2015

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1 Bench Opinion by Judge Ronald L. Buch
2 December 1, 2014
3 Stephen Hollis Briggs Docket No. 11940-12
4 Patricia Ann Briggs

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6 THE FOLLOWING REPRESENTS THE COURT'S ORAL
7 FINDINGS OF FACT AND OPINION. THESE FINDINGS OF FACT
8 AND OPINION MAY NOT BE RELIED ON AS PRECEDENT IN ANY
9 OTHER CASE, AND THIS OPINION IS IN CONFORMITY WITH
10 SECTION 7459(b) AND RULE 152(a).

11 FINDINGS OF FACT

12 Mr. and Mrs. Briggs filed a 2009 income tax
13 return. They mailed it on December 31, received by
14 the IRS on January 3rd, 2011. That return reported
15 zero tax liability, and included with it attached
16 substitutes for W-2 Form Number 4852.

17 Although they included those forms, as
18 they've stipulated in the stipulation of facts, they
19 did indeed receive compensation for services
20 provided. That compensation notwithstanding the
21 arguments presented by Petitioner is indeed income
22 subject to the income tax.

23 We have said and, in fact, the Ninth
24 Circuit has said, that we need not address frivolous
25 arguments, and I have attempted to do so on the

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1 record today, just to explain to Petitioners that
2 indeed their arguments are frivolous.

3 The Ninth Circuit has said in ^{Crain}~~Crane~~ versus
4 Commissioner, we perceive no need to refute frivolous
5 arguments with somber reasoning and copious citation
6 of precedent. To do so might suggest that these
7 arguments have some colorable merit. That's 737 F.
8 2d., 1417, and I apologize, that's Fifth Circuit,
9 1984.

10 And then in Wnuck versus Commissioner,
11 which I cited a moment ago to the Petitioner, we have
12 stated that it's doubtful whether tax jurisprudence
13 would be much advanced by issuing yet another opinion
14 affirming the obvious truisms of the tax law. That's
15 136 T.C. 498 at Page 511 in 2011.

16 The Commissioner bears the burden of
17 production on penalties. Here the Commissioner has
18 satisfied his burden by showing that the return was,
19 in fact, filed late, that the amount of the
20 deficiency exceeds the threshold amount for a
21 substantial understatement. Accordingly, Respondent
22 has met his burden on penalties.

23 And that brings us to the remaining issue
24 of sanctions under Section 6673, and I'm -- I'm a
25 little troubled here. We have a motion from

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1 Respondent. I don't need a motion on this. The
2 Court can on its own motion impose sanctions under
3 Section 6673 and I'm inclined to do so.

4 I can impose sanctions up to \$25,000. That
5 amount is out of proportion to the case, and I think
6 what I'd rather do is provide a -- I'll call it an
7 incentive to not pursuing frivolous arguments any
8 further.

9 Just to give you an idea of how frivolous
10 these arguments are, you have in your introductory
11 brief before the United States Tax Court, you focus
12 on the definition of an employee. Employee includes
13 an officer, employee or elected official of the
14 United States, and the definition goes on.

15 The term employee also includes an officer
16 of a corporation. Includes ^{does} not mean it excludes
17 other people. When you perform services for Christus
18 Health Utah, for example, you're an employee. And
19 the income tax applies to you.

20 And to read that definition as the word
21 "includes" meaning is limited to, "is" just does not
22 appear in there anywhere. And that appears to be the
23 reading Petitioners have given to it.

24 I can impose a sanction up to \$25,000.
25 Again, it's out of proportion to the magnitude of the

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1 case. Mr. and Mrs. Briggs, based on the amounts
2 reported, you also -- I don't want to impose a
3 sanction that would be an extraordinary burden. My
4 hope is to impose a small sanction and encourage you
5 not to pursue these kinds of arguments further. The
6 Courts of Appeal can and will impose higher
7 sanctions.

8 So I'm going to impose a 6673 penalty of
9 \$500, but again, it's a caution. If you come back
10 before our Court, the next time another Judge might
11 go for a higher amount, and if you take an appeal,
12 which you are welcome to do. You have the right to
13 appeal this opinion. But this is in all honesty,
14 this is intended as a friendly caution. If you take
15 an appeal, you run the substantial risk that a Court
16 of Appeals imposes an even higher sanction.

17 So I hope you take all of that into account
18 and hope you take a look at the Wnuck opinion. Mr.
19 Sorensen mentioned an opinion by the name of Waltner.
20 That happens to be an opinion that I wrote. That
21 opinion addresses many of the arguments that I see
22 not only in your introductory brief but also in the
23 document titled Motion to Take Judicial Notice. And
24 again, identifying those arguments as frivolous, so
25 with that ~~and~~ the Court will draft its decision. I

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1 don't think there's anything that needs a decision
2 under 155. Mr. Sorensen?

3 MR. SORENSEN: No, Your Honor.

4 THE COURT: Okay. So a decision document
5 will be forthcoming and my understanding is the main
6 entrance to the building is accessible for exiting,
7 even though we are now beyond hours.

8 So with that, Mr. Sorensen, any questions?

9 MR. SORENSEN: No, questions, Your Honor.

10 THE COURT: Mr. Briggs, any questions?

11 MR. BRIGGS: When can we expect a decision?

12 THE COURT: I expect that -- I'm guessing
13 here that the decision will be entered on Friday, and
14 then it will be mailed out probably -- we'll send it
15 out from Washington, D.C. It should go out on
16 Friday, so however long it takes the mail to get
17 here, so I suspect you'll get it sometime late next
18 week.

19 MR. BRIGGS: So there is no need for a
20 brief afterwards?

21 THE COURT: Absolutely no need for a brief.
22 Mr. Briggs, again, unfortunately most people that
23 present the arguments that you've been presenting
24 today have been told these arguments by someone else,
25 they've been led down this path, or I should say

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1 misled down this path, and it never ends well. My
2 hope is that you'll take my suggestions and not
3 continue down this path, because it has the potential
4 to lead to greater sanctions.

5 So with that, I think we are now done for
6 the day. Any further questions, Mr. Briggs or Mrs.
7 Briggs?

8 MR. BRIGGS: No, Your Honor.

9 THE COURT: So with that we'll just go off
10 the record. Nobody needs to get up when I get up.

11 (Whereupon, at 6:15 p.m., the above-
12 entitled matter was concluded.)

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