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UNITED STATES TAX COURT
Washington, DC 20217

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la [redacted] nr [redacted]

Petitioner,

Docket No. [redacted]

v.

Commissioner of Internal Revenue,

Respondent.

ORDER OF DISMISSAL FOR LACK OF JURISDICTION

On [redacted], 2008, petitioner filed a Motion To Restrain Assessment or Collection. Respondent filed a Response thereto on [redacted], 2008.

On [redacted], 2008, respondent also filed a Motion To Dismiss for Lack of Jursidiction on the ground that no notice of determination under I.R.C. 6320 or 6330 or other notice sufficient to confer jurisdiction on this Court was issued to petitioner with respect to taxable years 2001 and 2002. On [redacted], 2008, petitioner filed an Objection to the motion to dismiss; petitioner supplemented his objection on [redacted], 2008. In the objection, as supplemented, petitioner stated that he did not receive the notices of intent to levy that respondent alleged were mailed to his last known address on [redacted], 2006, for taxable year 2001, and on [redacted], 2006, for taxable year 2002.

By Order dated [redacted] 2008, the Court directed respondent to file a Supplement to the motion to dismiss and attach thereto copies of the notices of intent to levy mailed to petitioner for taxable years 2001 and 2002, as well as documentation or facts sufficient to support respondent's contention that notices of intent to levy were mailed to petitioner's last known address on [redacted], 2006, and [redacted], 2006. On [redacted] 2008, respondent filed a Supplement to the motion to dismiss in which respondent conceded that verification sufficient to establish that notices of intent to levy were properly mailed to petitioner's last known address for the taxable years in issue was not available. Accordingly, respondent indicated that the levy on petitioner's Social Security income would be released.

On [redacted] 2008, respondent filed a Status Report wherein respondent states that the levy against petitioner's Social Security income has been released and that the release occurred prior to the Social Security Administration making any payment to respondent. Respondent attached a Form 668-D, Release of Levy/Release of Property from Levy, to the status report. On [redacted] respondent also filed a Motion To Dismiss on Ground of

Mootness, and moves the Court to deny the motion to dismiss on lack of jurisdiction, as supplemented. However, because no notice of determination or other notice sufficient to confer jurisdiction on this Court was issued by respondent, this Court lacks jurisdiction. Accordingly, respondent's motion to dismiss on ground of mootness is not appropriate and will be denied.

Upon due consideration and for cause, it is

ORDERED that petitioner's Motion To Restrain Assessment or Collection is denied as moot. It is further

ORDERED that respondent's Motion To Dismiss on Ground of Mootness is denied. It is further

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction, as supplemented, is granted in that this case is dismissed for lack of jurisdiction on the ground that no valid notice of intent to levy was issued to petitioner.


Chief Judge

ENTERED:  2008