

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 JOHN J. PAPPERT,)
)
 Defendant,)
)
 and)
)
 GREAT PLAINS TELEVISION)
 NETWORK, LLC,)
 Garnishee.)
 _____)

Case No. 95-2236-CM-GLR

REPORT AND RECOMMENDATION

NOTICE

Within fourteen days after a party is served with a copy of this Report and Recommendation, that party may, pursuant to 28 U.S.C. § 636(b)(1), file written objections to the Report and Recommendation. A party must file any objections within the fourteen-day period allowed if that party wants to have appellate review of the proposed findings of fact, conclusions of law, or the recommended disposition. If no objections are timely filed, no appellate review will be allowed by any court.

REPORT AND PROPOSED FINDINGS

Now on this 7th day of March, 2013, comes on for hearing the Writ Of Continuing Garnishment, Doc. 48, filed by the United States against Defendant, John J. Pappert, and Garnishee-Defendant, Great Plains Television Network, LLC, and the Objections Of The United States To Answers Of The Garnishee Great Plains Television Network, LLC, Doc. 54 and 56. The United States appears by Robin Anderson and David Zimmerman, Assistant United States Attorneys, District of Kansas. The Defendant, John J. Pappert, appears by telephone. The Garnishee, Great Plains Television Network, LLC, does not appear.

I. Background

The United States filed the Application For Writ Of Continuing Garnishment against Garnishee-Defendant Great Plains Television Network, LLC. with this Court on November 27, 2012, (Doc. 47). The Writ Of Continuing Garnishment was entered on November 27, 2012, (Doc. 48). The Writ Of Continuing Garnishment was mailed to the Garnishee-Defendant by certified mail on November 27, 2012, but no response was received by the United States. The United States re-mailed the Writ Of Continuing Garnishment to the Garnishee-Defendant by certified mail on December 26, 2012. The certified mail receipt green card was returned to the United States signed with the date of delivery of December 28, 2012.

Defendant, John J. Pappert, filed a Motion for a Ten Day Extension to Respond to the ‘Claim for Exemption Form Major Exemptions Under Federal Law’ on January 11, 2013, (Doc. 50). An order was filed January 16, 2013, granting defendant Pappert’s Motion for a Ten Day Extension to Respond to the ‘Claim for Exemption Form Major Exemptions Under Federal Law’, (Doc. 52). Defendant Pappert did not file a response or request a hearing and the time to do so has expired.

Garnishee-Defendant filed two answers with the Court filed January 11, 2013, and January 22, 2013, (Doc. 51 and 53, respectively). The United States filed its objection to these answers on January 23, 2013, (Doc. 54). Garnishee-Defendant, Great Plains Television Network, LLC, submitted a third Answer to the United States which was received on February 8, 2013. This answer was filed on February 7, 2013, (Doc. 57). The United States filed its objection to the amended answer asserting it was defective for the following reasons:

- a. The purported amended answer states that as required by law, it is answering in writing, under oath, within the 10 days specified, while the return of the certified mail receipt states the date of delivery was December 28, 2012.
- b. The purported amended answer states that in the month of January 2013, John Pappert was paid two (2) payments of \$250.00 each for a total of \$500.00, and no deductions were withheld from these payments.
- c. The purported amended answer states that all future payments to the defendant John Pappert will be bi-weekly checks with withholdings, but does not provide any evidence of change of employment terms of defendant Pappert to justify the change in contract/wage payments.

The Garnishee-Defendant, employer, Great Plains Television Network, LLC, paid defendant Pappert the sum of \$750.00 as a contract employee after being served with the Writ of Continuing Garnishment which should be paid over to the United States.

II. Discussion and Recommendation

The Garnishee-Defendant, employer, Great Plains Television Network, LLC, shall pay over the sum of \$750.00 to the United States, as this is the total sum paid to Defendant Pappert after it received service of the Writ Of Continuing Garnishment.

Payment shall be made payable to the Department of Justice and mailed to the Office of the United States Attorney at 444 SE Quincy, Room 290, Topeka, Kansas 66683, Attn: Financial Litigation Unit.

The remaining objection of the United States, that the employer should provide evidence of the change of employment terms of defendant Pappert to the United States, shall be briefed by the parties. The United States' brief is due within thirty days from the date of this hearing, Defendant Pappert has fifteen days after service of the United States' brief to file and serve a response, and the United States has an additional fifteen days to file and serve a reply brief.

IT IS SO ORDERED.

Dated: April 3, 2013 at Kansas City, Kansas.

S/Gerald L. Rushfelt
GERALD L. RUSHFELT
U.S. Magistrate Judge