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THE STATE OF SOUTH CAROLINA In the Court of Appeals.

JAN 27 2016

APPEAL FROM THE ADMINISTRATIVE LAW COURT, ~~RSC~~ Court of Appeals

Anderson III, Judge Case No: ALJ-22-0138-AP

Diana Jordan, Appellant

Appellate Case # 2015-CO1913

(SCDEW)

South Carolina Department of

January 13, 2016

Employment & Workforce, Respondent

MOTION THAT ALL TIME REQUIREMENTS AND DEADLINES
BE HELD IN ABEYANCE PENDING SCDEW'S REVERSAL OF
THEIR ASSESSMENT OF OVERPAYMENT BASED ON FRAUD,
which is the basis of this appeal.

HISTORY

- 1) SCDEW had an ORDER RELEASING TAX INFORMATION for the July 2014 hearing but chose not to include Diana Jordan's wage and tax forms (W2's)
- 2) On 10/11/15 SCDEW sent Appellant a NOTICE OF ACTION REGARDING FEDERAL INCOME TAX RETURNS which allowed the submission of evidence for sixty days.
- 3) On 11/25/15 Diana Jordan timely submitted forms W2 for 2012, 2011, 2008, 2007, 2005 and Social Security record with contributions back to 2002 visible, to BPCollections@deu.sc.gov
- 4) The amounts reported to Social Security and the Internal Revenue Service are exactly the same as what was reported to SCDEW and exonerate Diana Jordan of fraud and overpayment.
- 5) On 12/21/15 the South Carolina Court of Appeals (SCCOA) dismissed the case for failure to file an initial brief and designation of matter.
- 6) SCDEW's letter dated 12/15/15 provided proof of timely

filing on 12/9/15 of Appellants Motion to Enlarge Record on Appeal, which requested that all time requirements and deadlines be held in abeyance pending resolution of the motion.

7) The SCCOA does not rule on Motions for concluded cases as evidenced by the ORDER filed 12/11/15 declining to rule on Appellants Motion to Enlarge the record on Appeal. Therefore the 11/7/16 ORDER denying Motion to Stay, is evidence the appeal was continued.

8) The Respondents Return in Opposition to Appellant's "Response Order" dated 11/8/16 has no merit. The SCCOA assigned the case because the Administrative Law Judge did commit an error as a matter of law. The SCDEW themselves provided cause to reinstate the case, noted in #6 above.

9) On 11/21/16 Appellant filed a Motion for Extension of Time.

DISCUSSION

To date the appeal has not concluded. The SCDEW offered an opportunity to submit evidence, which Appellant did in a timely manner, according to SCDEW rules. The agency needs to reverse their assessment of fraud and overpayment.

CONCLUSION

Appellant has shown just cause and respectfully requests that the Court grant the Motion, and that all time requirements and deadlines be held in abeyance pending resolution of this motion.

Respectfully Submitted,

Diana A. Jordan, Appellant

104 Woodglen Lane

Chapin, SC 29036

(803) 733-1762

January 13, 2016

Attachments Proof of Service.

4. Such tax information retains its confidential nature under § 12-54-240 once produced to the Department, in part because the tax information contains sensitive information such as social security numbers and tax identification numbers.

5. Upon issuance of a proper judicial order, § 12-54-240 permits the Department to disclose necessary confidential tax information to a third party (i.e. Claimant).

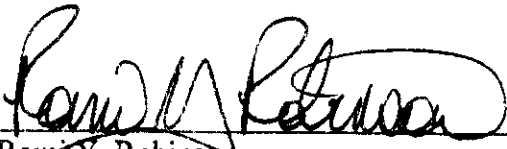
6. As this tax information and SCDOR employee testimony are a crucial and non-severable part of the Department's case against Claimant, the Tribunal finds that it is necessary and proper for the Claimant to have the right to inspect such tax documents and hear/receive such testimony.

THEREFORE, IT IS HEREBY ORDERED that the Department must redact all social security and tax identification information contained on the requested tax documents.

IT IS FURTHER ORDERED that the Department should allow Claimant to inspect these redacted documents prior to the hearing, *however, Claimant may not make any disclosure of confidential tax information without proper authorization.*

IT IS FURTHER ORDERED that designated employees with SCDOR shall be requested, via subpoena pursuant to § 12-54-240(B)(11), to provide testimony and/or written affidavits regarding the tax information found relevant to the above captioned matter.

IT IS SO ORDERED.



Romi Y. Robinson
Chief Administrative Hearing Officer

July 11, 2014
Columbia, South Carolina



PO Box 995
1550 Gadsden Street
Columbia, SC 29202
www.dew.sc.gov

NOTICE OF ACTION REGARDING FEDERAL INCOME TAX RETURN(S)

DIANA JORDAN
104 WOODGLEN LN
CHAPIN SC 29036-7514

UI-7

Date Mailed: 10/01/2015
SSN: XXX-XX-3789

This Notice is to inform you of an existing overpayment balance owed to the South Carolina Department of Employment and Workforce (DEW) and that DEW is authorized to collect the debt through the Treasury Offset Program (TOP).

Outstanding Balance Due: \$53,577.00

DEW records indicate that you owe an outstanding debt to DEW resulting from the payment of unemployment insurance benefits that you were not entitled to receive. The Federal Program Integrity Act of 2008 permits DEW to participate in TOP which allows it to intercept **Federal Income Tax Returns** to offset certain debts owed to DEW. See S.C. Code Ann. § 41-41-40(A)(4). These debts include fraud overpayments and overpayments resulting from conflicts between wages earned for the week claimed and those wages actually reported.

Therefore, any **Federal Income Tax Return** due payable to you, up to and including the amount of your debt balance, will be intercepted through TOP.

If you believe that all or a part of the debt is not past due or not legally enforceable, you may send documentation to support your position to P.O. Box 2644, Columbia, SC 29202 or email BPCCollections@dew.sc.gov. This documentation must be sent within sixty (60) days of the mailing date of this notice in order for DEW to consider the evidence.

NOTE: This opportunity to present evidence is not a review of the initial determination establishing the overpayment or other liability; instead, it is a final opportunity to ensure the current amount of the debt and that it is legally collectible.

Bankruptcy: If you have filed for bankruptcy and the automatic stay is in effect, you are not subject to offset while the stay is in effect. HOWEVER, be aware that fraudulently obtained unemployment insurance benefits are not dischargeable under bankruptcy law, and DEW will exercise its right to move the Court to declare the debt collectible. It is in your best interest to discuss this matter with an attorney.

Before we submit your debt to TOP, you may:

- Pay the debt in full or enter into an acceptable repayment agreement.
- Request copies of the documentation related to your debt.

If you have any questions regarding this Notice, you may contact a FIRE Collections Specialist at (803) 737-2490, Option #2. If you have paid the debt in full, please disregard this notice.

Compose Delete Reply Reply All Forward Actions Apply Previous

- Inbox (2523)
- Drafts (56)
- Sent
- Spam [Empty]
- Trash (20) [Empty]
- My Folders [Edit]

Oppenhei... See How We Invest in a Be...
 Sponsored We understand the

Diana Jordan SSN: XXX-XX-Wednesday, November 25, 2015 6:58 PM
3789 Balance Due \$53,577.0

0
 From: "d b jordan" <dbjordan2000@yahoo.com>
 To: BPCCollections@dew.sc.gov

Full Headers Printable View

8 Files 5 MB Download All
 JPG 781KB JPG 740KB JPG 838KB JPG 587KB JPG 554KB JPG 542KB

Save Save Save Save Save Save
 JPC 535KB JPG 524KB

Save Save

The debt is not legally enforceable. The over payment is under appeal at the South Carolina Court of Appeals. I have attached a copy of my Social Security (SS) record with the contributions back to 2002 visible. The amounts reported to SS corroborate the amounts reported to SCDEW. Also, I have attached copies of my W2's for 2012, 2011, 2008, 2007 and 2005 which is the IRS's document retention time. The amounts reported to the IRS also match the amounts reported to SCDEW. Diana Jordan, 104 Woodglen Lane, Chapin, SC 29036.

Sponsored

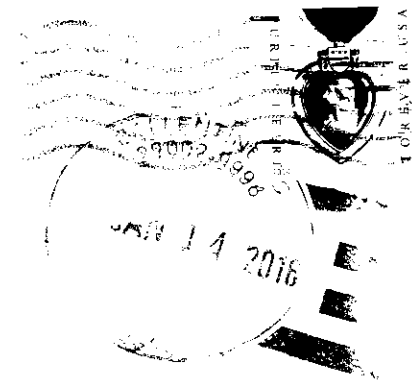
 Answers
 Surprising Things About the Dick Van Dyke Show

Dec 2nd
 Christmas
 3rd Annual
 25th Annivers
 Comm House
 Christmas To
 For mo



Ms Diana Jordan
104 Woodglen Ln
Chapin SC 29036

POSTAGE WILL BE PAID BY ADDRESSEE
FIRST CLASS PERMIT NO. 5111 COLUMBIA, SC



RECEIVED

JAN 27 2016

SC Court of Appeals

H. Bruce Williams
418 Shandon Street
Columbia, SC 29205

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