

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

INFORMATION SYSTEMS AND)	
NETWORKS CORPORATION,)	
)	
Plaintiff,)	Case No. 1:14-cv-2019-RJL
)	
v.)	
)	
INTERNAL REVENUE SERVICE,)	
)	
and)	
)	
JOHN A. KOSKINEN, in his official)	
capacity as Commissioner of Internal)	
Revenue,)	
)	
Defendants.)	
_____)	

MOTION TO DISMISS

In this action, Plaintiff is seeking relief under the Administrative Procedures Act action, because it contends that the Internal Revenue Service arbitrarily refused to meaningfully consider or rule upon its submission under the Internal Revenue Service’s Voluntary Correction Program of the Employee Plans Compliance Resolution System. Plaintiff asks the Court to set aside the Defendants’ alleged refusal to consider its Voluntary Correction Program Submission under 5 U.S.C. § 706(2), and issue any writs necessary to compel the Defendants to perform neglected or unlawfully unperformed duties with respect to said submission.

The Defendants Internal Revenue Service John A. Koskinen, in his official capacity as Commissioner of Internal Revenue, hereby moves to dismiss the complaint because Plaintiff lacks standing, and its claims are barred by the Anti-Injunction and Declaratory Judgment Acts. Additionally, the Defendant moves to dismiss the complaint because there has been no final

agency action, and the agency action at issue has been committed to the discretion of the Internal Revenue Service.

The grounds for this motion are set forth in the attached memorandum of law, and a proposed order is attached.

Dated: February 18, 2015

CAROLINE D. CIRAOLO
Principal Deputy Assistant Attorney General

/s/ Melissa L. Dickey
MELISSA L. DICKEY
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 227
Washington, DC 20044
Fax: (202) 514-6866
Telephone: (202) 616-1920
Email: melissa.l.dickey@usdoj.gov

CERTIFICATE OF SERVICE

I certify that the foregoing MOTION TO DISMISS and supporting documents was filed with the clerk of the court on February 18, 2015, using the CM/ECF system which will send notification of such filing to parties appearing in said system, including the following:

Counsel for the Plaintiffs:

Brian D. Netter
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006

/s/Melissa L. Dickey
MELISSA L. DICKEY