

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

HARRY SANDERS,

Defendant.

Civil Action No. 08-683 (CKK)

MEMORANDUM OPINION
(December 2, 2008)

Presently before the Court is Plaintiff United States of America's [11] Motion for Default Judgment. The United States filed this case on April 21, 2008. Defendant Harry Sanders executed a waiver of service sent on July 15, 2008, which required Sanders to file an answer on or before September 15, 2008. *See* Waiver of Service at 1 (Aug. 29, 2008), Docket No. [5]; Fed. R. Civ. P. 12(a)(1)(A)(ii). Sanders failed to file an answer or otherwise respond to the United States' Complaint.

The United States filed a Motion to have the Clerk enter a default against Sanders on October 27, 2008. The Motion was accompanied by a declaration, as amended, stating that Sanders "is neither an infant nor incompetent," and that he "is not in the military within the purview of the Servicemembers Civil Relief Act." Amend. Decl. of D. Barton ¶¶ 6,7 (Oct. 29, 2008), Docket No. [9]. The Clerk of the Court entered a default against Sanders on November 19, 2008.

The United States' Motion for Default Judgment is supported by the declaration of Robert J. Kavaliauskas, a Revenue Officer Advisor for the Internal Revenue Service in Cape

Girardeau, Missouri. *See* Pl.'s Mot., Ex. 1 ¶ 1 (Decl. of R. Kavaliauskas). Mr. Kavaliauskas indicates that he is familiar with the facts giving rise to this case. *Id.*

Mr. Kavaliauskas's declaration establishes that on or about April 24, 2006, the Internal Revenue Service issued a refund to Sanders in the amount of \$202,772.46, but that Sanders was not entitled to \$201,609.46 of the refund amount. *Id.* ¶¶ 2, 3. On or about May 17, 2007, Sanders returned \$100,000 of the erroneous refund amount to the Internal Revenue Service but has failed to repay the remainder of the erroneous refund amount. *Id.* ¶¶ 4, 5. As a result, Sanders is indebted to the United States, as of October 15, 2008, for the sum certain amount of \$127,115.54, plus statutory interest.

Based on the foregoing procedural history and factual record, the Court finds that the United States has met all necessary preconditions to obtain a default judgment against Sanders and that a default judgment is appropriate on this record. Accordingly, the Court shall GRANT Plaintiff's [11] Motion for Default Judgment. An appropriate Order shall issue with this Memorandum Opinion.

Date: December 2, 2008

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge