

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

S. CROW COLLATERAL
CORPORATION,

Petitioner,
vs.

UNITED STATES OF AMERICA;

Respondent.

Case No. 1:17-mc-09805-EJL-REB

**MEMORANDUM DECISION AND
ORDER**

INTRODUCTION

On October 16, 2017, United States Magistrate Ronald E. Bush issued a Report and Recommendation (“Report”), recommending that Respondent’s Motion to Dismiss (Dkt. 10) be granted. (Dkt. 12.) Any party may challenge the Magistrate Judge’s proposed recommendation by filing written objections within fourteen days after being served with a copy of the Report. 28 U.S.C. § 636(b)(1)(C).

Where the parties object to a report and recommendation, this Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* Where, however, no objections are filed the district court need not conduct a *de novo* review. “When no objection is filed, the Court need only satisfy itself that there is no clear error on the fact of the record in

order to accept the recommendation.” Advisory Committee Notes to Fed. R. Civ. P. 72

(citing *Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974.))

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge.”

In this case, no objections were filed, therefore the Court reviewed the Report and record for clear error. The Court finds as follows.

DISCUSSION

On July 5, 2017, Petitioner S. Crow Collateral Corporation filed a Petition to Quash a Summons issued by the Internal Revenue Service. (Dkt. 1.)

On August 16, 2017, Respondent moved to dismiss this proceeding under Federal Rule of Civil Procedure 12(b)(1), specifically arguing that no case or controversy existed as the summons at issue had been withdrawn by the Internal Revenue Service. (Dkt. 10.)

On September 5, 2017, Petitioner responded that it did not object to Respondent’s Motion to Dismiss, but was not “waiv[ing] any rights to seek reasonable litigation costs under 26 U.S.C. § 7430 associated with this action as part of any other matter with which this action could have been joined or consolidated.” (Dkt. 11.)

The Report recommended the Respondent’s Motion to Dismiss be granted and the action dismissed. The Court agrees.

After reviewing the Report and record for clear error, the Court agrees with the Report’s recommendation in whole and adopts the same as its own. For the reasons stated in the Report, the Motion to Dismiss is granted.

ORDER

IT IS HEREBY ORDERED that Respondent's Motion to Dismiss (Dkt. 10) is **GRANTED** and the action is **DISMISSED**.



DATED: December 13, 2017

A handwritten signature in black ink that reads "Edward J. Lodge".

Edward J. Lodge

United States District Judge