

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

In re:)	Case No. 20-11512
)	Chapter 13
BRENDA BOWMAN,)	Judge Meredith S. Grabill
)	
Debtor.)	
_____)	

**UNITED STATES OF AMERICA’S RESPONSE IN OPPOSITION TO
BRENDA BOWMAN’S MOTION FOR SUMMARY JUDGMENT**

The United States of America, under Federal Rules of Bankruptcy Procedure 9014(c) and 7056, Federal Rule of Civil Procedure 56, and Local Rule 7056-1, responds in opposition to Brenda Bowman’s Motion for Summary Judgment (the “Motion”) on her request for innocent spouse relief. Bowman initiated this contested matter when she objected to the Internal Revenue Service’s Proof of Claim in her Chapter 13 bankruptcy proceeding, alleging that the IRS improperly denied her request for innocent spouse relief under 26 U.S.C. § 6015(f).

Bowman’s Motion fails to establish that there exists no genuine dispute as to any material and that she is entitled to judgment as a matter of law. The United States submits its Response in Opposition to Bowman’s Motion for Summary Judgment, its Statement of Disputed Facts, and its Response and Objections to Bowman’s Statement of Undisputed Facts.

MEMORANDUM OF LAW

I. INTRODUCTION

From 2009 to 2013, Brenda Bowman and her late husband, William Bowman, failed to file their joint federal income tax returns, accumulating more than \$500,000 of tax debt. Years later, after her husband’s death, she wishes to escape her tax obligations, asking this Court to grant her relief under the innocent spouse statute, 26 U.S.C. § 6015. She claims that she learned of her unfiled taxes and unpaid liabilities late in 2014 and could not have learned of those facts

sooner due to her husband’s alleged abusive behavior, alcoholism, and gambling addiction. She further claims that she had no control over her household finances, despite contrary evidence. She also alleges that she received no significant benefit from her unpaid taxes, that she complied with her tax obligations after learning of her unfiled returns, and that her purported severe mental health issues precluded her from resolving these tax issues when she apparently learned of them in 2014. However, the evidence is to the contrary: she benefited from the funds on which tax went unpaid, she did not take reasonable steps to resolve her liabilities, and any mental health issues were not so severe as to excuse her from taking those steps. For the forthcoming reasons, this Court should deny Bowman’s Motion for Summary Judgment.¹

II. ARGUMENT

Courts grant summary judgment when “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Atkins v. Salazar*, 677 F.3d 667, 678 (5th Cir. 2011) (quoting Fed. R. Civ. P. 56(a)). When deciding a motion for summary judgment, courts “consider the facts and evidence presented in the light most favorable to the non-moving party.” *Atkins*, 677 F.3d at 678.

Bowman is asking the Court to relieve her of federal tax liabilities she admittedly owes because—she claims—the equities demand it. She is also asking the Court to do so without hearing her testimony or getting a full factual picture. Since Bowman filed her Motion, the United States has deposed her as well as her treating physician, Dr. Mark Walker, and has

¹ The United States’ filed its Motion to Dismiss Bowman’s bankruptcy which is pending until this Court decides whether Bowman is entitled to innocent spouse relief. *See* US Mot. Dismiss, ECF No. 30.

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obtained documents from the IRS and Martin and Pellegrin CPAs, P.C. (“Martin and Pellegrin”).² Weighing these facts in the light most favorable to the United States, there is ample basis for the Court to deny Bowman’s request for innocent spouse relief. *See generally* U.S. Statement of Disputed Facts (“SOF”). The Court should deny Bowman’s motion and set this matter for trial.

A. Innocent Spouse Relief Requires the Requesting Spouse to Show that It Would Be Inequitable To Hold Her Liable for a Debt She Owes

Spouses who file joint tax returns are generally jointly and severally liable for those tax liabilities, notwithstanding the source of income or any disparity of financial information between the spouses. *Cheshire v. Comm’r*, 282 F.3d 326, 331 (5th Cir. 2002) (citing 26 U.S.C. § 6013 (d)(3)); *Reser v. Comm’r*, 112 F.3d 1258, 1262 (5th Cir. 1997); *Sonnenborn v. Comm’r*, 57 T.C. 373, 381 (1971). Under 26 U.S.C. § 6015(f), however, a spouse may obtain innocent spouse relief from such liability if she can establish that considering “all the facts and circumstances, it is inequitable to hold [her] liable for any unpaid tax.” *Haggerty v. Comm’r*, 505 F. App’x 335, 337 (5th Cir. 2013).³

The taxpayer bears the burden of proving that she is entitled to innocent spouse relief under a *de novo* standard of review. *Cheshire*, 282 F.3d at 332; *Reser*, 112 F.3d at 1262; *Stanwyck v. Comm’r*, 2012 T.C.M. (CCH) LEXIS 181, at *8 (2012); *see also* *Wilson v. Comm’r*,

² Martin and Pellegrin prepared Brenda and William Bowman’s late tax returns for the tax years 2006-2008 in 2010. *See* SOF ¶ 13.

³ Relief under § 6015(f) is available only if relief is unavailable under § 6015(b) or (c) and the spouse requests relief before the expiration of the limitation period under 26 U.S.C. § 6502. *See* 26 U.S.C. § 6015(f)(1)(B), (2)(A). Bowman meets these criteria.

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705 F.3d 980, 987 (9th Cir. 2013) (acknowledging that the Tax Court established that it proceeds *de novo* when reviewing § 6015(f) claims); *Comm’r v. Neal*, 557 F.3d 1262, 1264 (11th Cir. 2009) (holding that the Tax Court did not err in conducting a *de novo* trial under § 6015).

Revenue Procedure 2013-34 informs this Court’s determination as to the innocent spouse relief inquiry. *Francel v. Comm’r*, T.C.M. (CCH) LEXIS 36, at *48 (Apr. 10, 2019); *see also Haggerty*, 505 F. App’x at 337.⁴ It sets forth a three-step procedure for evaluating requests for innocent spouse relief. First, it lists “seven threshold requirements that a requesting spouse must satisfy to be eligible for relief.” *Rogers v. Comm’r*, T.C.M. (CCH) LEXIS 26, at *13-14 (Feb. 22, 2021). Next, it provides “a three-part test for a streamlined determination to grant relief.” *Id.* Finally, if the taxpayer is not entitled to a streamlined determination, Revenue Procedure 2013-34 provides a nonexclusive list of factors to consider in determining whether to grant innocent spouse relief. *Id.* The United States has outstanding discovery to further investigate whether Bowman meets the threshold requirements. The Court need not determine now whether she meets the threshold requirements because, even assuming she does, the facts suggest she is not entitled to either streamlined or general equitable relief.

B. Bowman is not entitled to a streamlined determination granting innocent spouse relief under Revenue Procedure 2013-34, Section 4.02

To qualify for a streamlined determination under Section 4.02, Bowman must establish that she (1) is no longer married to William Bowman, (2) “will suffer economic hardship” if the Court denies relief, and (3) did not know or have reason to know that her husband would not or

⁴ *Haggerty* applied the 2003 version of the 26 U.S.C. § 6015(f) Revenue Procedure which was superseded by Revenue Procedure 2013-34.

could not pay the tax reported on the joint return. *Rogers v. Comm'r*, T.C.M. (CCH) LEXIS 26, at *14 (2021); *Neitzer v. Comm'r*, T.C.M. (CCH) LEXIS 157, at *12 (Sept. 19, 2018).

Bowman failed to prove that she was entitled to a streamlined determination granting innocent spouse relief for two reasons. First, she will not suffer economic hardship, as defined under Revenue Procedure 2013-34, if this Court denies her request for innocent spouse relief. Second, she knew or had reason to know that William Bowman would not or could not pay the underpayment of tax liabilities reported on their joint income tax returns. Moreover, she failed to prove any alleged abuse or financial control that, if true, warrants this Court to disregard her knowledge or reason to know that her husband would not or could not pay the tax reported on their joint returns.

1. Bowman will not suffer an economic hardship if this Court denies her request for innocent spouse relief

Bowman will not suffer economic hardship if she is held liable for the taxes owed on her 2009-2013 joint returns because she can still pay reasonable basic living expenses. *See Haggerty*, 505 F. App'x at 338; *Comm'r v. Neal*, 557 F.3d 1262, 1278 (11th Cir. 2009); Rev. Proc. 2013-34, Sec. 4.03(b). Section 4.03(2)(b)⁵ provides instruction to compare Bowman's current income to the Federal poverty guidelines in determining by how much her monthly income exceeds her reasonable basic monthly living expenses. This factor weighs in favor of relief only if Bowman's income falls below 250% of the Federal poverty guidelines or if Bowman's monthly income exceeds her monthly expenses by \$300 or less. Rev. Proc. 2013-34, Sec. 4.03(b).

⁵ Section 4.02(2) directs the Commissioner to Section 4.03(2)(b).

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Bowman's income far exceeds 250% of the applicable Federal poverty level in Louisiana. Bowman earns an annual income of \$92,253.48,⁶ while 250% of the Federal poverty level is \$32,200. This factor does not support relief because Bowman's monthly income exceeds her monthly expenses of \$3,166 by \$2,300.29. *See* Bowman Sch. J at 2, ECF No. 11; Bowman Proposed Ch. 13 Plan at 2, ECF No. 21.

Indeed, Bowman is in a better position than the requesting spouse in *Haggerty*. In that case, the requesting spouse argued that she would suffer economic hardship if the court denied relief because her monthly income exceeded her monthly expenses by only \$1,500, her future wages were at risk of decreasing, and paying her liabilities would require her to enter into an installment agreement or borrow against the equity in her home. 505 F. App'x at 338. The Fifth Circuit declined the taxpayer's argument "in light of the fact that this factor applies if satisfaction of the tax 'in whole or in part will cause an individual taxpayer to be unable to pay his or her reasonable basic living expenses.'" *Id.* (quoting Rev. Proc. 2013-34, Sec. 4.03(b)). The court explained that there was "nothing to suggest [the requesting spouse] could not at least make periodic monthly payments to decrease her tax liability." *Id.* Bowman makes more money than the requesting spouse in *Haggerty*. She retains \$2,300 per month after expenses, while the requesting spouse in *Haggerty* only retained \$1,500, thereby placing her in a better position to make period payments to reduce her delinquent tax liabilities.

And like the requesting spouse in *Haggerty*, Bowman holds \$80,100 in equity in her home that she can use to satisfy at least a portion of her tax liabilities. *See id.* Bowman Sch. A/B

⁶ Bowman's bankruptcy schedules reflect her monthly income of \$5,466.29, or \$65,595.48 annually, as a claims manager at Laris Insurance Agency, and monthly social security income of \$2,221.50, or \$26,658 annually. *See* Bowman Ch. 13 Pet. at 8, ECF No. 1; Bowman Sch. I at 1-2, ECF No. 10.

at 1, ECF No. 4; Bowman Sch. D, ECF No. 6; Rev. Proc. 2013-34, Sec. 4.03(2)(b) (instructing that determination of the economic hardship factor includes consideration of the requesting spouse's assets).

2. Bowman knew or had reason to know that her husband would not or could not pay the underpayment of taxes reported on their tax returns

This factor weighs against relief because when Bowman signed the 2009-2013 tax returns, she knew or had reason to know that her husband would not or could not pay the taxes reported on their 2009-2013 joint returns. *See Haggerty*, 505 F. App'x at 338; Rev. Proc. 2013-34, Sec. 4.03(2)(c)(ii), (iii).⁷ Also, Martin and Pellegrin's case file for the preparation of the couple's 2008 tax return indicates that Bowman knew that the couple's 2009 return was not filed as of November 2010. *See* SOF ¶ 8. At best, Bowman's knowledge of William's gambling habits and the couple's 2006-2008 tax issues in 2010 made it unreasonable to expect that her husband would pay their tax liabilities when they were filed or within a reasonable period of time after they were filed. *See* Rev. Proc. 2013-34, Sec. 4.03(2)(c)(ii). Bowman learned of the unfiled returns and unpaid taxes in mid-2014 and sadly expected her husband's imminent death in late-2014 or early-2015, yet she claims that she expected him to resolve their outstanding tax liabilities despite the return of his late-stage cancer. *See* SOF ¶¶ 2-4; Bowman Mot. ¶¶ 4-5.

When Bowman signed the tax returns on January 20, 2015, she was charged with constructive knowledge of their contents.⁸ *See Jardín De Las Catalinas Ltd. P'ship v. Joyner*, 766 F.3d 127, 134 (1st Cir. 2014); *Greer v. Comm'r*, 595 F.3d 338, 347 n.4 (6th Cir. 2010);

⁷ Section 4.02(3)(a) directs the Commissioner to Section 4.03(2)(c)(ii) in underpayment cases.

⁸ Despite the date hand-written on the 2011-2013 joint tax returns, Bowman testified at her deposition that she could not recall when she signed her 2009-2013 tax returns. *See* Bowman Dep. 44:9-20, SOF, Ex. 1.

George v. Comm'r, T.C.M. (CCH) LEXIS 275, at *9 (Nov. 16, 2004); SOF ¶ 4. Bowman could not remain blind to her tax duties – she had a duty to inquire about her outstanding liabilities. *See Sleeth v. Comm'r*, T.C.M. (CCH) LEXIS 143, at *12 (Oct. 15, 2019) (“Innocent spouse relief is not available to those who choose to ignore information in their possession.”); *Feldman v. Comm'r*, T.C.M. (CCH) LEXIS 202, at *15 (July 10, 2003) (citing *Price v. Comm'r*, 887 F. 2d 959, 965 (9th Cir. 1989)). Further, although she alleges that she only signed the returns because she thought she was obligated to file a joint return, that was not true—she filed her 2006 and 2007 returns as “Single” while married to William, she could have filed a separate return, and, in any event, she cannot “rely on ignorance of law as a defense.” *See Hayman v. Comm'r*, 992 F.2d 1256, 1262 (2d Cir. 1993) (citing *Price*, 887 F. 2d at 964) (internal quotations omitted); Bowman Mot., Form 8857, Request for Innocent Spouse Relief at 2, Ex. 2; SOF ¶ 7.

Moreover, years before she signed the returns, Bowman believed her husband had a gambling problem, and she knew that she and her husband had prior issues with the IRS regarding unfiled tax returns and delinquent tax debts. *See* SOF ¶¶ 1, 6, 8-10. Those issues, especially when combined with the fact that no returns had been timely filed, would have suggested to reasonable person that the tax liabilities were going unpaid. *See* Rev. Proc. 2013-34, Sec. 4.03(2)(c)(ii) (listing examples tending to weigh against relief like the nonrequesting spouse’s financial difficulties or other issues with the IRS). Further, less than two months before the 2009-2013 returns were filed, Bowman knew that her husband’s cancer returned aggressively and that he had a low chance of survival. *See* SOF ¶ 2-4.

Bowman also previously handled her and her husband’s late return filings and unpaid taxes as recently as 2010 when she allegedly did not know that he would not comply with their tax obligations. *Id.* at ¶ 8. She actively worked with the IRS and assisted her accountants at

Martin and Pellegrin to file late returns and pay delinquent taxes as reflected in the IRS's Collection Due Process History and documents produced by Martin and Pellegrin. *Id.* at ¶¶ 8-10. *See* Rev. Proc. 2013-34, Sec. 4.03(2)(c)(ii) (listing facts and circumstances indicative of a requesting spouse's reason to know like her "involvement in business or household financial matters, [her] business or financial expertise, and any lavish or unusual expenditures compared with past spending levels.).

3. William's alleged abuse of Bowman, if true, does not rise to the level required for this Court to disregard her knowledge or reason to know that William Bowman would not or could not pay their tax liabilities

Bowman failed to establish that her husband's alleged abusive behavior, if true, rises to the requisite level for this Court to disregard her knowledge of reason to know that her husband would not or could not pay their tax liabilities. Revenue Procedure 2013-34, Section 4.03(2)(c)(ii) provides that this factor weighs in favor of relief, regardless of knowledge, if the nonrequesting spouse abused the requesting spouse such that she could not question the payment of taxes reported as due because of fear of retaliation. For innocent spouse purposes, "abuse includes verifiable physical harm as well as severe psychological mistreatment." *Deihl v. Comm'r*, 103 T.C.M. (CCH) 1935, at *39 (June 21, 2012). In the absence of abuse, this factor is neutral. Rev. Proc. 2013-34, Section 4.03(2)(c)(ii).

Aside from her own testimony, Bowman has no evidence of her husband's apparent abusive behavior and cannot recall any specific instance of abuse. *See* SOF ¶¶ 11, 14; *Deihl*, 103 T.C.M. at *39 (explaining that allegations of abuse "require substantiation, or at a minimum, specificity"). In fact, Bowman positively reminisced about her late husband, stating that he was the only one of her three husbands who she hoped to keep in her life. *Id.* at ¶ 13. She also admitted that her husband never physically abused her. Bowman Mot., Ex. C at 6; SOF ¶ 14. Weighing these facts in the light most favorable to the United States, Bowman has not

established abuse that meets the requirements of this factor. *See Haggerty*, 505 F. App'x at 341 (finding that the requesting spouse failed to establish abuse where she “was the only witness at trial and she did not testify about the verbal abuse with any specificity, she explicitly denied any physical abuse, and when she signed the tax return she ... could not have feared retaliation”); *Deihl*, 103 T.C.M. at *39-41 (finding no abuse despite the requesting spouse’s testimony that her husband verbally abused her and her son’s testimony that he saw signs of physical abuse like bruises and that her husband often yelled at her). Also, despite Bowman’s allegation that William verbally abused her when she asked him about their finances, she admitted that she had access to the Bowman Ovrzc, LLC account. *See* SOF ¶¶ 19-20.

Moreover, although Bowman visited Dr. Mark Walker for her anxiety and depression, Dr. Walker testified that she never mentioned her husband’s abuse and confirmed that he has no record of such a conversation in her medical file. *Id.* at ¶ 15. He also testified that if Bowman mentioned her husband’s alleged abuse, he would have noted it in her file. *Id.* *See Collier v. Comm’r*, T.C.M. (RIA) 54776, at *40-42 (finding no abuse where the requesting spouse’s treating physician made no reference of abuse suffered by the nonrequesting spouse).

4. William Bowman did not maintain exclusive control over the household finances by restricting Brenda Bowman’s access to financial information

Bowman also failed to prove that her husband exercised financial control over the household finances such that she lacked access to financial information and thus could not learn of their unfiled returns and unpaid tax liabilities. Like the standard for abuse, Revenue Procedure 2013-34, Section 4.03(2)(c)(ii) similarly provides that this factor weighs in favor of relief, negating requesting spouse’s knowledge, if the nonrequesting spouse maintained control over the household finances by restricting the requesting spouse’s access to financial information. *Neitzer v. Comm’r*, 116 T.C.M. (CCH) 309, at *18 (Sept. 19, 2018).

In *Neitzer*, the nonrequesting husband instructed his accountant to not disclose financial information to his requesting wife, she was involved in neither his business affairs nor in preparing the tax returns at issue, and she had no access to his business account. *Id.* at *18-19. The court found that these restrictions established financial control that consequently negated the wife's knowledge. *Id.* at *19. Here, however, Bowman and her husband opened a joint account at Capital One Bank and, belying her contention that she had no control over the funds in his LLC account, she had a debit and credit card connected to the account, she was authorized to withdraw funds from the account, and she could have easily accessed the account's financial records. *See* SOF ¶¶ 16-20; Bowman Mot. ¶16. Bowman owned 50% of the LLC and received annual withdrawals and distributions from the LLC,⁹ and she consistently corresponded with her accountants at Martin and Pellegrin about numerous tax matters from the LLC's email account throughout the 2010 tax year. *See* SOF ¶¶ 8, 18.

In light of these facts that contradict the assertions in her Motion, Bowman has failed to establish that her husband's alleged financial control restricted her access to financial information such that she could not learn of their unfiled tax returns.

C. Bowman failed to carry her burden to prove that she was otherwise entitled to equitable innocent spouse relief under Revenue Procedure 2013-24, Section 4.03

Bowman also failed to carry her burden to prove that she was entitled to equitable relief under the factors set forth in Revenue Procedure 2013-24, Section 4.03. In addition to failing to establish the factors above, Bowman failed to show that she (1) did not receive a significant

⁹ As a 50% owner of the LLC, half of its income would be attributed to her. Consequently, she would be liable for a much greater portion of the couple's 2009-2013 tax liabilities than the \$26,442, including interest, she purports in her Motion. *See* Bowman Mot. ¶ 11.

(continued...)

benefit from the unpaid taxes, (2) complied with her tax obligations after 2013, and (3) suffered from poor mental health when the returns were filed or when she filed her request for relief.¹⁰

1. Brenda Bowman received a significant benefit from the unpaid income tax liabilities

Bowman failed to prove that she did not receive a significant benefit from her unpaid income tax liabilities during tax years 2009-2013. The Court's significant benefit determination is the most important factor in determining whether Bowman is entitled to equitable relief. *See Cheshire*, 282 F.3d at 338. "A significant benefit is any benefit in excess of normal support," including "owning luxury assets and taking expensive vacations." Rev. Proc. 2013-34, Section 4.03(2)(e).

During the tax years at issue, Bowman enjoyed monthly overnight casino trips, frequent visits to NASCAR races, seven-destination domestic and international vacations, a new \$50,000 kitchen, two new cars, new jewelry, mink coats, handbags, another vacation to California, and a trip to Guatemala. *See* SOF ¶¶ 21-25. These luxuries qualify as significant benefits such that this factor weighs against relief. *See Washington v. Comm'r*, 120 T.C. 137, 151 (2003) (finding a significant benefit where the requesting spouse bought a house and a car, and still owned that house and car when she filed her request for innocent spouse relief); *Francel v. Comm'r*, 2019 Tax Ct. Memo LEXIS 36, at *44 (T.C. Apr. 10, 2019) (finding no significant benefit where the requesting spouse did not receive jewelry, luxury cars, or designer clothes, did not own a home,

¹⁰ Revenue Procedure 2013-24, Section 4.03 includes each factor discussed *supra*, Section II(B). Accordingly, the United States will not address those factors again. Additionally, the United States concedes that two additional factors in Section 4.03, legal obligation and marital status, are not at issue.

and did not own the car she drove); *Martinez v. Comm'r*, 2008 Tax Ct. Summ. LEXIS 165 (Dec. 29, 2008) (same).

2. Brenda Bowman failed to comply with income tax laws in the years following the taxable years to which her request for relief relates

Bowman failed to show that she “made a good faith effort to comply with the income tax laws in the taxable years following the taxable year or years to which the request for relief relates.” Rev. Proc. 2013-34, Section 4.03(2)(f). Bowman learned of her unpaid tax liabilities at least by sometime between July and September of 2014, but she failed to even attempt to resolve her unpaid liabilities for more than three years. *See* SOF ¶ 26. Even then she filed her 2014 and 2015 returns late in 2019 and failed to full-pay her individual 2019 tax liabilities. *See* SOF ¶¶ 27-28. Her conscious decision to ignore her responsibilities under the tax laws weighs against relief. *See Molinet v. Comm'r*, 07 T.C.M. (CCH) 1539, at *14 (June 9, 2014) (finding compliance weighing in favor of relief where the requesting spouse fully complied with her tax obligations following the tax years at issue); *Stolkin v. Comm'r*, 96 T.C.M. (CCH) 143, at *13 (Sept. 4, 2008) (finding lack of compliance where the requesting spouse untimely filed just one tax return after the tax years at issue).

3. Brenda Bowman’s mental health did not affect her ability to resolve her outstanding tax liabilities when the returns at issue were filed or when she requested innocent spouse relief

Finally, Bowman failed to prove that her poor mental health precluded her from addressing her tax liabilities for tax years 2009-2013. Under Revenue Procedure 2013-34, Section 4.03(2)(g), the Court considers “the nature, extent, and duration of the condition, including the ongoing economic impact of the illness.” This factor is neutral if Bowman did not suffer from poor mental health when the returns at issue were late-filed in 2015 or when she requested innocent spouse relief in 2019. Rev. Proc. 2013-34, Section 4.03(2)(g).

Bowman offers only her own testimony that suffered from depression after her husband's death in 2015, and a four-line letter from Dr. Walker indicating that he treated her for anxiety and panic disorder from 2008 to 2016. Bowman Mot. ¶ 6; SOF ¶¶ 29, 35. Dr. Walker testified that his notes make no mention of depression in Bowman's medical file after her husband's death, and that he last diagnosed Bowman with depression in 2008. *See* SOF at ¶ 34. He also testified that his notes do not reflect that her anxiety worsened after her husband's death, and that he would have recorded her worsening condition if believed her mental health was truly deteriorating. *Id.* at ¶ 36.

Dr. Walker also testified that he did not believe Bowman's condition was so severe that he needed to refer her to a psychiatrist, and that although patients with severe mental health illnesses visit him regularly, Bowman visited him only sporadically. *Id.* at ¶ 29. He did add that, after Bowman's few visits to his office in 2015, he simply prescribed her Xanax and advised that she reduce her alcohol consumption. *Id.* ¶ 30. Also according to Dr. Walker, after her husband's death, Bowman's anxiety disorder did not interfere with or otherwise prevent her ability to work, engage in regular day-to-day activities, or use a phone to make phone calls. *Id.* at ¶ 34. But in fact, Bowman continued to work full-time answering phone calls in her position as Claims Manager at an insurance company. *Id.* ¶ 33.

Bowman no doubt grieved her husband's unfortunate passing. But she has not shown as a matter of law that her mental state was so poor that she could not reasonably be expected to resolve her federal income tax liabilities after signing the returns.

III. CONCLUSION

This Court should deny Brenda Bowman's Motion for Summary Judgment because she failed to establish that there exists no genuine dispute as to any material fact and that she is entitled to judgment as a matter of law. Bowman failed to establish that she was entitled to

either a streamlined determination granting innocent spouse relief under Revenue Procedure 2013-34, Section 4.02, or that she was otherwise entitled to relief under Revenue Procedure 2013-34, Section 4.03. The facts suggest that she gained a substantial benefit from the funds on which tax which unpaid; that she knew or should have known that the taxes were not being paid; and that any abuse and poor mental health were not so severe as to excuse her from her responsibility.

The record in this case is replete with disputed issues of material fact. The Court should set it for hearing.

Dated this 19th day of March, 2021.

DAVID A. HUBBERT
Acting Assistant Attorney General

/s/ Jordan A. Esteban
JORDAN A. ESTEBAN
Trial Attorney, Tax Division
U.S. Department of Justice
Florida Bar No. 1025386
P.O. Box 14198
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 598-3671
Facsimile: (202) 514-4963
E-mail: jordan.a.esteban@usdoj.gov

OF COUNSEL:

DUANE A. EVANS
United States Attorney

GLENN K. SCHREIBER
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that a copy of this Response in Opposition to Brenda Bowman’s Motion for Summary Judgment was served electronically on this 19th day of March, 2021 on the following parties:

Jan S. Brunet
Law Office of Jan S. Brunet, LLC
7839 Main Street,P O Box 4298
Houma, LA 70361
(985) 853-1963
jan@brunetlawfirm.com
Attorney for Debtor
Brenda Bowman

S.J. Beaulieu
433 Metairie Road
Suite 307
Metairie, LA 70005
(504) 831-1313
ecf@ch13no.com
Trustee

Office of the U.S. Trustee
400 Poydras Street
Suite 2110
New Orleans, LA 70130
(504) 589-4018
USTPRegion05.NR.ECF@usdoj.gov
U.S. Trustee

MidFirst Bank, as serviced by
Midland Mortgage
Elizabeth Crowell Price
Dean Morris LLC
1820 Avenue of America
Monroe, LA 71201
(318) 998-7831
bkcourtemails@creditorlawyers.com
Attorney for Creditor

Glenn K. Schreiber
U.S. Attorney's Office
650 Poydras Street, 16th Floor
New Orleans, LA 70130
(504) 680-3093
glenn.schreiber@usdoj.gov
Attorney for Creditor,
Internal Revenue Service

/s/ Jordan A. Esteban
JORDAN A. ESTEBAN
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 14198
Ben Franklin Station
Washington, D.C. 20044