Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Appellate Division

RECOMMENDED DECISION DECLINING REVIEW OF ADMINISTRATIVE LAW JUDGE DECISION

The National Taxpayers Union (NTU) appealed a December 14, 2006 decision by Administrative Law Judge (ALJ) Carolyn Cozad Hughes, Social Security Administration v. National Taxpayers Union, DAB CR1543 (2006). In that decision, the ALJ: (1) found that NTU had mailed correspondence that used the words "social security" in a manner that violated section 1140 of the Social Security Act (Act); and (2) affirmed the \$274,584 civil money penalty proposed by the Social Security Administration's Office of Inspector General for NTU's violations of section 1140.

The regulations governing appeals to the Board in administrative proceedings to enforce section 1140 provide that the Board "will limit its review to whether the ALJ's initial decision is supported by substantial evidence on the whole record or contained an error of law." 20 C.F.R. § 498.221(i). The Board may remand a case to the ALJ for further proceedings or may issue to the Commissioner of Social Security a recommended decision to

decline review or affirm, increase, reduce, or reverse the penalty determined by the ALJ. 20 C.F.R. § 498.221(h).

The Board has considered each of the contentions made by NTU in the brief accompanying its January 11, 2007 notice of appeal and examined the record. Applying the appropriate standard of review, the Board finds no basis to disturb the ALJ's factual findings or legal conclusions on any issue. Consequently, the Board issues this recommended decision to decline review of the ALJ's December 14, 2006 decision.

This recommended decision becomes the final decision of the Commissioner 60 days after the date on which it is served on the parties and the Commissioner, <u>unless</u> the Commissioner reverses or modifies the recommended decision within that 60-day period. 20 C.F.R. § 498.222(a). If the Commissioner does not reverse or modify the recommended decision, the Board will serve a copy of the Commissioner's final decision on the parties. If the Commissioner reverses or modifies the recommended decision, the Commissioner shall serve NTU with a copy of his final decision.

Appeal Rights

NTU may appeal the final decision of the Commissioner by filing a petition for judicial review in the appropriate United States Court of Appeals. See Act §§ 1140(c)(1), 1128A(e). The petition for judicial review must be filed within 60 days after NTU is served with a copy of the Commissioner's final decision. 20 C.F.R. § 498.222(c)(1). If a petition for judicial review is filed, a copy of the filed petition must be sent by certified mail, return receipt requested, to the Social Security Administration's General Counsel at the following address:

Social Security Administration Office of General Counsel Altmeyer Building 6401 Security Boulevard, Room 635 Baltimore, MD 21235.

See 20 C.F.R. § 498.222(c)(2).

/s/
Judith A. Ballard

/s/
Leslie A. Sussan

/s/
Donald F. Garrett
Presiding Board Member