NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 26 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. KENNETH J. MCKENNA, Defendant - Appellant.	No. 07-17108 D.C. No. CV-05-00624-BES ORDER

Before: T.G. NELSON and M. SMITH, Circuit Judges, and KING,* District Judge.

The memorandum disposition filed on May 4, 2009, is amended as follows:

The last three paragraphs on page three, lines 2-8, are deleted and replaced with the following three paragraphs:

> Excluding the 1992 tax year, and correcting the amount of trust fund recovery penalties, the proper amount awarded should have been $353,519.51 in outstanding income tax assessments and penalties, and $57,135.69 in trust fund recovery penalties (or a total of $410,655.20). The matter is remanded for a judgment to include this amount. Upon remand, the district court shall also address the amounts, if any, of additional statutory interest due under I.R.C. § 6621 and other statutory additions such as are provided for in I.R.C. § 6651.
>
> Costs on appeal are awarded to the Plaintiff-Appellee.
>
> VACATED in part, AFFIRMED in part. REMANDED for

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* The Honorable Samuel P. King, Senior United States District Judge for the District of Hawaii, sitting by designation.

further proceedings consistent with this memorandum disposition.

With this amendment, Plaintiff-Appellee's "Motion to Correct Opinion" is denied.