

WILLIAM BERNARD MCCARTHY, P.A.
Attorney at Law

October 17, 2013

Internal Revenue Service
Disclosure Scanning Operations – Stop 93A
PO Box 621506
Atlanta, GA 30362-3006
Att'n: Paula Curren

Via Certified U.S. Mail

Re: Privacy Act of 1974 and Freedom of Information Act Request
Peter D. Letterese – SSN: 107-40-5957

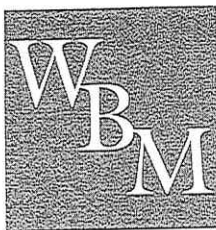
Dear Ms. Curren:

We represent the above-referenced Taxpayer, who resides in the south Florida area. A copy of Form 2848, Power of Attorney and Declaration of Representative, designating the undersigned as the Taxpayers' attorney-in-fact further FOIA matters is enclosed. Please note that the Power of Attorney specifically references the requested "Audit Trail".

Under the provisions of the Privacy Act of 1974, (5 USC §552A) and the Freedom of Information Act ("FOIA"; 5 USC §552) we request the documents detailed below. Since the requested information relates directly to the Taxpayer, we are of the opinion that the information requested is not exempt under disclosure laws, is not a classified document, is not a protected internal communication, is not protected by "privacy," and is not a "protected investigative record" within the meaning of those FOIA defined terms.

Please note that they Taxpayers have made two (2) other FOIA requests previously to which responses have been made. We do not seek the replication of those same materials, but rather material that was not provided, to wit: (1) Third Party Contact Forms (Forms 12175), (2) the audit trail, (3) a Vaughn Index, and (4) material that was redacted because of a then-pending criminal matter. That criminal matter has now been discontinued. To facilitate not duplicating material we attach copies of your prior transmittal letters dated December 27, 2010 and March 18, 2013. Additionally, some of the material sent us on March 18, 2013, was not readable, specifically, File 9. We request that the corrupted file therein be revised and re-sent.

As you know, 5 USC §552(b)(7) provides an exemption from disclosure for records or information compiled for law enforcement purposes. However, the extent of the exemption only pertains to those records or information which: (a) could reasonably be expected to interfere with enforcement proceedings; (b) could deprive a person of a right to a fair trial or an impartial adjudication; (c) could reasonably be expected to constitute an unwarranted invasion of personal



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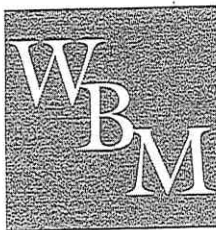
privacy; (d) could reasonably be expected to disclose the identity of a confidential source; (e) would disclose techniques and procedures for law enforcement investigations and prosecutions; or (f) could reasonably expect to endanger the life or physical safety of an individual. Inasmuch as the Taxpayer here have been advised that their criminal investigation has been discontinued as of August of 2013, the Service's redaction in response to previous FOIA requests under the "(b)(7)" exemption is no longer applicable. Therefore, we would fully expect that that information be provided in response to this request or, if it is not, the nature of the redacted information be specifically identified in the conformance with our request for a Vaughn index.

In lieu of a response with paper documents, we request production in electronic format, on disc. We request that the format be consistent with prior productions from your office which were in the form of searchable PDF (Adobe) files. Please check the data for the possibility of any corrupted disc segments and correct before sending.

If any material is deemed to be exempt, we hereby request a detailed statement of the portion deleted or withheld, a full statement of the reasons for the refusal or access, and specific citations or statutory authority for the denial. Specifically, if the Disclosure Office determines an exemption applies to some or all of the requested information, we request that a privilege log be provided in the form of a "Vaughn Index". In Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974), the court rejected an agency's conclusory affidavit stating that requested FOIA documents were subject to exemption. *Supra.* at 828. "A Vaughn Index must: (1) identify each document withheld; (2) state the statutory exemption claimed; and (3) explain how disclosure would damage the interests protected by the claimed exemption." Citizens Comm'n on Human Rights v. FDA, 45 F.3d 1325, 1326 n.1 (9th Cir. 1995). A Vaughn Index "permit[s] the court system effectively and efficiently to evaluate the factual nature of disputed information." John Doe Agency v. John Doe Corp., 493 U.S. 146, 149 n.2 (1989) (quoting Vaughn, 484 F.2d at 826). With a Vaughn Index we will have the means to adequately assess if any claimed exemptions have merit, thereby avoiding potentially costly litigation to seek that item. We also request that if a requested record does not exist, that you affirmatively state its non-existence.

For the period from April 1997 to the present, please provide us with copies of the following documents:

1. Each and every document (exclusive of filed tax returns) contained in the administrative files pertaining to all collection, civil examination and/or criminal investigation activity



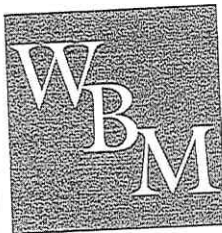
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relative to the Taxpayer. This information should include any worksheets, workpapers, notes, e-mails, documents, memorandums, computations, and other materials prepared or accumulated relative to this collection, civil examination and/or criminal investigation by employees of the IRS, any other governmental agency, including internal documents, memorandums, memorandums of all interviews of persons regarding the tax liabilities of the Taxpayer, copies of all statements (sworn or otherwise) given by individuals in connection with the investigation of the tax liabilities of the Taxpayer, case activity record, written reports and recommendations related to the determinations by the IRS.

2. Each and every document contained in the administrative files pertaining to the Taxpayer's Whistle Blower Claim No. 2013-001201 ("Claim"). This information should include any worksheets, work papers, notes, e-mails, documents, memorandums, computations, and other materials prepared or accumulated relative to the review of the Claim
3. A list of all employees, including their job title and the IRS Division for which they are employed, who have accessed the Taxpayer's account, i.e. an audit trail as to the Taxpayer's SSN.
4. Copies of all Third Party Contact Report Forms (Forms 12175).
6. Any and all files relative to this audit that may have been prepared by independent consultants, international examiners, economists, engineers, and any other specialists assigned to this case which are not otherwise included in the administrative file.
7. Any and all files that include information and documents obtained relative to the Taxpayer's federal bankruptcy case, specifically including any information and documents obtained from or provided to: the U.S. Trustee's Office, a creditor, and/or any professional representing the U.S. Trustee's Office or a creditor.
8. A Vaughn Index as to the information and documents identified in your December 27, 2010 letter as being withheld pursuant to: (i) FOIA Exemption (b)(5) --- apparently 7 pages; (ii) FOIA exemptions (b)(3) and (b)(7)(A) in conjunction with IRC Sec. 6103(e)(7) --- apparently 334 full pages and 111 part pages; and (iii) FOIA exemptions (b)(3), (b)(7)(A) and (b)(7)(E) in conjunction with IRC Sec. 6103(e)(7) --- apparently 1 page. A copy of your letter dated December 27, 2010 is attached for reference.



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Given that the focus of the collection, civil examination and criminal investigation activity has been in South Florida and that the Taxpayer resides in South Florida, we believe that your Disclosure Office is the appropriate office from which to seek the requested information. If not, we hereby request prompt notice of the correct Disclosure Office to contact. To expedite this request, we are willing to discuss specific instances of deletion or other exemption claims in advance of a final decision. And, as noted above, if any material is deemed to be exempt, we hereby request a detailed statement of the portion deleted or withheld, a full statement of the reasons for the refusal of access, and specific citations or statutory authority for the denial.

We agree to pay reasonable charges in locating and copying the requested documents, not to exceed \$1,000.00. As noted above, we do not need paper copies; a CD with the documents will suffice. If your fees will exceed \$1,000.00, please contact the undersigned counsel for further authorization.

Please direct any notifications or correspondence regarding this request to the undersigned at the letterhead address or at (954) 474-1996. We appreciate your cooperation.

Sincerely,

William Bernard McCarthy, P.A.

By 
William Bernard McCarthy

WBM/sc

cc: Client

Enclosure as noted