

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 06-CA-114xx-xxx
)	
Dr. Steve B Patriot, et al.,)	(Jury Trial Demanded)
)	
Defendants.)	

MOTION FOR AMENDED JUDGMENT

Pursuant to Federal Rules of Civil Procedure 52(b) and 59(a), Defendants Dr. Steve B. Patriot and Deborah Patriot request that this Court amend its judgment dated August 17, 2007 granting the United States' Motion to Dismiss the Patriots' Counterclaim (Count III). A separate **Motion for New Trial** under Rule 59 is also being submitted concurrently.

In its Memorandum and Order dated August 17, 2007, this Court granted the **United States' Motion to Dismiss Counterclaim** (Count III) citing failure on the part of the Patriot Defendants to demonstrate that the United States waived sovereign immunity.

- I. **The Patriot Defendants reassert that the United States has met the necessary condition(s) for waiving sovereign immunity and that this Court has jurisdiction under 28 U.S.C. § 1331, U.S.C. § 1346(a)(1) and and H.R. 2676. We also argue that the numerous omissions, errors, procedural and legal violations of the Internal Revenue Service constitute a pattern of negligent, reckless and**

intentional disregard in its collection and administrative actions. In support of our request for reconsideration, we assert the following argument facts:

1. On January 6, 2007, the Patriot Defendants mailed a request for a Collections Due Process Hearing to the Area Director of the Internal Revenue Service, as provided for in HR 2676. The Internal Revenue Service, by virtue of its negligent disregard of this request, has violated the law and has deprived us of our rights. Further, since we have been denied due process by the Internal Revenue Service in this regard, our only means of remedy is to ask this Court to establish jurisdiction.
2. Despite the assertion by Plaintiff's Counsel to this Court on July 12, 2007 that the administrative claim for civil damages under IRC § 7422 and CFR §301.7433-1 submitted by the Patriot Defendants and reportedly received by the Internal Revenue Service on January 19, 2007 was "denied" on March 7, 2007, this letter was not received by the Patriot Defendants until July 26, 2007 (sent by Plaintiff's Counsel by Fedex; item #7923 8568 5930).

a). Since the Patriots were not notified of the Internal Revenue Service's response to their January 19, 2007 administrative claim for damages until July 26, 2007, the six-month criteria for maintaining sovereign immunity eclipsed and sovereign immunity is effectively waived under 26 U.S.C § 6532.

3. While Plaintiff's Counsel asserts that the Internal Revenue Service responded to the Patriots' administrative claim for damages on March 7, 2007 (unverified), this alleged response is in violation of IRC 25.3.3.5.1(3) which indicates the taxpayer will be notified within 14 days of receipt of the claim when further information is requested.

4. The third submission of an Offer-in-Compromise (tax years 1990-1993, 1995-1999, and 2001-2003), submitted on September 18, 2000 was rejected on June 20, 2003. The processing time of 33 months for this submission exceeded, by nearly one year, the average processing time of 23.3 months for repeat offers-in-compromise, as reported by the United States Government Accountability Office Report to the Committee on Finance of the U.S. Senate.¹

¹ Report to the Committee on Finance, U.S. Senate. United States Government Accountability Office, April 2006. *IRS Offers in Compromise: Performance Has Been Mixed; Better Management Information and Simplification Could Improve the Program.* (GAO-06-525). Page 26: Table 3.

5. The excessive processing time of the September 18, 2000 offer cannot be attributed to the complexity of the offer since a subsequent Offer-in-Compromise, submitted to the Internal Revenue Service on December 1, 2004, was rejected on February 11, 2005 reflecting a processing time of two months and 10 days. We assert that this action by the Internal Revenue Service is negligent and further damaged our credit rating, thereby impacting our ability to secure adequate financing to address our tax debts.

6. Tax liens recorded at the Register of Deeds in Norfolk and Southern Middlesex Counties for 1995-2000; 2001-2002 and 2004 were filed on May 4, 2004 and filed again on May 10, 2004. These surplus filing of liens are in express violation of IRC § 6320 and IRC §6323(g) which defines the statutory refiling period for tax liens as 9 years 30 days thru 10 years 30 days from the date of assessment. Additionally, these negligent, reckless and intentional actions are in violation of HR2676. These actions further damaged our credit rating and thereby impacted our ability to secure adequate financing to address our tax debts.

7. Tax liens recorded at the Register of Deeds in the Norfolk and Southern Middlesex Counties for 1992 and 1993 were refiled on November 29, 2004 and refiled again on September 26, 2005. The tax lien for 1995 was refiled

three times on July 18, 2006 (same day). These surplus refiling of liens are in express violation of IRC §6323(g) which defines the statutory refiling period. for tax liens as 9 years 30 days thru 10 years 30 days from the date of assessment.

8. Additionally, these negligent, reckless and intentional actions are in violation of HR 2676. These actions further damaged our credit rating and thereby impacted our ability to secure adequate financing to address our tax debts.

9. The maintenance by the Internal Revenue Service of a continuous levy on the provider payment accounts of Dr. Steve B. Patriot and Deborah Patriot at Connecticut General Insurance (CIGNA) since September 25, 2004 constitutes a violation of HR 2676 (PL 105-206) and IRC § 7433. Funds secured from this illegal action have also not been credited to our tax debt.

By virtue of the aforementioned negligent, reckless and intentional actions by the Internal Revenue Service a tort action is permissible under **U.S.C. § 1346(b) and 28 U.S.C. § 2671-2680** and under **IRC § 7433**.

We, therefore, ask this Court to amend its judgment of August 17, 2007 granting the Motion by the United States to Dismiss the Patriots' Counterclaim by reversing its decision, amending its findings, granting a rehearing, or by initiating whatever action(s) it deems necessary and appropriate staying the Court's Order allowing foreclosure on the alleged income tax liens while the Court reconsiders its Orders dated August 17, 2007.

Pro se, for Defendant Dr. Steve B. Patriot *Pro se*, for Defendant Deborah Patriot

Dr. Steve B. Patriot

Deborah Patriot

Certificate of Service: We hereby certify that on this date, we sent a copy of this response to opposing party by e-mail, as requested.

August 27, 2007

Dr. Steve B. and Deborah Patriot
1776 Patriot Way
Weston, MA