

Richard L. Bristol

South Jordan, UT 84095-7876

May 22, 2017

SSN: [REDACTED]

Internal Revenue Service
Frivolous Return Program, Stop 4450
Ogden, UT 84201-0021

RE: Tax year 2006: Reply No: 1483000192: Letter No: 3176C Date: May 12, 2017
Employee ID: 1000142186 M/S 4450 Telephone: 866-883-0235 Fax: 855-246-4886

Certified Mail: 7015 3010 0002 8576 8095

ATTN: Christine L. Davis, Program Manager, RICS/IVO

Dear Ms. Davis and/or Employee 1000142186:

I am in receipt of your letter dated May 12, 2017 in which you inform me that I have filed a return or purported return claiming one or more frivolous positions.

You have THREATENED me with the imposition of a \$5,000 penalty if I do NOT change my sworn testimony provided on the return I filed for the tax year 2006. You have informed me that if I CORRECT my sworn testimony – to testimony YOU prefer, I can avoid the \$5,000 penalty.

What you did NOT do in your threatening letter, is to inform me of the specific instances of the one or more frivolous positions I have allegedly made on my return. Your letter offers nothing but vague, unsubstantiated claims.

You have threatened me with serious financial harm in the amount of \$5,000 or more, and given me 30 days in which to retract my sworn testimony – or suffer the consequences of the financial harm you have threatened. Since you have NOT provided a single clue as what you believe is “frivolous” about my 2006 return, the only recourse I appear to have in this matter is either to succumb to your attempt at extortion and witness tampering – OR – to meet with you in person, in the company of my attorney and accountant, so that we may determine what changes, if any, are required with respect to my 2006 return, in order to AVOID the grave financial harm you have threatened.

This meeting is NOT optional. You have made what I believe to be FALSE accusations and threatened me with significant financial harm if I do not succumb to your vague, unsubstantiated claims.

The meeting will be attended by my attorney and accountant, and possibly two additional witnesses. We also intend to make an audio recording of the proceedings.

At the meeting, we are going to ask you to produce evidence substantiating your belief that I have filed a return or purported return claiming one or more frivolous positions, including, but not limited to the following:

REQUEST FOR EVIDENCE #1:

I am enclosing a copy of the Internal Revenue Bulletin 2010-17, dated April 26, 2010, with the following sentence highlight in yellow: "The penalty will be imposed **only** when the frivolous position or the desire to delay or impede the administration of the Federal tax laws **appears on the face of the return.**"

There are 46 positions listed in the bulletin that the Secretary has identified as "frivolous."

We will ask that you show us ... **on the face of the return** ... the exact position or positions you claim are frivolous from that list of 46 positions.

REQUEST FOR EVIDENCE #2:

On February 5th 2016, I met with Salt Lake City Revenue Officer, Evelyn Smith, ID 0144595 and tendered a payment of \$8,391.12 for tax year 2006. This payment was made to halt collection activities with respect to 2006, with the understanding that I would be able to file an Amended Return within two years of payment to correct my tax records, and to claim any refund that was due.

Prior to meeting with Evelyn, I had requested that she provide me with a copy of my tax return for the year 2006, as I had lost ALL of my tax records due to a broken water main and severe flooding of my premises. At the time of our meeting, she informed me that she did NOT have a copy of my 2006 return ... because the amount of the tax being collected was determined on the basis of a "Substitute for Return" created by the Service. She informed me that I would have to file an "Original Return" and go from there.

Evelyn provided me with a transcript of the earnings and deductions reported by the Company I worked for in 2006 so that I could file the Original Return, and Amended Return if necessary.

We will ask that you DOCUMENT ... exactly how and in what manner using the figures provided by the IRS through Evelyn Smith could be constituted as "frivolous" with respect to the 46 positions enumerated by Internal Revenue Bulletin 2010-17.

REQUEST FOR EVIDENCE #3:

26 USC 3402(a)(1)

(a) Requirement of withholding

(1) In general, Except as otherwise provided in this section, **every employer making payment of wages** shall deduct and withhold upon such wages a tax

We will ask that you ADMIT that withholding is required from every employer making a payment of **WAGES**.

REQUEST FOR EVIDENCE #4:

26 USC 3401(a)

(a) **Wages**, For purposes of this chapter, the term "**wages**" means all remuneration (other than fees paid to a public official) for services performed by an "**employee**" for his "**employer**" ...

We will ask that you ADMIT that "**wages**" is custom-defined term that covers all remuneration for services performed by an "**employee**" for his "**employer**," all custom defined terms.

REQUEST FOR EVIDENCE #5:

26 USC 3401(c)

(c) **Employee**, For purposes of this chapter, the term "**employee**" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

We will ask you to PROVIDE ANY EVIDENCE, whatsoever, that Richard Bristol was engaged in any activity or privilege during the year 2006 as an "**employee**" as defined by 26 USC 3401(c):

- As an officer, employee or elected official of the United States, or a State,
- As an officer, employee or elected official of any agency or instrumentality of any one of the foregoing,
- As an officer of any [Federal] Corporation

We will ask you to ADMIT that Richard L. Bristol was NOT an "**employee**" during 2006 as defined by 26 USC 3401(c), as that term, as defined, does NOT have the same meaning as the common use of the word employee.

REQUEST FOR EVIDENCE #6:

26 USC 3401(d)

(d) **Employer**, For purposes of this chapter, the term “**employer**” means the person for whom an individual performs or performed any service, of whatever nature, as the “**employee**” of such person.

We will ask you to PROVIDE ANY EVIDENCE, whatsoever, that Washburn Piano Company was an “**employer**” as defined by 26 USC 3401(d) with respect to Richard L. Bristol:

We will ask you to ADMIT that Washburn Piano Company was NOT an “**employer**” during 2006 with respect to Richard L. Bristol, as defined by 26 USC 3401(d), because Mr. Bristol was NOT an “**employee**” as defined by 26 USC 3401(c).

REQUEST FOR EVIDENCE #7:

We will ask you to ADMIT that the transcript provided by Evelyn Smith for the year 2006 shows that **Withholding** was in fact withheld from Richard L. Bristol's gross pay for the year 2006 in the amounts of \$3,326.00 for Federal Income Tax, \$3,178.00 for Social Security Tax and \$743.00 for Medicare Tax ... amounts totaling \$7,247.00.

We will ask you to ADMIT that these amounts were **withheld** as if they were “**wages**” - even though Washburn Piano Company was NOT an “**employer**” as defined by 26 USC 3401(d) and even though Richard L. Bristol was NOT an “**employee**” as defined defined by 26 USC 3401(c).

We will ask you to ADMIT (again) that withholding is to be made upon the payment of “**wages**” and that “the term “**wages**” means all remuneration (other than fees paid to a public official) for services performed by an “**employee**” for his “**employer**.”

We will therefore ask you to ADMIT that what was withheld from Richard L. Bristol was NOT “**wages**” as defined by 26 USC 3402(a)(1) and that Washburn Piano Company incorrectly reported the amounts so withheld as if they were “**wages**” thus creating BAD PAYER DATA.

The United States Supreme Court held in *Rowan Cos. v. United States*, 452 US 247 (1981) that: “*The plain language and legislative histories of the relevant statutes indicate that Congress intended for its definition of “wages” to be interpreted in the same manner for FICA and FUTA as for income tax withholding.*”

We will therefore ask you to ADMIT that what was withheld from Richard L. Bristol for FICA and Medicare was NOT “**wages**” as defined by 26 USC 3121(a) and that Washburn Piano Company incorrectly reported the amounts so withheld as if they were “**wages**” thus creating additional BAD PAYER DATA for the tax year 2006.

REQUEST FOR EVIDENCE #8:

Instructions included on the face of Form 4852.

Purpose of Form. Form 4852 serves as a substitute for Forms W-2, W-2c and 1099-R and is completed by taxpayers or their representative when (a) their employer or payer does not give them a Form W-2 or Form 1099-R and (b) **when an employer or payer has issued an incorrect Form W-2 or Form 1099-R.** Attach this form to your income tax return.

It has been previously established, above, that Washburn Piano Company incorrectly reported "non-wage" earnings as if they were "**wages**," which is BAD PAYER DATA. This data was reported on a form W-2 to the Internal Revenue Service, which was thereafter shown on the transcript provided by Evelyn Smith to Richard L. Bristol.

ADMIT that the instructions on Form 4852 establishes that Form 4852 is the correct form to use when an employer or payer has issued an incorrect Form W-2.

ADMIT that the inclusion of a Form 4852 on a return is NOT "frivolous" when it is used to correct BAD PAYER DATA issued by a payer, especially when it does NOT contain on its face any of the 46 positions referred to by Internal Revenue Bulletin 2010-17.

REQUEST FOR EVIDENCE #9:

ADMIT that the text, shown immediately below, and on the next page, is the Internal Revenue code section used to regulate the imposition of the \$5,000 "Frivolous Penalty," specifically identified as 26 USC 6702:

26 USC 6702

- (a) Civil penalty for frivolous tax returns** - A person shall pay a penalty of \$5,000 if—
- (1) such person files what purports to be a return of a tax imposed by this title but which—
 - (A) does not contain information on which the substantial correctness of the self-assessment may be judged, or
 - (B) contains information that on its face indicates that the self-assessment is substantially incorrect, and
 - (2) the conduct referred to in paragraph (1)—
 - (A) is based on a position which the Secretary has identified as frivolous under subsection (c), or
 - (B) reflects a desire to delay or impede the administration of Federal tax laws.

(b) Civil penalty for specified frivolous submissions

(1) Imposition of penalty

Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of \$5,000.

(2) Specified frivolous submission - For purposes of this section—

(A) Specified frivolous submission - The term “specified frivolous submission” means a specified submission if any portion of such submission—

- (i) is based on a position which the Secretary has identified as frivolous under subsection (c), or
- (ii) reflects a desire to delay or impede the administration of Federal tax laws.

(B) Specified submission - The term “specified submission” means—

- (i) a request for a hearing under—
 - (I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or
 - (II) section 6330 (relating to notice and opportunity for hearing before levy), and
- (ii) an application under—
 - (I) section 6159 (relating to agreements for payment of tax liability in installments),
 - (II) section 7122 (relating to compromises), or
 - (III) section 7811 (relating to taxpayer assistance orders).

(3) Opportunity to withdraw submission

If the Secretary provides a person with notice that a submission is a **specified frivolous submission** and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

(c) Listing of frivolous positions

The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

(d) Reduction of penalty

The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

(e) Penalties in addition to other penalties

The penalties imposed by this section shall be in addition to any other penalty provided by law.

REQUEST FOR EVIDENCE #10:

ADMIT that 26 USC 6702(a) is titled “**(a) Civil penalty for frivolous tax returns.**”

ADMIT that 26 USC 6702(b) is titled “**(b) Civil penalty for specified frivolous submissions.**”

ADMIT that 26 USC 6702(c) is titled “**(c) Listing of frivolous positions.**”

ADMIT that the **(3) Opportunity to withdraw submission** is only offered under Section (b), when it relates to “**specified frivolous submissions**” as opposed to “frivolous tax returns.”

ADMIT that NONE of the “Specified Submissions” below includes frivolous tax returns, which are included specifically under 26 USC 6702(a).

(B) Specified submission - The term “**specified submission**” means—

(i) a request for a hearing under—

(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

(II) section 6330 (relating to notice and opportunity for hearing before levy), and

(ii) an application under—

(I) section 6159 (relating to agreements for payment of tax liability in installments),

(II) section 7122 (relating to compromises), or

(III) section 7811 (relating to taxpayer assistance orders).

ADMIT that Richard L. Bristol was offered **(3) Opportunity to withdraw submission** in your letter dated May 12th.

Therefore, since I was offered the “Opportunity to withdraw submission” we will ask you to PRODUCE the “specified submissions” (as distinguished from my 2006 tax return) allegedly submitted by myself for which I am being threatened with a \$5,000 penalty.

Since your LTR 3176C strongly implies that it relates to my 2006 tax return, and that this matter is about a “Frivolous Tax Return” and since you offered me a conflicting “**(3) Opportunity to withdraw submission,**” which only applies to “Frivolous Submissions,” and where NONE of the specified submissions has anything to do with anything I have ever filed or requested, we will also be seeking the following:

We will ask you to PRODUCE your legal authority for threatening a \$5,000 penalty if we do not CORRECT the sworn testimony (provided on my 2006 return) to something more to your liking, when an “Opportunity to withdraw” is NOT available under 26 USC 6702(a).

We will also ask to you DECIDE whether your threats are made under:

26 USC 6702(a) “**(a) Civil penalty for frivolous tax returns, OR**

26 USC 6702(b) “**(b) Civil penalty for specified frivolous submissions.**”

REQUEST FOR EVIDENCE #11:

If you should choose 26 USC 6702(a) **“(a) Civil penalty for frivolous tax returns**

26 USC 6702(a)

(a) Civil penalty for frivolous tax returns - A person shall pay a penalty of \$5,000 if—

- (1) such person files what purports to be a return of a tax imposed by this title but which—
 - (A) does not contain information on which the substantial correctness of the self-assessment may be judged, or
 - (B) contains information that on its face indicates that the self-assessment is substantially incorrect, and
- (2) the conduct referred to in paragraph (1)—
 - (A) is based on a position which the Secretary has identified as frivolous under subsection (c), or
 - (B) reflects a desire to delay or impede the administration of Federal tax laws.

We will ask you PRODUCE the following:

- (1)
 - (A) SHOW how my 2006 Return does NOT contain information on which the substantial correctness of the self-assessment may be judged, or
 - (B) SHOW how my 2006 Return contains information that on its face indicates that the self-assessment is substantially incorrect.

We will also ask you (again) to PRODUCE the following:

- (2)
 - (A) SHOW where on the face of my 2006 Return you find a position which the Secretary has identified as frivolous under subsection C, or
 - (B) SHOW how my 2006 filing reflects a desire to delay or impede the administration of Federal Tax Laws.

ADMIT that the conjunction **“and”** requires that two elements be present in order for a return to be considered **“frivolous”** -- one from section (1) and one from section (2).

ADMIT that my 2006 Return has numbers and calculations which can be used to determine the correctness of the return. The numbers shown on the return may be correct or incorrect, but the numbers DO exist ... so it can NOT be said that the return does NOT contain information upon which the correctness may be judged.

ADMIT that your department's **function** is NOT to determine the **“correctness”** of the numbers on a return, but **ONLY** to determine if the return **has** numbers on it from which the **“correctness”** of the return **may** be determined, and that it is the responsibility of other IRS personnel to make the determination if the numbers on a return are correct.

ADMIT that my 2006 Return does NOT contain any information on its face that would indicate that the self-assessment is substantially incorrect.

ADMIT that you can NOT identify one single element from (2)(a) with respect to one of the 46 positions from the Secretary's List of "frivolous" positions.

ADMIT that you can NOT show one single way in which my return was designed to delay or impede the administration of Federal Tax Laws. To the contrary, I very much wish for my refund to be processed. It is the IRS who has delayed this matter with repeated 30 day and 45 day notifications that it needs more time to respond. It is the IRS who is delaying and impeding the refund of my money, which I can prove with a stack of delay letters spanning over months.

ADMIT that you can NOT find one element from Section (1) and one element from Section (2) with respect to my 2006 return, and therefore, you must ADMIT that my return is NOT frivolous.

REQUEST FOR EVIDENCE #12:

We have now covered the ORIGINAL RETURN for 2006, submitted at the recommendation of your Agent Evelyn Smith. She ADMITTED that the \$8,391.12 dollars she collected from on February 5, 2016 was based upon a "Substitute for Return" and that I would have to file an "Original Return" if I wanted to correct the record and apply for any refund which may be due, which I have done.

I filed the ORIGINAL RETURN and the AMENDED RETURN at the same time because the AMENDED RETURN was the ONLY form where I could claim a REFUND of the \$8,391.12 that was paid on February 5, 2016, in addition to the REFUND of \$7,247.00 that was refundable from the ORIGINAL RETURN.

IRS Tax Tip 2014-51, titled "Ten Facts About Amended Tax Returns" states the following:

4. You usually have **three years from the date you filed your original tax return** to file Form 1040X to claim a refund. You can file it within two years from the date you paid the tax if that date is later.

ADMIT that the law provides at least three years for filing a 1040X from the date of filing an ORIGINAL RETURN, but not less than two years from the date the tax is paid.

ADMIT that the filing of my ORIGINAL and AMENDED returns were within the allowable time.

ADMIT that the timeliness of filing is NOT a factor in the determination of "frivolousness."

REQUEST FOR EVIDENCE #13:

In the interest of NOT repeating everything above for the AMENDED RETURN, please:

ADMIT that my **Amended** Return must have all the elements discussed above in order for it to be considered "Frivolous."

ADMIT that each and every element discussed above, for the ORIGINAL RETURN, including each and every ADMISSION, or PRODUCTION request, would result in the same conclusions.

ADMIT that if the numbers submitted on the ORIGINAL RETURN justify a refund of the \$7,247.00 withheld, then NO TAX would be due for the year 2006.

ADMIT that if NO TAX was due for the year 2006 as determined on the ORIGINAL RETURN,, then the \$8,391.12 paid on February 5, 2016 was an ADDITIONAL OVERPAYMENT.

ADMIT that the 1040X form provides a specific line for the inclusion of additional taxes paid.

ADMIT that it is NOT FRIVOLOUS to request the refund of an ADDITIONAL OVERPAYMENT if NO TAX was due.

REQUEST FOR EVIDENCE #14:

We will also ask you PRODUCE the following with respect to 26 USC 6702:

(1)

- (C) SHOW how my 2006 **Amended** Return does NOT contain information on which the substantial correctness of the self-assessment may be judged, or
- (D) SHOW how my 2006 **Amended** Return contains information that on its face indicates that the self-assessment is substantially incorrect.

We will also ask you (again) to PRODUCE the following:

(2)

- (C) SHOW where on the face of my 2006 **Amended** Return you find a position which the Secretary has identified as frivolous under subsection C, or
- (D) SHOW how my 2006 **Amended** Return reflects a desire to delay or impede the administration of Federal Tax Laws.

ADMIT that with respect to 26 USC 6702, the conjunction "**and**" requires that two elements be present in order for a return to be considered "frivolous" — one from section (1) and one from section (2).

ADMIT that my 2006 **Amended** Return has numbers and calculations which can be used to determine the correctness of the return. The numbers shown on the return may be correct or incorrect, but the numbers DO exist ... so it can NOT be said that the return does NOT contain information upon which the correctness may be judged.

ADMIT that my 2006 **Amended** Return does NOT contain any information on its face that would indicate that the self-assessment is substantially incorrect.

ADMIT that you can NOT identify one single element from (2)(a) with respect to one of the 46 positions from the Secretary's List of "frivolous" positions for my **Amended** return.

ADMIT that you can NOT show one single way in which my return was designed to delay or impede the administration of Federal Tax Laws. To the contrary, I very much wish for my refund to be processed. It is the IRS who has delayed this matter with repeated 30 day and 45 day notifications that it needs more time to respond. It is the IRS who is delaying and impeding the refund of my money.

ADMIT that you can NOT find one element from Section (1) and one element from Section (2) with respect to my 2006 **Amended** return, and therefore, you must ADMIT that my **Amended** return is NOT frivolous.

And while you're at it, you should also ADMIT that if this matter goes to court, you are NOT likely to fare well in the DISCOVERY process with respect to Interrogatories and Admissions.

CONCLUSION AND CONSTRUCTIVE NOTICE

Ms. Davis, in a previous set of correspondence we had late last year, I expressed my sincere respect for the vast majority of Employees at the Internal Revenue Service who are faithfully executing the important excise tax laws of the United States. Nothing has changed to alter that general feeling of respect.

However, respect has to be earned, and I have very little respect for the handful of Internal Revenue employees who willfully violate the laws of our great nation, and believe me, there are some extremely rotten people in the Service ... but only a handful I suspect.

Frankly, I don't know where you stand in the mix. I don't necessarily think you are rotten to the core, although I suspect that you, like many of your colleagues, are just woefully uninformed about the history and proper application of the revenue laws of our nation. You believe what you have been told by your superiors. I get that.

However, the tone of that LTR 3176C you sent me with the push of a button, IS ROTTEN to the core ... and as the administrator of your department, I WILL hold you and your department accountable under the laws of Utah and the United States of America.

You, through your LTR 3176C, have FALSELY accused me, so I reiterate the following:

You have threatened me with serious financial harm in the amount of \$5,000 or more, and given me 30 days in which to retract my sworn testimony – or suffer the consequences of the financial harm you have threatened. Since you have NOT provided a single clue as what you believe is “frivolous” about my 2006 return, the only recourse I appear to have in this matter is either to succumb to your attempt at extortion and witness tampering – OR – to meet with you in person, in the company of my attorney and accountant, so that we may determine what changes, if any, are required with respect to my 2006 return, in order to AVOID the grave financial harm you have threatened.

Again, this meeting is NOT optional. If you FAIL to contact me with regard to this demand, I will hold your silence to be an ADMISSION of guilt to ALL of the evidentiary questions I posed in the body of this letter. At the meeting, if you are unable to demonstrate any “frivolous” aspect of my return, I will also take that FAILURE as an ADMISSION of guilt regarding your claims.

And with these admissions of guilt, I assure you that if either you, or your department, or any other agency within the Service **EVER** assesses the \$5,000 Penalty against me for the tax year 2006, after failing to demonstrate any “frivolous” position or failing to meet with me to give me an opportunity to correct whatever “frivolous” aspects of my return you may be able to demonstrate, if any, then I and my civil rights attorney will immediately seek the following:

- (1) We will seek a Utah State Grand Jury Investigation into your department for fraud, racketeering, witness tampering, extortion and mail fraud. There are state laws against these offenses and your position with the IRS will NOT shield you from state crimes.
- (2) We will seek a United States Grand Jury Investigation into your department for fraud, racketeering, witness tampering, extortion and mail fraud.
- (3) We will initiate contacts with internal affairs within the Internal Revenue Service, up to and including the Director, to investigate you and your department.
- (4) We will seek a congressional investigation into the corrupt practices of your department and how you are gaming the “Frivolous Penalty” laws for the purposes of extortion and political control.
- (5) We will seek to have congress pass strong laws criminalizing the kind of extortion to which you are a party, where frivolous penalty actions are taken by the service in an

attempt to change sworn testimony, and where the service can NOT demonstrate the existence of an actual frivolous position from the Secretary's list of frivolous positions.

- (6) We will initiate a civil rights lawsuit against you, your department, and the United States Government for selective prosecution as you are treating me differently than thousands upon thousands of others who file similar returns. I deserve equal protection under the laws, and the Service is abridging my rights by choosing me, for whatever reasons, to serve as their private whipping post.

You may contact me by mail or at [REDACTED] any time to arrange for a meeting. Please note. When you contact me do NOT use a restricted number as I do NOT answer unidentified calls.

Once the time and place for the meeting has been set, and concluded, I expect an additional 30 days from the time of the meeting to prepare whatever changes, if any, are required to avoid the "frivolous" penalty.

In the more likely event that you are unable to demonstrate any "frivolous" aspect to my 2006 returns, then I will expect an immediate letter acknowledging that fact AND including immediate release from this "Frivolous" Penalty threat.

Thank you in advance for your quick response to this correspondence!

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Richard L. Bristol".

Richard L. Bristol

P.S. The real reason you were asked to send me the LTR 3176C "Frivolous Penalty Notice" is because after almost nine months of delay, the Service was **unable** to find a way to disprove or disallow my perfectly accurate returns. And since they could NOT refute my claim of refund, they sent it to you to try to scare me into changing my sworn testimony. Trust me on this, I am neither scared nor afraid to take you and the IRS to court if you continue with this egregious attempt at extortion, witness tampering and mail fraud.

Enclosures sent by regular and certified mail:

This cover letter.

Copy of your LTR 3176C

Copy of Internal Revenue Bulletin 2010-17