

METROPOLITAN BUREAU of INVESTIGATION NINTH JUDICIAL CIRCUIT of FLORIDA

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August 15, 2007

Kathy K. Petronchak, Commissioner
Internal Revenue Service SB/SE
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Washington, DC 20224

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FLORIDA DIVISION OF ALCOHOLIC
BEVERAGES & TOBACCO

FLORIDA DEPARTMENT OF
LAW ENFORCEMENT

RE: State of Florida, Office of the Attorney General v.
The Playpen, Inc., et.al – MBI Case # 94V-186
Case # 95-525-Civ-Orl-19 (M.D. Fla.)

Dear Ms. Petronchak,

This letter is an appeal from the Metropolitan Bureau of Investigation (MBI) Governing Board agencies to correct a wrong that occurred in a local law enforcement investigation after local authorities invited the Internal Revenue Service (IRS) to review documents seized from a search warrant prepared by the MBI. The event described in this document is not a routine procedural issue and can only be resolved by a decision made at the highest level of IRS management to correct an injustice to local law enforcement.

Having been in government service for more than forty years, I fully understand the limits of decision making at different levels of government bureaucracies. In attempting to resolve this issue I have navigated the IRS bureaucracy for the past thirteen months and have been directed to management levels of the IRS who lack the authority to correct this mistake. So far, the response from IRS management has been short, written, routine, and procedural lack-of-authority responses that fail to correct the issue addressed. In an attempt to resolve this issue the MBI Governing Board agencies are appealing to the highest levels of IRS leadership, who possess both the authority to correct an error and more importantly, the managerial foresight to see the larger picture of trust and cooperation between local law enforcement and the Internal Revenue Service.

In order to clarify the many layers of injustice that have occurred, I will summarize the key points so that you may understand why local law enforcement has spent more than a year trying to correct the result of IRS actions that damaged a cooperative relationship with local law enforcement. First, there is the expectation from the public, media, and the United States Congress that local and federal agencies need to do a better job of cooperating. The MBI made an effort to cooperate with the IRS, and this decision to strengthen ties between federal and local law enforcement began



a downward spiral, ultimately leading to distrust of the IRS and to a decreased ability of local law enforcement to fight crime.

During the final stages of an MBI investigation into an Orlando business involved in racketeering and illegal gambling, the MBI Vice/Organized Crime agents shared MBI search warrant seized documents with the IRS. Prior to sharing the information, MBI agents were first assured by the IRS agent that the information would not be used to interfere with MBI's financial interest in the forfeiture of the business property, which was successfully accomplished. (See Attachment 1, the pertinent pages from the Final Judgment of Forfeiture of the property to the Metropolitan Bureau of Investigation and the Florida Department of Legal Affairs by Judge George A. Sprinkle dated August 14, 1995). However, later this verbal agreement was not honored by an Orlando IRS Manager, who later overruled the IRS Agent after the investigative documents had already been disclosed to the IRS by local law enforcement. The IRS, who was not involved in the racketeering and illegal gambling investigation, then used the information provided by the MBI as the basis for their lien on the property which cost local law enforcement and assisting state agencies \$359,642.42.

It is the MBI Governing Board's preference that the best way to right this wrong and restore local law enforcement's trust in the IRS is to return the \$359,642.42 to the MBI and the assisting state agencies, who in the spirit of cooperation, shared documents recovered during the investigation of Playpen, Inc., with the IRS. Without these documents the IRS would have lacked the necessary evidence to secure their lien.

Secondly, based on the MBI's protest over the handling of this matter by the Orlando IRS Manager, a new written settlement was agreed upon by the IRS and the MBI, which provided some relief to local law enforcement in regards to the amount of the IRS lien (See Attachment 2, IRS/MBI settlement dated February 22, 1996). However, this is where a second injustice occurred as the MBI discovered in June of 2006, when the MBI received a check for only \$77,791.09, including accrued interest, after the property rental income and sales price totaled \$605,768.77, that the IRS would also not honor the written settlement and had placed a \$359,642.24 lien on the property. This lien negated the February 22, 1996, settlement that had promised \$240,000 to local law enforcement and the Florida Department of Legal Affairs. (See Attachment 3, the payout information from the sale of the property dated June 2, 2006).

In researching the documents to determine why the settlement was not honored, it was discovered that there had been a bureaucratic mistake made in Tallahassee when an uninformed state employee, who did not understand that the settlement between the IRS and the MBI was a valid agreement, communicated with the Department of Justice that the IRS and MBI cannot enter into an agreement. This was faulty information, and the MBI was never informed by the IRS or the Department of Justice that the written settlement was not going to be honored. Had the MBI been informed, this error could have been cleared up at that time instead of deteriorating to the present situation where local law enforcement is being referred to endless layers of lower level IRS Managers,

who lack the authority to correct this mistake (See Attachment 4, involving prior communications to IRS and the U.S. Department of Justice Tax Division).

It appears that a bureaucratic mistake led to the valid settlement agreement between the IRS and the MBI not being executed at the sale of the property. The Metropolitan Bureau of Investigation Governing Board respectfully requests that you restore our trust in the IRS and honor the joint written agreement, by returning the money lost by local law enforcement agencies and the Florida Department of Legal Affairs when the IRS/MBI agreement was not executed during the IRS lien process. The settlement agreement promised \$240,000 to local law enforcement and the Florida Department of Legal Affairs, minus the monies received to date: MBI received \$77,791.09 and the Department of Legal Affairs received \$50,268.09, leaving a remaining balance of: **\$111,940.82** (65% to **MBI \$72,761.53** and 35% to **DLA \$39,179.29**) to rectify the lien dispute. Although the member agencies would prefer to have the IRS lien negated and receive the entire \$359,642.24, at this point it would be acceptable to at least have the IRS honor the valid, written agreement we shared.

It is noteworthy to point out that local law enforcement depends upon seizures such as this to purchase crime fighting technology and equipment. Central Florida is experiencing record levels of violent crime, and the additional revenue from this seizure would be put to good use in helping to combat this disturbing trend.

If you need any further information please contact me at (407) 836-9722. On the behalf of local law enforcement, we hope you will correct this injustice.


William A. Lutz, Director
Metropolitan Bureau of Investigation

Attachments:

1. Pertinent pages of the Final Judgment of Forfeiture of the property to the Metropolitan Bureau of Investigation and Florida Department of Legal Affairs by Judge George A. Sprinkle dated August 14, 1995.
2. Compromise IRS/MBI Settlement by Loretta C. Argrett, Assistant Attorney General, Tax Division and Milan D. Karlan, Chief Office of Review dated February 22, 1996.
3. Payout information from the Sale of the Property dated June 2, 2006.
4. Prior Communications from the Metropolitan Bureau of Investigation to the IRS and the United States Department of Justice Tax Division dated July 18, 2006, October 19, 2006, and January 19, 2007, and April 4, 2007.

Cc: United States Senator Mel Martinez
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