

ALPHONSE MOURAD

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March 5, 2007

The Honorable Joseph H. Gale, Judge
The United States Tax Court
Room 428
400 Second Street, N.W.
Washington, MA 20217

Re: Alphonse Mourad v. Commissioner of Internal Revenue
United States Tax Court
Docket No.: 18038-05L

Trial - May 21, 2007
Room 1013
Thomas P. O'Neil Jr. Federal Building
10 Causeway Street
Boston, MA 02222

To The Honorable Judge Joseph H. Gale:

This letter is to comply with this Court's December 15, 2006 Standing Pre-Trial Order and to alert the Court to the unique and unusual communication difficulties¹ I have experienced in dealing with the I.R.S.

To understand the case, let me start with a little history that has led to my many problems with the I.R.S.

In 1994, I was the sole shareholder of V&M Management, Inc., a Subchapter S corporation that operated a low-income, Section 8 project housing 1,500 tenants, mostly minority, in the Roxbury section of Boston.

In January 1996, V&M Management, Inc. filed for Chapter 11 Bankruptcy Protection. In April 1996, the Bankruptcy Court

¹ Parties should advise the Court in writing of "difficulties in communicating with another party," Standing Pre-Trial Order, p. 1.

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appointed Stephen Gray as the Chapter 11 Trustee and Gray took over the management and books of V&M. A Final Plan of Reorganization was confirmed on September 26, 1997.

Chapter 11 Trustee Gray prepared V&M's corporate returns for tax years 1995, 1996, 1997, 1998, and 1999.

In 1994, V&M had a \$996,357 carryover interest expense. The I.R.S. used an adjusted \$965,226 carryover interest expense for 1997, but refused to use this for 1995, because, according to I.R.S. Examiner Gregory Smith, Trustee Gray (not me, as I was no longer involved) filed the V&M 1995 return late, in 1997. I.R.S. Examiner Smith refused to give me a very small percentage of the carryover credit of \$965,226 for 1995, so I would not incur a tax for 1995. But then, I.R.S. Examiner Smith re-adjusted my 1997 capital gain by the same \$965,226 carryover interest expense and applied it to 1997.

Had I.R.S. Examiner Greg Smith applied the (1994) carryover credit to 1995, there would be no 1995 I.R.S. levy of \$14,846.47 against me, which is part of this case. This \$14,846.47 should be eliminated.

It makes no sense for the I.R.S. to have applied the 1994 carryover to 1997, and not 1995.

Had the I.R.S. applied only \$14,846.47 of the acknowledged 1994 \$965,226 carryover interest expense loss to 1995, I (Mourad) would owe no 1995 taxes and the 1995 levy of \$14,846.47 would not exist. It should be removed.

There was still over \$950,000 in available carryover losses that could have been applied to subsequent years.

In 1997, the I.R.S. (Examiner Greg Smith) prepared a tax return for me (Mourad), without my (Mourad's) consent.

Smith used the \$965,226 loss figure, but then takes the bankrupt V&M Management's capital gain of \$2,088,554 (for which Mourad had no ownership, control, equity, standing, involvement in the company, or income from), and finds that I (Mourad) received \$686,011 in income for which I (Mourad) owe \$189,745,

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according to the Smith-prepared return. These figures are set forth in the Notice of Deficiency for tax year 1997.

But since I (Mourad) was ousted from any ownership or control of V&M Management, Inc. on April 2, 1996, when the U.S. Bankruptcy Court appointed Trustee Gray, as Chapter 11 Trustee of V&M, and I (Mourad) received no money from V&M Management in 1997, the tax assessment against me (Mourad) for 1997 makes no sense whatsoever, other than to favor the Trustee. That is why I insisted that Greg Smith forward this issue and information for a criminal investigation for the capital gain and fraudulent tax credit taken by Trustee Gray, depleting the assets of the bankruptcy V&M Management, paying the creditors only 9¢ on the dollar, and burdening me (Mourad) with taxes on income I (Mourad) never received.

Ironically, I.R.S. Examiner Greg Smith, familiar with my tax returns for 1996, 1997, and 1998, refused to prepare my 1999 tax return, because the V&M Management, Inc. property was sold on December 18, 1997, to Beacon Residential Property and Mandela Residents, and V&M Management, Inc. was dissolved in 1998.

But, in 1999, I (Mourad) received a 1999 K-1 from the Chapter 11 Trustee Gray, showing a profit of \$536,931.

I.R.S. Examiner Greg Smith could not justify where the profit came from in 1999, when the V&M property was sold in 1997, and the V&M Management corporation was dissolved in 1998. The only source of the 1999 income would have been the allocated \$12 million in tax credits [based upon three annual installments -- 1997, 1998 and 1999]. Clearly, there were no assets left in the bankrupt corporation after the property was sold on December 18, 1997.

On April 4, 2005, the I.R.S. sent me (Mourad) a 1999 tax levy of \$207,385. How a taxpayer/shareholder of a bankrupt Subchapter S corporation that lost his ownership/control in the corporation in April 1996, when a Trustee was appointed, could be assessed taxes for years after he was ousted from control of the corporation, is beyond this taxpayer's understanding.

Yet, the I.R.S., in its May 2, 2000 letter, by Insolvency Adviser, James Clifford, says that the Chapter 11 Trustee has

the right to take advantage of the Low Income Housing Credit that belonged to V&M Management's sole shareholder -- the undersigned Mourad -- and then continue to have the income of the S-Corp flow to the shareholder, after a bankruptcy petition is filed, and Mourad receives no income from the bankrupt estate. If the income and capital gains of the bankrupt Subchapter S corporation continue to flow to the shareholder for income tax purposes, then the Low Income Housing Tax Credits² of \$12 million [in three annual installments -- 1997, 1998, and 1999] should likewise have flowed to the shareholder (the undersigned Mourad) and not to the Chapter 11 Trustee or to Beacon Residential Properties (BRP) that purchased V&M's property with the tax credits that belonged to Mourad. That is, BRP bought V&M's \$12 million appraised property with Mourad's [tax credit] money. BRP's President, Howard Cohen, admitted on the stand before Bankruptcy Judge Rosenthal that "no out of pocket money" independent of the tax credits was used to make the purchase. To allow a \$12 million property to be purchased, with no money other than the tax credit that belonged to Mourad, and to expect Mourad to pay taxes on property taken from him is the height of both folly and tax fraud.

BRP pocketed the money that the V&M creditors should have received. Under the guise of a bankruptcy court-approved reorganization plan, Trustee Gray and BRP were able to steal \$12 million in Low Income Tax Credits from Mourad, and deprived Mourad of the \$12 million in tax credits and his fifteen year involvement in V&M, and maintaining low income minority housing in Roxbury.

This history is set forth more fully in undersigned Petitioner Mourad's Opposition to the I.R.S. Motion, incorporated herein.

² To qualify for the low-income housing tax credits, the applicant must have ten years of ownership of the property, IRC Code § 42(d)(2)(A)(B) & (D)(iii)(II). Only Mourad, as the sole shareholder of V&M Management, Inc., owned the property for the requisite ten years, and not the April 2, 1996 appointed Chapter 11 Trustee Gray, or the December 18, 1997 purchaser, Beacon Residential Properties.

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In that pleading, I asked for a copy of p. 2 of the I.R.S. Motion to Dismiss that was not sent to me. Even after I re-requested a copy of p. 2, the I.R.S. has not, to this very date, ever sent me a copy. I even asked the Court to send me a copy of p. 2. If the I.R.S. will not even send me a single page, the Court can see why I have communication problems with the I.R.S.

Another problem with the I.R.S. is that one of its attorneys, Teresa McLaughlin, misrepresented the facts regarding the ownership of V&M Management, Inc. at the September 16, 2004 argument before the First Circuit Court of Appeals. This misrepresentation is set forth in Mourad's July 13, 2005 Motion to Respond to the First Circuit's October 24, 2004 decision in Mourad v. C.I.R., 387 F.3d 27 (1st Cir. 2004).

I also want this Court to be aware of an additional problem the undersigned faces. After a year and a half of contentious litigation in the V&M Management, Inc. bankruptcy case, In re V&M Management, Inc., U.S.B.C. No. 96-10123-CJK, the Judge overseeing the V&M Management, Inc. bankruptcy case, Chief Judge Carol Kenner, issued a November 16, 1998 Order barring Mourad from the 11th Floor of the O'Neil Federal Building, including the Courtrooms and Clerk's Office. Judge Kenner never gave a reason for her order and did not hold a hearing before entering her Order.

At that November 1998 time, I had six pending motions before Judge Kenner, one of which dealt with liability for paying V&M taxes.

All I did was to request, in a written motion, that I would go on a hunger strike or be arrested if Judge Kenner did not rule upon his six motions that were pending for almost a year, and would deny Mourad any personal right to appeal.

On November 16, 1998, the U.S. Marshall who had spoken to me (Mourad), and Judge Kenner, assured me that the Court would issue her rulings on my six motions within three weeks.

Judge Kenner entered her November 16, 1998 Order barring me (Mourad) from the 11th Floor of the federal bankruptcy courthouse as an endorsement on one of my Motion.

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In response to a May 11, 1999 directive by Massachusetts Superior Court Judge Diane Kottmyer, for me "to go to Federal Court and inquire of the Clerk's Office as to the status of the [removed state court malpractice case] there," May 11, 1999 Transcript of Hearing in Mourad v. Murphy, Suffolk Superior Court, C.A. No. 99-1470, p. 11, lines 7-9, I was arrested when I appeared in the U.S. Bankruptcy Clerk's Office the very next day -- May 12, 1999 -- to obtain the docket number, as directed to by Massachusetts Superior Court Judge Kottmyer.

I was then found guilty of the misdemeanor charge of violating the November 16, 1998 order on May 12, 1999, see United States v. Mourad, 289 F.3d 174 (1st Cir. 2002).

There is serious question whether the November 16, 1998 Bankruptcy Court order has continuing validity. The V&M Management case was dismissed and a Final Judgment has entered. An interim or interlocutory injunctive-type order, like a preliminary injunction, does not survive entry of a Final Judgment not continuing or making permanent the [preliminary or interlocutory] injunction. In any event, the order cannot continue in perpetuity and its duration lasts only as long as it is useful. Judge Kenner retired in 2004, and my administrative claim case was reassigned to Judge Rosenthal. Judge Rosenthal allowed me to appear before him [Judge Rosenthal] for two two trial days on September 24, 2004 and October 20, 2004 for my [Mourad's] trial in Boston. There were no incidents. I was a humble and courteous pro se litigant.

While the May 21, 2007 Trial in this case is scheduled to take place in Room 1013, on the 10th floor, and not the barred 11th floor, the last time -- May 20, 2002 -- I appeared, before the U.S. Tax Court, four U.S. Marshals appeared in the Courtroom to intimidate the undersigned and to give the Judge a defamatory and erroneous impression that I was a threat and/or a bad or dangerous character. I asked U.S. Tax Court Judge Robert P. Durwe why so many U.S. Marshals were present.

There would have been no reason for the U.S. Marshals' presence on May 20, 2002, unless the I.R.S. notified the U.S. Marshal's office of that May 20, 2002 trial in an intentional and deliberate attempt to taint me (Mourad) and to influence the

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outcome of that case. And it worked. This is an additional reason for my distrust of the I.R.S., and why I cannot attend a [pre-trial] conference or communicate with the I.R.S., without judicial protection.

At 62, in poor health and no threat to anyone, I expect to appear alone at the May 21, 2007 Trial in this matter and I would hope and expect not to see a barrage of federal agents or U.S. Marshals flooding the Courtroom.

While I understand Judge Kenner's November 16, 1998 Order pertains only to the 11th Floor, and not the 10th Floor where this Trial is to take place, I would ask this Court to consider vacating the November 16, 1998, given the end of the V&M bankruptcy, Judge Kenner's retirement, the passage of time and desuetude.

Another reason for vacating this order is that I (Mourad) will need access to the 11th Floor Clerk's Office to obtain records, documents and exhibits from the previous bankruptcy tax case, and to allow me to pick up subpoenas from the Clerk's Office.

I may also need access to the U.S. Trustee's Office, located on the same 11th Floor.

I have been a U.S. citizen for 48 years, having come to this country when I was 14 from Lebanon, to be part of the American dream. Since I was put through the wringer of the U.S. Bankruptcy Court system, and deprived of a \$12 million tax credit that only I, as the sole V&M shareholder, was entitled to, I have been treated as less than a second class citizen.

This corporate bankruptcy and the wrongful imposition of personal tax liability upon me for Subchapter S "flowed" through income that I never received, but that the Chapter 11 Trustee and Beacon Residential Properties financially benefited from, has made me indigent and homeless today.

The only way I can have my dignity and integrity restored is for this Court to take a hard and honest look at the fraud committed by the Chapter 11 Trustee and Beacon Residential

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Properties in stealing my \$12 million dollar tax credit that finds me fighting for my life in the U.S. Tax Court.

This case is not just about axes. It is about how a corrupt bankruptcy court system, the cover-up of the tax credits, coupled with the misapplication of the tax laws, and the misrepresentations by the I.R.S. can land a Subchapter S sole shareholder of a bankrupt Subchapter S corporation, who received no income, but finds himself owing, pre-interest and penalties, a \$14,846.47 levy for 1995, a \$335,290.70 levy for 1997, and a \$207,385 levy for 1999, for a combined updated levy in excess of \$700,000.

Indigent and with no resources, I ask this Court to refer the entire V&M low income tax credit and income tax situation for a criminal investigation of how this sordid affair could have taken place in a system governed by the fair application of neutral tax law.

Also enclosed for the Court's consideration is a DVD that lays out the background history of the V&M Management, Alphonse Mourad, the fraudulent tax credit, the Boston Bankruptcy case, the Worcester Bankruptcy case and the I.R.S. scandal and a DVD of Alphonse Mourad's rebuttal of Beacon Residential: Howard Cohen at the celebration of the \$12 million tax credit and the start of tenant ownership.

As the Court can see, the history between the I.R.S. and Mourad may well preclude the required cooperation between the parties called for in the Court's Standing Pre-Trial Order.

Alphonse Mourad

cc: Louis R. Forbes
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Attachments/Exhibits:

1. Notice of Deficiency-Waiver
2. August 26, 1997 One-Stop Application For Low Income Housing Tax Credits
3. May 2, 2000 IRS letter, James Clifford to Mourad
4. July 13, 2005, Mourad's Motion to Reopen First Circuit's Decision in Mourad v. C.I.R., 387 F.3d 27 (1st Cir. 2004)
5. March 9, 2006, Mourad's Opposition to I.R.S. Motion to Dismiss
6. November 16, 1998 Bankruptcy Order Barring Mourad from the 11th Floor of the Tip O'Neil Federal Building
7. May 11, 1999 Hearing before Judge Diane Kottmyer in Mourad v. Murphy, Suffolk Superior Court, C.A. No. 99-1470, p. 11.
8. DVD of V&M Management history by Mourad and former State Senator Bill Owens.
9. DVD of Alphonse Mourad's rebuttal of Beacon Residential: Howard Cohen at the celebration of the \$12 million tax credit and the start of tenant ownership.