

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

UNITED STATES OF AMERICA :
 :
 v. : **CR No. 05-098S**
 :
RICHARD HATCH :

**GOVERNMENT’S OBJECTION TO DEFENDANT’S MOTION FOR
EARLY TERMINATION OF SUPERVISED RELEASE TERM**

The United States of America, by and through its undersigned Assistant United States Attorney, respectfully submits this Objection to defendant’s Motion for Early Termination of Supervised Release Term. As reason for this Objection, the government states as follows:

On January 26, 2006, the defendant was convicted of two counts of Filing False Income Tax Returns, in violation of 26 U.S.C. § 7201, and one count of Filing a False Tax Return for an S Corporation, in violation of 26 U.S.C. § 7206(1). On May 16, 2006, the District Court (Torres, C.J.) sentenced him to a total of 51 months in prison, the high-end of the guidelines range, and to 3 years supervised release. At sentencing, the District Court imposed a 2-level Adjustment based on its finding that Hatch committed perjury at trial, and made false statements to the Probation Office. The Court stated:

Now, in this case, there’s no question that, in my mind at least, that Mr. Hatch willfully gave false testimony with respect to a number of material facts or issues. His testimony is replete with statements that were either flatly contradicted by the contrary testimony of credible and disinterested witnesses or by documentary evidence.

Much of his testimony, some of his testimony, was inherently incredible. There were inconsistencies in his testimony where he contradicted himself, and there were exaggerations or distortions in many of the things that he said.

The list is a pretty long one, and I don't think I can exhaustively document every single one of these things, but I can certainly go down a list of some of them.

(Sentencing transcript "ST": 48.)

And you obstructed justice in two ways too. It wasn't just one statement or one way. You failed to disclose information to the probation officer, as already said, and you testified, in my opinion, knowingly falsely about a number of things during the course of the trial.

(ST: 74.)

At sentencing the Court imposed two special conditions of supervision: 1) that the defendant participate in and complete a program of mental health counseling as approved by the Probation Office, and 2) that the defendant "shall file amended income tax returns for the 2000 & 2001 calendar years, both individually and for Tri-Whale Enterprises, Inc., and pay all taxes due and owing for those years." Hatch appealed his conviction, and on February 1, 2008, the Court of Appeals affirmed his conviction. (514 F.3d 145). On October 6, 2008, the Supreme Court denied certiorari.

The defendant requests early termination of his supervised release, claiming that he has "complied with all the terms of the sentencing order, as well as the terms of supervised release;" that the "IRS has confirmed ... that no assessment of taxes due has been made for Petitioner or his company for the years in question;" and that "Petitioner's Chief U.S. Probation Officer Barry J. Weiner ... will express no objection to early termination." (Defendant's Motion, pp. 3, 4 and 2).

All of these statements are simply false. Despite the Court's sentence, which was imposed on May 16, 2006, the defendant has still not filed amended tax returns for 2000 or 2001, either individually or for Tri-Whale, nor has he paid any of the taxes he owes for these years. At the time of sentencing, the Court found that the defendant owed in excess of \$400,000 in back taxes, and that "those obligations are going to be considerable now [at the time of sentencing] when you take into account interests and penalties." (5/16/06 trial transcript: p. 77). Moreover, the defendant has had recent earnings, but has not paid any portion of those earnings to the IRS.

In addition, the IRS has, in fact, issued a Notice of Deficiency and a Notice of Jeopardy Assessment against the defendant for the years 2000 and 2001. Those Notices reflect total taxes, penalties and interest (as of April 6, 2010) due in the amount of \$1,740,933.55. Copies of those Notices are attached as Exhibits 1 and 2.

The undersigned Assistant has also discussed defendant's Motion with Chief Probation Officer Barry Weiner, who confirms that the defendant has not complied with his terms of supervised release, and indicated that he would recommend against the termination of supervised release.

The defendant continues to thumb his nose at the Court. The trial judge found that the defendant made false statements both during the trial and to the Probation Office. The defendant has disregarded the Court's condition of supervised release regarding the filing of tax returns and the payment of taxes. The defendant continues to make false representations to the Court regarding his compliance with the conditions of supervised release, the position of the IRS, and the position of the Probation Office. Yet, he has the audacity to come before this Court and ask for early termination of his supervised release.

As noted above, the defendant has reported recent earnings to the Probation Office. At the very least, the defendant should be required to pay a portion of such earnings, indeed a substantial portion, to the IRS in order to accomplish the condition of supervised release stating that the defendant is required to pay his taxes. This requirement should be based on a percent of the defendant's gross income, should take into account earnings which the defendant may assign to any other individuals or entities, and should require the defendant to provide to the Probation Office, as of the commencement date of his supervised release, a report of all of his earnings, copies of any 1099 or W-2 forms, and copies of all filed tax returns.

The government strongly urges this Court to both deny defendant's Motion, and to impose the clarification set forth in the previous paragraph.

Respectfully submitted,
UNITED STATES OF AMERICA

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CERTIFICATE OF SERVICE

I hereby certify that on the 12 day of November, 2010, I caused the within Government's Objection to be electronically filed with the United States District Court for the District of Rhode Island, using the CM/ECF system and to be served by first-class mail, postage prepaid, on:

Probation Office

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