

10/20/16
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STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

FILED

STATE OF WISCONSIN,

SEP 15 2016

Plaintiff,

DANE COUNTY CIRCUIT COURT

v.

Case No. 16CF1905

✓ MICHAEL LAFRATTA
N9187 East Shore Drive
East Troy, WI 53120

AND

JAMES MURPHY
W304 N2470 Maple Avenue
Pewaukee, WI 5072

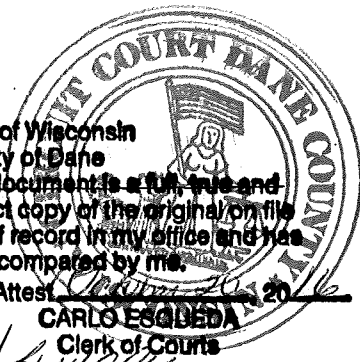
Defendants.

Case No.
State of Wisconsin
County of Dane
This document is a true and
correct copy of the original on file
and of record in my office and has
been compared by me.

Attest: 2016

CARLO ESCOBEDA
Clerk of Courts

By
Deputy Clerk



CRIMINAL COMPLAINT

Complainant, Vern Barnes, Special Agent, Office of Criminal Investigation, Wisconsin Department of Revenue, being duly sworn on oath and based upon information and belief, states as follows:

COUNT 1: FALSE INCOME TAX RETURN, FRAUD, AS PARTIES TO THE CRIME

The above-named defendant, **Michael Lafratta**, did, as a party to the crime, on or about April of 2011, did render a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, contrary to Wis. Stat. § 71.83(2)(b)1. and § 939.05, a Class H felony, and upon conviction may be assessed the costs of this prosecution, and may be

fined not more than \$10,000 (ten thousand dollars) and may be imprisoned for not more than 6 (six) years or both.

COUNT 2: FALSE INCOME TAX RETURN, FRAUD, AS PARTIES TO THE CRIME

The above-named defendant, **Michael Lafratta**, did, as a party to the crime, on or about March of 2012, did render a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, contrary to Wis. Stat. §71.83(2)(b)1. and §939.05, a Class H felony, and upon conviction may be assessed the costs of this prosecution, and may be fined not more than \$10,000 (ten thousand dollars) and may be imprisoned for not more than 6 (six) years or both.

COUNT 3: FALSE INCOME TAX RETURN, FRAUD, AS PARTIES TO THE CRIME

The above-named defendant, **James Murphy**, did, as a party to the crime, on or about April of 2011, did render a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, contrary to Wis. Stat. § 71.83(2)(b)1. and § 939.05, a Class H felony, and upon conviction may be assessed the costs of this prosecution, and may be fined not more than \$10,000 (ten thousand dollars) and may be imprisoned for not more than 6 (six) years or both.

COUNT 4: FALSE INCOME TAX RETURN, FRAUD, AS PARTIES TO THE CRIME

The above-named defendant, **James Murphy**, did, as a party to the crime, on or about April of 2012, did render a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, contrary to Wis. Stat. § 71.83(2)(b)1. and § 939.05, a Class H felony, and upon conviction may be assessed the costs of this prosecution, and may be fined not more than \$10,000 (ten thousand dollars) and may be imprisoned for not more than 6 (six) years or both.

FACTS:

Dr. Richard Salm, D.D.S. told your complainant that prior to June 2012, he had worked as a dentist with another group in Wisconsin but was looking to purchase an ownership interest in a practice. By June, 2012, Dr. Salm had been contacted by a broker who alerted Dr. Salm to the fact that defendant Dr. Michael Lafratta wanted to retire from his practice with defendant, Dr. James Murphy, with whom he had been doing business as Your Family Dentist Partnership, located at 411 North Grand Avenue, Waukesha, Waukesha County, Wisconsin.

Dr. Salm contacted the defendants and they reached an agreement whereby Drs. Salm and Murphy would form a new entity called Your Family Dentist, LLC, with Salm and defendant Murphy as 50:50 partners, and defendant Lafratta continuing to work as an employee for them for the month of July 2012 during the transition, and then retire.

Between August 2012 and August 2013, Dr. Salm was confronted by defendant Murphy's monopolistic and dictatorial style and by Dr. Salm bearing the greater share of the operating expenses of the practice in what was supposed to have been a 50:50 partnership. During extensive discussions regarding his dissatisfaction with how the partnership was proceeding, Dr. Salm told defendant Murphy how defendant Lafratta had described to Dr. Salm the financial arrangement between the defendants when they were in practice together and why it didn't seem to be working that way now. Defendant Murphy presented to Dr. Salm handwritten documents which he said were the figures of collections and disbursements in defendant Lafratta's own handwriting for the months between June 2011 and June 2012 as an accurate demonstration of how it used to work between the defendants. These were the documents that defendant Lafratta would present to the accountant to do the partnership tax returns.

In addition, defendant Murphy told Dr. Salm that the defendants had cheated on their taxes in the old partnership. Murphy told him they took extra money out that was not accounted for on the aforescribed handwritten documents. Defendant Murphy told Dr. Salm that they

skimmed modestly to lessen the chance of an audit by making the revenues appear somewhat even from month to month. Defendant Murphy showed Dr. Salm on the handwritten documents that if it was labeled "official" then they skimmed a lot that month; if it was labelled "actual and official" then they didn't skim that much that month. Defendant Murphy told Dr. Salm that the defendants didn't think they would be caught because they believed the amounts they skimmed off were small compared to the amounts that were reported.

Dr. Salm turned over to your complainant the handwritten documents that defendant Murphy had given him. The handwritten documents for the months identified on the handwritten documents as June, August, September, October and November 2011 were all labeled "official" at the top. On those handwritten documents identified as covering July 2011 and December 2011, your complainant could not discern if they were marked "official" or "actual and official". Those handwritten documents identified as January, February, March and April 2012 were also labeled "official" at the top. June 2012 is labeled "actual & official".

On May 13, 2015, your complainant interviewed Ray Ladd, a paid tax preparer who operates a CPA business out of Milwaukee. He was the person who prepared the partnership returns for the defendants' practice, Your Family Dentist Partnership, for 2009 through 2012. Ladd showed your complainant the handwritten document he had a copy of from December 2010 which Lafratta had given him and which had the same layout and format as the handwritten documents your complainant received from Dr. Salm. Ladd further told your complainant that Lafratta had always done the handwritten documents from even before the partnership with Murphy. The handwritten documents Lafratta submitted to Ladd to prepare the partnership returns came in a binder by the month, and, when he was done, Ladd would always return the binders to Lafratta. The accountant Ladd used the collection figures from the handwritten documents to derive the gross receipts for the partnership tax return. Ladd turned over to your

complainant copies of the excel spreadsheets that he created for his purposes from the handwritten documents in preparing the partnership returns down through the years.

Your complainant compared the excel spreadsheet from Ladd with the handwritten documents described above obtained from Dr. Salm. Your complainant found that Ladd recorded on his excel spreadsheet the exact figures provided to him from the handwritten documents for each of the defendant's gross receipts for each of the months. Ladd would then deduct expenses and give each of the defendants copies of their partnership returns and other forms that showed what percentage of their total net income was attributable to each of the two partners so that they could then prepare their individual income tax returns.

Eventually Dr. Salm turned over to your complainant MOGO printouts for the period from 2009 through December 2011 for Your Family Dentist Partnership. MOGO is the trade name of an accounting/billing application for dentists to enter all of their patients' treatments, appointments, receipts, billing statements; and for keeping track of balances, submitted insurance claims and actual collections made. The MOGO printouts produced detailed production reports, that is, billings for services provided, as well as actual collections received. Using the program, runs could be done for daily, weekly, monthly or annual periods.

Comparing the collections per the MOGO office management program printouts with the gross receipts listed by Ladd on the Return of Partnership Income form which Ladd prepared based on the handwritten documents provided to Ladd by Lafratta, the following understatements of income are identified:

	2009	2010	2011
Collections per MOGO	\$1,729,544	\$1,719,884	\$1,758,192
Gross receipts Partnership	\$1,501,888	\$1,472,456	\$1,538,529
Understatement	\$ 227,656	\$ 247,428	\$ 219,663

Therefore the gross receipts and resulting net partnership income were understated by over \$200,000 for each of these years; and, based on the partnership percentages as to each partner, the understatement as to each defendant is as follows:

	2009	2010	2011
Total understatement	\$ 227,656	\$ 247,428	\$ 219,663
Lafratta portion	\$ 134,135	\$ 145,873	\$ 125,061
Murphy portion	\$ 93,521	\$ 101,554	\$ 94,602

By underreporting the business income in the partnership, the defendants have evaded paying state income taxes on their Wisconsin individual income tax returns as follows:

	2009	2010	2011
<u>Lafratta:</u>			
Income per return	\$ 502,752	\$ 475,208	\$ 479,776
Unreported income	\$ <u>134,135</u>	\$ <u>145,873</u>	\$ <u>125,061</u>
Corrected income	\$ 654,887	\$ 621,081	\$ 604,837
Tax due (from tables)	\$ 47,890	\$ 45,312	\$ 44,021
Less reported that year	\$ <u>37,495</u>	\$ <u>34,008</u>	\$ <u>34,330</u>
Taxes evaded	\$ 10,395	\$ 11,304	\$ 9,691

	2009	2010	2011
<u>Murphy:</u>			
Income per return	\$ 351,828	\$ 279,443	\$ 361,214
Unreported income	\$ <u>93,521</u>	\$ <u>101,554</u>	\$ <u>94,602</u>
Corrected income	\$ 445,349	\$ 380,997	\$ 455,816
Tax due (from tables)	\$ 30,697	\$ 25,766	\$ 31,521
Less previous reported	\$ <u>23,449</u>	\$ <u>18,057</u>	\$ <u>24,190</u>
Taxes evaded	\$ 7,248	\$ 7,709	\$ 7,331

Thus, in the three years 2009, 2010 and 2011, the defendants combined have evaded \$53,678 in Wisconsin State Income taxes.

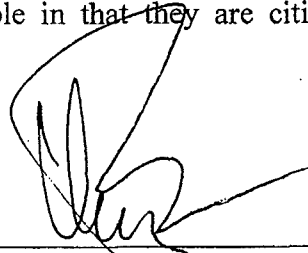
Michael Lafratta filed his 2009 Wisconsin state income tax return on April 15, 2010; his 2010 Wisconsin state income tax return on April 18, 2011; and his 2011 Wisconsin state income tax return on March 26, 2012. All three of his returns were prepared by Raymond Ladd.

James and Julie Murphy filed their 2009 Wisconsin state income tax return on April 16, 2010; their 2010 Wisconsin state income tax return on April 14, 2011; and their 2011 Wisconsin state income tax return on April 14, 2012. All three returns were prepared by John Begg, Jr., from Hyannis, MA.

This complaint is based on the information and belief of your complainant who is a Special Agent of the Office of Criminal Investigation of the Wisconsin Department of Revenue and who learned of the above offenses from personal investigation and from documents made and kept in the regular course of the business of the Wisconsin Department of Revenue, Your Family Dentist Partnership, and Raymond Ladd which records are truthful, accurate and reliable in as much as they are regularly relied upon by persons engaged in said businesses to be truthful, accurate and reliable.

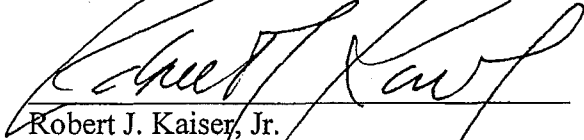
Further your complainant believes information furnished by Dr. Richard Salm and Raymond Ladd to be truthful, accurate and reliable in that they are citizen informants and witnessed the events described.

Dated this 14th day of September, 2016.



VERN BARNES
Special Agent, Department of Revenue

Subscribed and sworn to before me and approved for filing this 14th day of September, 2016.



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