

May 4, 2006

## **MEMORANDUM**

**TO: Chapter Presidents**

**RE: *USA Today* Article on Tax Debt Privatization**

**SUMMARY: In its May 4 edition, *USA Today* published a lengthy article, which includes NTEU's views about problems with the Internal Revenue Service's plan to privatize tax debt collection. The article is enclosed for your information.**

The Internal Revenue Service's (IRS) effort to hire private sector debt collectors to pursue tax debts was the subject of national publicity in the form of a lengthy article in the May 4 edition of *USA Today*—the nation's largest daily newspaper.

The article, which is enclosed, talks among other issues about legal problems surrounding one of the initial recipients of an IRS contract for this program and includes some of NTEU's views on this misguided and flawed IRS effort at privatization of tax collection.

NTEU continues its work in every possible forum to highlight for members of Congress and the public at large the many problems inherent in turning over personal and sensitive taxpayer information to private sector debt collectors—consistently the most complained-about industry in America.

NTEU chapters and members are strongly encouraged to seek the support of their elected federal officials for passage of H.R. 1621, bipartisan legislation that would revoke the IRS's authority to hire private debt collectors.

Colleen M. Kelley  
National President

Attachment

## USA Today

### IRS plan to use private tax collectors runs into snags

By Kevin McCoy, USA TODAY

A private debt-collection firm tapped by the IRS to seek repayment from Americans who owe back taxes has been tangled in legal controversy, including a bribery scheme involving a collection contract in Texas and a federal investigation of another collection deal in Louisiana.

Linebarger Goggan Blair & Sampson, an Austin law firm, was one of three firms chosen from among 33 bidders in March for the potentially lucrative IRS contract to attempt collection of an estimated \$1.4 billion in tax debts over 10 years.

The IRS initiative, set to start this year, has been viewed as a privatization plum because the winning bidders would be allowed to keep up to 24% of the amounts they collect. Congress in 2004 authorized the effort, which mirrors those used by many local and state governments.

But the plan has been placed on temporary hold amid a challenge of the IRS selection decision by one of the unsuccessful bidders. Filed with the Government Accountability Office in March, the challenge asserted that:

- A former Linebarger partner was convicted in a 2002 bribery scheme involving payments to two San Antonio city councilmen who voted to approve a collection contract with the law firm.
- In 2004, Linebarger settled a lawsuit in which a competitor alleged that the law firm offered illegal gifts and bribes, and rigged bids to win collection contracts from several local governments.
- A collection contract that the city of New Orleans awarded to Linebarger and a Louisiana partner organization in 1998 "has been the subject of an FBI investigation."

Additionally, a USA TODAY review of the IRS debt-collection plan shows that one of the unsuccessful bidders had a collection contract suspended in Ohio, and another was accused of making illegal campaign contributions in Texas.

#### Concerns voiced

Colleen Kelley, head of the National Treasury Employees Union that represents IRS workers, said Americans with tax debts should be "alarmed" at the prospect of being dunned by private collectors.

She questioned whether employees of private collection firms would abide by confidentiality restrictions on taxpayer information, and argued the workers would face "a lot of pressure" to achieve high collection rates.

"It's going to invite inappropriate collection tactics," Kelley said.

Similarly, the 2006 report to Congress by Nina Olson, the IRS National Taxpayer Advocate, warned that private collection firms, operating "under rules of profit maximization" could "have less incentive to provide important taxpayer rights training to their employees."

IRS procurement director David Grant said the agency weighed concerns about the privatization plan and developed security safeguards before proceeding. The privatization initiative is designed to boost collections by supplementing in-house IRS efforts to pursue tax debtors without adding employees to the federal budget. Starting in 2008, the IRS plans to add more collection firms to the effort.

The privatization plan, endorsed by the non-partisan National Taxpayers Union and other groups, will free IRS employees "to work on more complex cases we just aren't getting to right now," said IRS collections director Brady Bennett.

Grant said he could not address the issues raised in the challenge to the Linebarger firm contract while the IRS decision was being contested. However, he said, "We were clearly aware of a couple of those issues, and we feel we did exercise due diligence in going back and checking them."

The General Services Administration screened the law firm and included it on a list of companies authorized to recover government-owed debts, Grant said. The firm got high marks in an IRS evaluation that rated bidders on their performance history, management plan and proposed technical approach to tax debt collections, he said.

Specializing in government collections, the Linebarger firm has approximately 1,500 employees and offices in 10 states. It boasts of collecting hundreds of millions of dollars annually for more than 1,800 governments such as Chicago, Dallas and Philadelphia.

But the firm came under a cloud in 2002, when a federal indictment accused Juan Pea, a Linebarger partner, of using a lobbyist to funnel \$12,000 in bribes to San Antonio city council members Enrique Martin and John Sanders. Martin and Sanders changed their previous positions and voted to award a city collection contract to the law firm after they got the payments, court records show.

Pea resigned from the law firm and ultimately joined the councilmen and lobbyist in pleading guilty. In his plea agreement, he acknowledged the payments were made "in support of the bid by the defendant's law firm to secure a contract to collect fees and fines for the city of San Antonio," an award that was canceled after the revelations. Pea was sentenced last year to 30 months in prison and was ordered to pay a \$1 million fine.

## **Changes made**

Kenneth Oden, a former Texas prosecutor recruited as general counsel of the Linebarger firm after the episode, called the bribery "a terrible curveball" that Pea had concealed from the firm's other partners and employees. "We never tried to condone or excuse it, and we've done everything possible to make sure nothing like that ever happens again," said Oden, noting that the firm brought in an ethics adviser and enacted an ethics code.

The IRS said the episode "did not adversely affect" the law firm's business performance.

"We're hopeful that at the end of the day, our contract will be intact," said Michael Vallandingham, another partner and national marketing director at the firm.

In 2003, following the Pea indictment, a competing private collection company filed a federal lawsuit that accused the Linebarger firm of offering illegal gifts and bribes to win government contracts in Houston, Dallas County, Corpus Christi, Beaumont, Port Arthur and other municipalities. The adversaries reached a confidential settlement in 2004.

Oden said the settlement terms permitted him to say only that "the matter was resolved to the mutual satisfaction of the parties." However, news accounts at the time show that the firm denied the allegations. The firm also noted that its government clients subsequently re-examined their Linebarger contracts without finding anything improper.

The law firm's contract with New Orleans was awarded by the administration of then-mayor Marc Morial. Its partner in the collection work was United Governmental Services of Louisiana. A corporate record and interviews with Henry Klein, an attorney who has filed several lawsuits over the contract, showed that those associated with UGS included former Morial fundraiser Sam Kogos and William Grace, a prominent attorney and onetime king of the city's Mardi Gras celebration.

A record from the contract shows that UGS responsibilities included "maintaining favorable relationships with local officials, business organizations and charitable organizations."

In a recent telephone interview, Klein said FBI agents had contacted him with questions about the contract. Jim Letten, the U.S. Attorney in New Orleans, declined to comment. Grace did not respond to a message seeking comment, and Kogos could not be reached.

In a statement about the contract, which was canceled in 2005, Oden said the Linebarger firm about two years ago was "asked for some information regarding an ongoing investigation, which we of course provided."

"Although we have not been notified that our firm is or ever was the subject of any investigation related to our work for the city of New Orleans, we would not presume to

speak for the investigative authorities, and therefore, we reserve any further comment," Oden said in the statement.

USA TODAY's review found that the Linebarger law firm wasn't the only IRS collection contract bidder with a history of contract or legal problems.

An Ohio debt-collection contract with GC Services, the Houston-headquartered firm that challenged the Linebarger award, was suspended in 2004 after internal documents were found in a trash container outside the company's Columbus office. Mark Anthony, a spokesman for Ohio Attorney General Jim Petro, confirmed the incident.

GC Services general counsel Joseph Van Nest said the records were discarded by a disgruntled employee, and said the state did not find any wrongdoing by the firm.

And California-based Diversified Collection Services, an unsuccessful bidder that filed, then withdrew a challenge of the IRS award, was indicted in 2004 for allegedly making illegal contributions to a political action committee created by former U.S. House majority leader Tom DeLay.

Prosecutors dropped the charges after the company, now under different ownership, agreed to fund part of a \$200,000 contribution to a University of Texas program studying money and politics.

May 4, 2006