

1 Ruth L. Cohen, Esq. (NV Bar No: 1782)
Email: rcohen@caplawyers.com
2 Paul S. Padda, Esq. (NV Bar No: 10417)
Email: ppadda@caplawyers.com
3 COHEN & PADDA, LLP
4240 West Flamingo Road, Suite 220
4 Las Vegas, Nevada 89103
Tele: (702) 366-1888
5 Fax: (702) 366-1940
Web: caplawyers.com
6

Todd M. Leventhal, Esq. (NV Bar 8543)
7 Email: todlev@yahoo.com
LEVENTHAL & ASSOCIATES
8 600 South Third Street
Las Vegas, Nevada 89101
9 Tele: (702) 472-8686
Fax: (702) 472-8685
10

Attorneys for the Plaintiff

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 **ANTHONY M. ZECCHINO,**

14 **Plaintiff,**

15 **v.**

16 **JACOB J. LEW, Secretary of**
17 **the United States Department**
18 **of the Treasury;**

19 **Defendant.**

Case No. 2:13-cv-0205-JCM-(CWH)

Demand For Trial By Jury

20 **FIRST AMENDED COMPLAINT**

21 This is a civil action seeking monetary relief for violations of federal civil rights
22 laws. In support of this First Amended Complaint, Plaintiff hereby alleges the following:

23 **I.**

24 **JURISDICTION, VENUE AND LEGAL BASIS FOR THIS ACTION**

25 1. This Court possesses jurisdiction to entertain this matter pursuant to 28
26 U.S.C. § 1331 because Plaintiff's claims arise under Title VII of the Civil Rights Act of

1 1964, 42 U.S.C. § 2000e *et. seq.*

2 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 since
3 “a substantial part of the events or omissions giving rise to the claim[s] occurred” in
4 Nevada.

5 3. This civil action is brought by Plaintiff pursuant to federal statutory and
6 common law.

7 **II.**

8 **THE PARTIES**

9 4. Plaintiff, “Anthony M. Zecchino,” is an adult individual currently residing
10 in Clark County, Nevada. Mr. Zecchino is employed as a Revenue Officer with the
11 Internal Revenue Service (“IRS”), a component agency of the United States
12 Department of the Treasury (“Treasury”).

13 5. Defendant “Jacob J. Lew” is an adult individual that serves as the
14 Secretary of the Treasury for the United States. Mr. Lew is being sued herein for
15 monetary damages in his official capacity based upon the discriminatory actions of
16 subordinate employees acting on his behalf.

17 **III.**

18 **FACTUAL BACKGROUND**

19 6. Plaintiff is employed as a Revenue Officer with the IRS. He has had
20 a distinguished career consistently earning high performance ratings and numerous
21 accolades. As one who frequently deals with the taxpaying public as part of his
22 employment duties, Plaintiff has consistently been recognized by taxpayers for his
23 sense of compassion, fairness and pleasant personality. By every reasonable
24 measure, Plaintiff is an outstanding federal employee.

25 . . .

1 (e.g. making equal employment opportunity claims). Additionally, when Plaintiff
2 attempted to transfer to another IRS office outside of Nevada in order to escape the
3 retaliation, Mr. Carey actively worked to derail his opportunities to relocate by
4 preventing him from interviewing with other IRS offices.

5 11. Seething with retaliatory animus and hatred towards Plaintiff, Mr. Carey
6 referred him to the Treasury Inspector General for Tax Administration (“TIGTA”) for
7 potential criminal prosecution based upon his EEO complaints. In referring Plaintiff to
8 TIGTA, IRS management attempted to portray Plaintiff as unstable in the hopes that he
9 would either be prosecuted or fired. The referrals to TIGTA were clearly acts of reprisal
10 taken against Plaintiff for complaining about discriminatory actions taken by his
11 management.

12 12. Following the initiation of this lawsuit, the United States Attorney’s Office
13 for the District of Nevada (“USAO”), at the urging of the IRS, sent Plaintiff a criminal
14 “target letter” in an effort to intimidate him into abandoning this lawsuit. The legal
15 theory underpinning the government’s threat to prosecute Plaintiff is extremely flimsy
16 and based upon a tortured manipulation of facts. According to the USAO, a component
17 of the United States Department of Justice, its basis for potential prosecution of Plaintiff
18 is predicated upon the theory that he committed an alleged “theft” of government funds
19 when he administratively closed out old and stagnant files on taxpayers thereby
20 impeding the IRS’ ability to collect on alleged tax debts. See Exhibit 1. Although there
21 is no evidence, let alone suggestion, that Plaintiff profited from closing out any files, the
22 USAO has dubiously alleged the commission of a federal crime. The target letter,
23 however, is merely a pretext for retaliating against Plaintiff in what can only be
24 characterized as the ultimate and cynical act of government abuse of authority. The
25 message to Plaintiff and other government employees is clear, complain about
26

1 discrimination or engage in whistleblowing and the government will seek to imprison the
2 complainant and destroy his or her life.

3 **IV.**

4 **FIRST CAUSE OF ACTION**
5 **(National Origin Discrimination)**

6 13. Plaintiff realleges and incorporates by reference the allegations contained
7 in paragraphs 1 through 12 set forth above.

8 14. Defendant, by and through his management employees, discriminated
9 against Plaintiff on the basis of his national origin and ethnic heritage (Italian) by,
10 among other things, singling him out for derogatory comments suggesting he was prone
11 to commit criminal acts based upon his Italian ancestry. Acting upon this racially
12 inappropriate belief, Plaintiff's management did in fact refer him to the United States
13 Attorney's Office for the District of Nevada for potential criminal prosecution based upon
14 trumped up charges lacking any factual or legal support.

15 15. The foregoing conduct constituted illegal discrimination prohibited by 42
16 U.S.C. § 2000e *et. seq.*

17 **V.**

18 **SECOND CAUSE OF ACTION**
19 **(Disability Discrimination)**

20 16. Plaintiff realleges and incorporates by reference the allegations contained
21 in paragraphs 1 through 12 set forth above.

22 17. Defendant discriminated against Plaintiff on the basis of his disability by,
23 among other things, failing to accommodate him and eventually demoting him by
24 forcing him to sit at a kiosk. These acts of discrimination aggravated and made worse
25 Plaintiff's disability.

1 18. The foregoing conduct constituted illegal discrimination prohibited by 42
2 U.S.C. § 2000e *et. seq.* and 42 U.S.C. § 12102 *et. seq.*

3 VI.

4 **THIRD CAUSE OF ACTION**
5 **(Retaliation / Reprisal)**

6 19. Plaintiff realleges and incorporates by reference the allegations contained
7 in paragraphs 1 through 12 set forth above.

8 20. Defendant, by and through his management employees, has retaliated
9 against Plaintiff by thwarting his efforts to transfer to another IRS office outside of
10 Nevada and by recently referring him for potential criminal prosecution after he raised
11 legitimate concerns regarding discrimination on the basis of national origin and
12 disability.

13 21. The act of referring Plaintiff for criminal prosecution is intended to silence
14 Plaintiff and intimidate other IRS employees that have been supportive of Plaintiff and
15 can corroborate his claims. In fact, as the ultimate act of intimidation, and in
16 collaboration with the IRS, the United States Attorney’s Office for the District of Nevada
17 recently sent Plaintiff a “target letter” in an effort to intimidate him from pursuing this
18 lawsuit. As a result of the foregoing, Plaintiff has been required to incur significant legal
19 fees in order to defend himself from a threatened prosecution that is completely
20 baseless and predicated upon the flimsiest of legal theories and a complete
21 manipulation of facts.

22 22. The foregoing conduct constitutes illegal retaliation prohibited by 42
23 U.S.C. § 2000e *et. seq.*

24 . . .

25 . . .

VII.

RELIEF REQUESTED

23. Wherefore, in light of the foregoing, Plaintiff requests that the Court enter the following relief in this matter:

- a. Set this matter for trial by jury on a date certain;
- b. Award Plaintiff general and compensatory damages in an amount exceeding \$100,000;
- c. Pre-judgment and post-judgment interest, as provided by law;
- e. Award Plaintiff his costs and reasonable attorneys fee;
- f. Award all other just and proper relief.

Respectfully submitted,

/s/ Ruth L. Cohen
/s/ Paul S. Padda

Ruth L. Cohen, Esq.
Paul S. Padda, Esq.
COHEN & PADDA, LLP

/s/ Todd M. Leventhal

Todd M. Leventhal, Esq.
LEVENTHAL & ASSOCIATES

Attorneys for the Plaintiff

Dated: May 31, 2013

EXHIBIT 1

EXHIBIT 1



U.S. Department of Justice

United States Attorney
District of Nevada

333 Las Vegas Blvd., South
Suite 5000
Las Vegas, Nevada 89101

Telephone (702)388-6336
Fax (702)388-5087

March 8, 2013

Todd Leventhal
Leventhal and Associates
600 S. Third Street
Las Vegas, Nevada 89101

Re: United States of America v. Anthony Zecchino – Target Letter

Dear Todd:

As a result of an investigation conducted by the U.S. Treasury - Inspector General for Tax Administration, it appears that your client, Anthony Zecchino, has violated Title 26, United States Code, Section 7214, Unlawful Acts By Revenue Officers, and Title 18, United States Code, Section 641, Theft of Government Funds. The violations stem from your client's actions while acting as a revenue officer, specifically, improperly and fraudulently closing collection files while there were still identifiable assets available for collection by the United States.

If your client is interested in resolving this matter short of an Indictment, please contact me at (702) 388-6583. If your client cannot afford an attorney, he may contact Barbara Price at the United States District Court for the District of Nevada, at (702) 464-5614.

If you or your client do not contact me prior to Friday, March 29, 2013, this matter will proceed in the ordinary course of prosecution.

Sincerely yours,

DANIEL G. BOGDEN
United States Attorney


KATHRYN C. NEWMAN
Assistant United States Attorney

cc: John Kirk (TIGTA)