

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,

Plaintiff,

Case No. _____

v.

WILLIAM H. SIBLEY,
DANIEL E. BECNEL, JR., and
BRADLEY D. BECNEL,

Defendants.

_____ /

COMPLAINT

1. The United States brings this civil action to reduce to judgment the unpaid federal income tax liabilities assessed against defendant William H. Sibley for the years 2004, 2005, 2006, 2008, 2009, and to collect those unpaid federal income tax liabilities by foreclosing its tax liens against defendant Sibley's interest in Riverlands Residential & Industrial Properties Company, LLC (hereinafter "RR&I") and Riverlands Residential & Industrial Properties Company II, LLC (hereinafter "RR&I II").

2. This action is brought at the direction of the Attorney General of the United States and at the request and with the authorization of Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of Treasury, under 26 U.S.C. § 7401.

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1340 and 1345 and under 26 U.S.C. §§ 7402(a) and 7403.

4. Venue is proper in the Eastern District of Louisiana pursuant to 28 U.S.C. §§ 1391(b) and 1396 because defendant/taxpayer Sibley resides within the jurisdiction of this Court.

PARTIES

5. Sibley is the taxpayer in this matter and is a member and interest holder in RRIP and RRIP II.

6. Daniel E. Becnel, Jr. is joined as a party to this action pursuant to 26 U.S.C. § 7403(b). Daniel Becnel, Jr. is a member, manager and interest holder in RRIP and RRIP II and may claim an interest in Sibley's interest in RRIP and RRIP II.

7. Bradley Becnel is joined as a party to this action pursuant to 26 U.S.C. § 7403(b). Bradley Becnel is a member and interest holder in RR&I and RR&I II and may claim an interest in Sibley's interest in RR&I and RR&I II.

COUNT I – REDUCE TAX LIABILITIES TO JUDGMENT

8. On or about October 16, 2006, Sibley filed his 2004 federal income tax return reporting a tax liability of \$542,942. Sibley did not remit full payment with his return. Pursuant to 26 U.S.C. § 6201(a)(1), a delegate of the Secretary of the Treasury assessed federal income tax, interest, and penalties against Sibley for the tax year 2004 as follows:

Assessment Date	Type of Assessment	Amount of Assessment
11/13/2006	Income Tax	542,942
	Estimated Tax Penalty	15,559
	Failure to Pay Tax Penalty	13,573.55
	Interest	15,691.23
10/12/2009	Failure to Pay Tax Penalty	122,161.95
Balance due (with accrued interest and failure to pay penalty) as of 12/5/2012 is \$716,964.58.		

9. On or about April 21, 2007, Sibley filed his 2005 federal income tax return reporting a tax liability of \$573,525. Sibley did not remit full payment with his return. Pursuant to 26 U.S.C. § 6201(a)(1), a delegate of the Secretary of the Treasury assessed

federal income tax, interest, and penalties against Sibley for the tax year 2005 as follows:

Assessment Date	Type of Assessment	Amount of Assessment
5/21/2007	Income Tax	573,525
	Estimated Tax Penalty	4,475.86
	Failure to Pay Tax Penalty	22,941
	Interest	27,933.75
10/12/2009	Failure to Pay Tax Penalty	120,440.24
Balance due (with accrued interest and failure to pay penalty) as of 12/5/2012 is \$945,861.09.		

10. On or about October 18, 2007, Sibley filed his 2006 federal income tax return reporting a tax liability of \$497,708. Sibley did not remit full payment with his return. Pursuant to 26 U.S.C. § 6201(a)(1), a delegate of the Secretary of the Treasury assessed federal income tax, interest, and penalties against Sibley for the tax year 2006 as follows:

Assessment Date	Type of Assessment	Amount of Assessment
11/26/2007	Income Tax	497,708
	Estimated Tax Penalty	3,166.24
	Failure to Pay Tax Penalty	19,906.72
	Interest	25,154.94
10/06/2008	Estimated Tax Penalty	12,370.43
	Failure to Pay Tax Penalty	37,325.10
	Interest	30,029.39
10/12/2009	Failure to Pay Tax Penalty	59,720.16
10/11/2010	Failure to Pay Tax Penalty	7,465.02
Balance due (with accrued interest and failure to pay penalty) as of 12/5/2012 is \$808,734.14.		

11. On or about October 13, 2009, Sibley filed his 2008 federal income tax return reporting a tax liability of \$347,382. Sibley did not remit full payment with his return. Pursuant to 26 U.S.C. § 6201(a)(1), a delegate of the Secretary of the Treasury assessed federal income tax, interest, and penalties against Sibley for the tax year 2008 as follows:

Assessment Date	Type of Assessment	Amount of Assessment
11/16/2009	Income Tax	347,382
	Failure to Pay Tax Penalty	5,894
	Interest	3,512.84
10/10/2011	Failure to Pay Tax Penalty	29,470
Balance due (with accrued interest and failure to pay penalty) as of 12/5/2012 is \$206,774.		

12. On or about October 12, 2010, Sibley filed his 2009 federal income tax return reporting a tax liability of \$37,894. Sibley did not remit full payment with his return. Pursuant to 26 U.S.C. § 6201(a)(1), a delegate of the Secretary of the Treasury assessed federal income tax, interest, and penalties against Sibley for the tax year 2009 as follows:

Assessment Date	Type of Assessment	Amount of Assessment
11/15/2010	Income Tax	37,894
	Estimated Tax Penalty	907.28
	Failure to Pay Tax Penalty	1,326.29
	Interest	899.14
Balance due (with accrued interest and failure to pay penalty) as of 12/5/2012 is \$48,832.21.		

13. Notices of the assessments described above and demands for their payment were made on Sibley as provided by law. Despite reporting the tax liabilities on his filed returns and notices and demands from the Internal Revenue Service, Sibley has failed and refused to pay the entire amount of the tax liabilities described above.

14. As of December 5, 2012, Sibley owes a total of \$2,727,166.02 for his 2004, 2005, 2006, 2008 and 2009 federal income tax liabilities, plus further interest and statutory additions thereon as allowed by law.

COUNT II – FORECLOSE TAX LIENS

15. The United States realleges paragraphs 1-14 above as if fully alleged in this count and incorporates them herein by this reference.

16. Pursuant to 26 U.S.C. §§ 6321 and 6322, liens for the unpaid federal income taxes described in paragraphs 16-20 above, arose in favor of the United States on the dates of the assessments and attached to all property and rights to property belonging to Sibley, including RR&I and RR&I II.

17. A delegate of the Secretary of the Treasury filed Notices of Federal Tax Liens, pursuant to 26 U.S.C. § 6323 and Louisiana Revised Statutes § 52:52, against Sibley on account of his federal income tax liabilities described herein as follows:

Tax Year	Place Filed	Date NFTL Filed	Recording Information
2004	Clerk of Court, Tangipahoa Parish, Amite, LA UCC	4/20/2007	Liber 1607, Page 709 Recording/UCC Number: 53-748895
2005	Clerk of Court, St. Helena Parish, Greensburg, LA UCC	6/29/2007	Liber 227, Page 337 UCC Number: 093960
	Clerk of Court, St. Helena Parish, Greensburg, LA UCC	3/3/2009	LiberMOB238, Page 304 UCC Number:46-097408
2006	Clerk of Court, Tangipahoa Parish, Amite, LA UCC	2/19/2008	Liber 1714, Page 27 UCC Number: 53-774080

2004-2006	Clerk of Court, Livingston Parish, Livingston, LA UCC	9/08/2009	Liber 1708, Page 748 UCC Number: 32-17576
2008	Clerk of Court, Tangipahoa Parish, Amite, LA UCC	3/22/2010	Liber 1921, Page 33 UCC Number: 53-826211
2009	Clerk of Court, Tangipahoa Parish, Amite, LA UCC	12/006/2010	Liber: 1986, Page 649 UCC Number: 53-843005

18. Sibley owns an 11.5204% membership interest in RR&I pursuant to RR&I's Articles of Organization dated June 27, 1995.

19. Sibley owns an 11.5204% membership interest in RR&I II pursuant to RR&I II's Operating Agreement dated April 27, 2000.

20. RR&I and RR&I II are closely-held limited liability companies that invest in real property in Louisiana and are subject to Chapter 9 of the Louisiana Commercial Laws (La. Rev. Stat. § 10:9-109 (2012)).

21. On March 6, 2000, Sibley signed a collateral pledge agreement pledging his interest in RR&I to Daniel Becnel, Jr. and Bradley Becnel as security for a \$350,000 loan.

22. Upon information and belief, Sibley borrowed additional funds from the Becnells on August 25, 2005 and pledged his interest in RR&I and RR&I II as collateral for that loan.

23. The Becnells did not record the collateral pledge agreement or a UCC financing statement with St. John the Baptist Clerk of Court or the UCC register. As a result, the Becnells do not have a security interest (as defined by 26 U.S.C. § 6323(h)(1)) in Sibley's 11.5204% interest in RR&I and RR&I II.

24. On May 15, 2009, defendant Daniel Becnel, Jr. filed suit in the 40th Judicial District Court, Parish of St. John the Baptist in the State of Louisiana against Sibley seeking to recover the unpaid balance of the loans referenced in paragraphs 21 and 22 above. The United States was not a party in that suit. A default judgment was entered against Sibley on June 10, 2009.

WHEREFORE, the plaintiff, United States of America, prays that the Court determine and adjudge:

A. That defendant William H. Sibley is indebted to the United States for his 2004, 2005, 2006, 2008 and 2009 in the amount of \$2,727,166.02, as of December 5, 2012, plus interest and all statutory additions thereafter as provided by law; and

B. That the United States may foreclose its liens upon defendant William H. Sibley's 11.5204% interest in Riverlands Residential & Industrial Properties Company, LLC and Riverlands Residential & Industrial Properties Company II, LLC; and such interest may be sold according to law, free and clear of liens and claims of the parties herein; and that the proceeds of the sale be distributed in accordance with the determination of this Court with respect to priorities of the liens and claims of the parties herein; and

C. That the proceeds of the sale distributed to the United States be applied to the unpaid federal tax liabilities of defendant Sibley as set forth in this Complaint; and

D. That the United States have such other and further relief as the Court may deem just and proper.

Date: February 13, 2013

Respectfully submitted,

KATHRYN KENEALLY
Assistant Attorney General

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