

Ep #91: Navigating IRS Troubles with Darrin Mish



Full Episode Transcript

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Dr. David Phelps and Evan Harris

[Dentist Freedom Blueprint](http://www.DentistFreedomBlueprint.com) with Dr. David Phelps and Evan Harris

Ep #91: Navigating IRS Troubles with Darrin Mish

Darrin: There's a maturation process that we all go through as entrepreneurs where you just kind of have to prioritize things. Much like if you don't pay the rent on your office building where your business is, eventually someone kicks you out. If you don't pay your taxes whether payroll or income taxes, eventually, the IRS is going to take all of your money and they're going to kick you out. You've got to get to that point where you have some systems so that you don't fall so far behind.

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David: Good day everyone. This is Dr. David Phelps from the Freedom Founders Mastermind community and the Dentist Freedom Blueprint podcast back you with another one of our expert interview calls. This one's going to be a really, I think, intriguing call maybe, because we're going to talk about a partner, most of the time somewhat of a silent partner, but a partner that everyone of us has in our businesses or practices, whether or not you decide to go into partnership or not. This partner is also known as the Internal Revenue Service, the IRS. They are a partner in our businesses whether we like it or not. They'll remain relatively silent as long as we comply, but compliance can be difficult and that's what we're going to talk about today.

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I've got with me, Griffin White, someone who I respect a great deal because like every one of us, he has his own backstory. He interfaces on behalf of his clients every day with the IRS. Let me just bring on board real quickly my good friend Mr. Darren Mish. Darren, how are you doing today?

Darrin: I'm doing fantastic. Thanks for having me.

David: Well thanks for being with us. Let me give a little bit of background on Darrin. Darrin is an IRS solution attorney. He's helped thousands of clients over the years break free from IRS bondage. He's been able to help them find the right solution, from convincing the IRS of a hardship, to settling tax payer's seven figure debts for a fraction of what is owed. Darrin, I see now on your posts, many times that you've come in and helped negotiate a reduction in debt that's owed to the IRS. We'll talk a little bit more about how you do that in our podcast today. With simple tips and tricks. Darrin Mish has learned over the years that he can help you beat the tax man at his own game using the tax man's own playbook. His philosophy is that we have to pay taxes. It's our duty as citizens, but we don't have to put up with the mindless bureaucrats, that's a nice way to put it, and their abuse. We can use the IRS rules and procedures against them.

The truth is that the system is so arcane rules, so Byzantine that the IRS employees don't often even know what to do. That's where Darrin comes in. He has over 16 years of experience helping tax payers with IRS problems. He's an attorney with a nation ... Actually we could say an

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international practice based in Tampa Florida. You help tax payers around the country, around the globe, when the IRS comes calling.

Once again, Darrin, thanks for joining us today. Appreciate your time. Let's just dig in real quickly to exactly what you do engaging the clients with the IRS and then maybe a little bit of your back story because I think your backstory is unique as to how you came to where you are today?

Darrin: Let's start with the backstory. I used to be a criminal defense attorney, back years and years ago. That's where I got started. I tried a lot of cases and I got really good at it until I ended up with my own tax problem when I was a public defender for a couple of years and then after two years I went out on my own and started my own practice. I was a younger man like we all were back then, and I wasn't terribly responsible. When I got paid with cash, the cash would often just go in my pocket or if it made it into the bank, I certainly wasn't thinking about how I was going to pay the taxes. I ended up with my own tax problem. Ultimately I had to figure out how to solve that tax problem which led me to a mentor, very much like you. Then I started to represent clients that had tax problems.

A lot of people think that it's kind of odd that I went from being a criminal defense attorney to a tax attorney and they say, "Well, gee, do you have a background in accounting or tax or anything like that?" The truth is, I don't, but I've taken those lessons that I've learned as a criminal defense attorney and applied them to this practice area.

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What I've done, in criminal defense you learn the rules. You learn the statutes, you learn how courtroom works and all of that kind of thing and then you negotiate with the government for a client and basically what you're doing is you're negotiating time. Like how much jail time, how much probation, how much prison time is this client going to get for the thing that he did. You can try some cases and there are some people who aren't guilty but let's just throw those people out for a minute. That's basically what we do as criminal defense lawyers is we negotiate some kind of reasonable settlement.

When I became an IRS solution attorney in this case, what I did is I learned the rules and I've learned them better than most IRS employees in my opinion and then what we do now is we negotiate within their set of rules that they devised. What we do is we negotiate over money. It's very, very similar process in my mind, at least in the way my brain works. Between being the criminal defense attorney versus being the little guys attorney against the big, bad IRS. I characterize every client I've ever had as the little guy, because we're all small compared to the resources of the United States Government.

David: Darrin, what's the culture like with the IRS today. I think a lot of us got to see the hearings this last year where the congressional hearings with the Trey Gaudy and some of the others were put, Koskinen head of IRS, seemed very, very arrogant to me. Is that the culture overall or what kind of people do you deal with on behalf of your clients when you're

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going into negotiate settlement?

Darrin: I have strong partisan political opinions as well as you, but I can tell you that the ground level, you're not seeing that sort of discrimination or that sort of persecution. You're not seeing that against individual tax payers. What you are seeing Koskinen go through, that was this high level sort of big playing field thing. What you see in the IRS, what I see is I see a fair number of, honestly, hardworking government employees just trying to get a paycheck. Just trying to do their job. Then there's also a large number of IRS employees, particularly at the call centers, you know at the toll free numbers, that are just mindless zombie bureaucrats. They're just going to say no and pay me yesterday. That's really common.

I don't think, that's the good news, I don't think that there's an effort to persecute all people of a particular political flavor, not at the ground level. If there was you'd hear me screaming about it because it would be so unjust and so unfair. That being said, I don't know that many people have thought about this at length like I have, if you were going to enslave a population, you don't actually have to lock them up, all you have to do is take their money. The IRS is always going to be susceptible to being used as a political weapon. If we get down to that level, where it's like all people who believe the sky is green, we're going to go ahead and take their money and enslave them and basically starve their kids. That's a pretty scary prospect.

David: Darrin as a tax attorney, are you typically coming in to help

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people like after the fact when they're in trouble or do you ever help people proactively in setting up things in a better way? I'm just curious.

Darrin: I do get to help some people in setting up their systems in a better way, but quite honestly, pain sells better than prevention. You know that. I'm really in the pain relief business. I usually only get involved after everything is a complete disaster. A lot of people try to kind of fix it themselves and they can often just make it worse. There is a time, it's different for every client but there is a time when you just have to decide, "I can't handle this. This is more than I know what I'm doing here."

David: I was really interested in your own story. It's so true. We've all been in tough places before. It doesn't matter how well educated you are, it really isn't even responsibility, it's just sometimes things slip away. You tell me, but it seems to me that what happens to good people, good honest people, working hard in their businesses, entrepreneurs, you get into a crunch time, cash flows are tight. Market changes. You just can't quite squeeze it together to make that estimated payment or maybe you skipped that one payroll tax thinking, "I'll catch it up real quickly. I know I've got to pay a little penalty and fine, but I'll catch it up next time. It really won't be a problem." Then next time comes and not quite there. No one seemed to really notice it. It just kind of went away.

Is that sort of what happens is good people, it slips away from them and then all of a sudden the big bad wolf appears and now it's time to deal?

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Darrin: Yeah, man. You just hit it right on the head. I represent good honest people. In the 16 years I've been representing tax payers, less than one hand, fingers on one hand, were people that I thought were kind of not the best people in the world but the rest of the people were just good honest people. Either they had good intentions and just slipped away like you're saying or more commonly is there just was no system. You're kind of like the young Darrin Mish. There's no system. I can remember vaguely a tax preparer telling me, "Hey, you know you're going to have to set some money aside for estimated tax payments." I was 26 or 28 years old. I'm like, "Yeah, yeah. Whatever. I just want to know if I have enough cash to go to the bar tonight."

There's a maturation process that we all go through as entrepreneurs were you just kind of have to prioritize things. Much like if you don't pay the rent on your office building where your business is, eventually someone kicks you out. Well if you don't pay your taxes, either payroll or income taxes, eventually the IRS is going to take all of your money and they're going to kick you out. You've got to get to that point where you have some systems so that you don't fall so far.

As a matter of fact, your example was really good. I had a variety of businesses going and in 2013, three out of the four all crashed simultaneously due to market forces, and I ended up with another big tax bill that I wasn't expecting and guess what? I didn't get to settle it for pennies on the dollar. I had to figure it out. I just had to figure out how to get it paid and I did, but that's an example. I'm not a bad guy, but I'm not ashamed

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that I had a \$50,000 tax bill in 2013, either. It's just one of those things. It happens a combination in the market forces and before you knew it I was like, "Uh-oh, I'm in a little bit of trouble here."

David: Darrin, what's the difference between a CPA who is probably more on the front end, proactive, helping a person set up their systems, books, their accounting, their book keeping, that kind of thing and a tax attorney? We[inaudible]a little bit that you come in when there's a problem, but how do you work with CPAs. I assume you get a number of referrals probably from CPAs, correct?

Darrin: I do. I think the biggest difference is how we're trained. I went to law school and the reason I told you the story about being a criminal defense attorney is so that you could have that backstory of how I don't really think in the box. When you're a lawyer, if you're a good lawyer, the answer is never, "We lose. We're going to get pounded. It's going to be the end of the world." No, no. A good lawyer is trained that the answer is never we lose, because honestly there is always something that can be done to improve the situation. You always have a 2% chance of pulling it out, even if it seems like it's completely dire. I tried some cases back when I was younger, tried some DUI cases that a machine said that my client was guilty. Not just guilty, but way guilty, but you come up with a theory of the case. You go up and you tell the story, the evidence meets your story. You argue it in closing and it's all done versus a CPA that, I have lots of respect for CPAs.

CPAs go to school and they're taught from the time they are in

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kindergarten that 2 plus 2 equals 4. My training says 2 plus 2 well what's the answer. Well it depends what do we need it to be. Do we need it to be 4? Probably not, or do we need it to be 3.8 or 4.2? It just depends. We think, as lawyers in very terms of gray. Good lawyers think in terms of gray. There's very few absolutes in life because we can kind of communicate our way out of this versus a CPA is going to think, this is all stereotype by the way, a CPA is going to think in very black and white terms. "This is the right way to do and this is how it needs to be done." They're not trained in advocacy. I have a plaque here on my wall that says I have a duty to be a zealous advocate. Very different. Very different than a CPA.

David: What are some of the ways that your practice can benefit our listeners today which are primarily dentists, and physicians, other professional practice owners.

Darrin: I represent lots of doctors or dentists and physicians in two ways. Sometimes they get behind in their payroll taxes and payroll taxes can be, you get behind really fast and it's very serious because ultimately that individual business owner can end up being something like 65% liable personally for the entire payroll tax amount. If you have a dental practice and you rack up \$200,000 in payroll taxes, you're going to be on the hook for \$125,000 to \$140,000. Something like that. The IRS is going to come and try to take your personal assets and your personal wealth away.

The second option or the second way would be with income tax. Depending on the structure I would think most dentists

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and physicians would have a more sophisticated structure in place, but not all of them. If they're doing business as a sole proprietor, then they're probably going to end up with a big income tax because they're not setting aside any money to pay the tax bill at the end of the year. Lots of small business owners, their plan is, "Well we'll file the return in October, and we'll see what the number is and then we'll figure out how to pay it from there."

What they're doing is they're using this year's revenue to pay last year's tax bill. That's not usually a recipe for success. Like I said, I represent lots of doctors and dentists, and every case is different. We just have to see where they're at. If they're not doing particularly well financially, bizarrely enough, that's the time to deal with the IRS problem. The reason is, then we can paint a picture that they can't afford to pay and then we might be able to get into what's called an offer and compromise which is where you make a deal to settle for less. I've represented lots of lawyers.

For whatever reason, it must be some personality trait that we have, lots of us are kind of cowboys, and we just get ourselves into trouble with the IRS and the IRS, by the way, singles out professionals like doctors, lawyers, dentists, judges, politicians for special treatment. They really do. We as that type of professional, when we get \$50,000 sideways with the IRS, we might already be assigned to a revenue officer. If you run some other kind of business, I don't know, a plumbing business and you owe \$50,000, you're probably not going to get the visit from the revenue officer. Not really sure why that is. I think it's because those types of professionals tend to be higher profile in the community and this whole system is about

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insuring what they like to call voluntary compliance. It's kind of bizarre, because it's not really voluntary.

What they're doing is they're basically trying to intimidate us all and scare us all into doing quote, the right thing.

David: You said when you're not doing very well financially, that's a great time to negotiate, let's go back to what you said about higher profile professionals, isn't there kind of a stigma that even though any one of us can get into trouble like anyone else financially, that we have the capacity to come back around and earn back. I'm just asking you the question, you're saying offer and compromise is applicable even if you potentially can be a high income earner. Maybe you were at one point and then bad things happened, they still will make that negotiation offer if you frame it, paint the picture correctly.

Darrin: Yeah, and I think that's where the advocacy comes in, right? That's where I tell the sad story. "You know, John, man his dental practice used to be so fantastic, but then this, this and this happened. He went through a divorce and now things, he's just really struggling. Yeah, he's technically still a dentist, but times are tough. The economy's bad." Yeah I've done lots of offers for even people, these specialized skill sets and licenses that you would think why would they give an offer and compromise to a lawyer? He's just going to make more money. Well, surprisingly, we've had a great deal of success. They can do something called a collateral agreement where they can say, "All right. What we'll do is we'll kind of do a side deal. We'll go ahead and settle this case for \$20,000, and then if John makes more than X then we're going to take 10%

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of that income and if he makes more than X plus %15 then we're going to take another %15 and so on and so on."

Those collateral agreements are really rare. I'm usually successful in just saying, "Come on, the guy owes a half a million bucks. Let's get it done for \$12,500. It's all based on a mathematical equation and stuff. It's not just horse trading. I haven't had many collateral agreements in the last ten years, really. I can think of one. It was actually a disbarred lawyer. He needed to get the offer through in order to get his license back. The IRS insisted on a collateral agreement for him and it was really interesting because he wasn't a particularly high income earner, like ever. They just kind of latched on to him. Even high profile people ... I just think that probably most of your students and listeners, since they follow you and what you teach, they're probably more successful than average. We might have different ways to solve their problems.

David: Okay. Makes sense. Darrin, when someone has to go through any kind of potentially long extended negotiation, litigation, you've been in all corners, but anybody who's gone through that knows how taxing it is, not just financially but emotionally, physically. When you're trying to help your clients deal with the IRS do you try and get in and to the best of your ability get some kind of an offer or negotiated, get something done to let the client move on or do you guys sometimes have some clients who are just so stuck on principle because they just think they're right and yet this thing could drag on potentially ... because the IRS never runs out of time or money as we do. What's your strategic philosophy on how you try to go and help clients that are in some kind of trouble?

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Darrin: The guy to comes in and says ... He pounds his fist on the table and says it's the principle of the matter, my standard reaction is, "Okay. I understand, but you've got to understand that principle costs money." I've had people say, who owed 700 bucks and they want to fight it to the US Supreme Court.

I'm like, [crosstalk], it's going to cost you a hundred grand to do that. What I try to do is I try to sit down with clients. I listen to the story and then together, we define what a win is because in my mind, it doesn't matter if I think it's a win. What's important is does the client think we won.

Let me give you an example. If the client owed \$100,000 to the IRS which would be very typical for a client of mine. Owes a hundred grand to the IRS, and I get it knocked down to \$75,000, that's a win, right. Mathematically that's a win, but if the client can't come up with the \$75,000, this is a silly, what do you call that? A Pyrrhic victory. It's a victory but it doesn't matter, because it's still not a win. I try to have realistic discussions with the client about what is a win. Is it we settle it for 5 grand, is it 20 grand, is it 30 grand. Here's where I think we can get it, how would that work for you? Nine times out of ten they say, "Well that would be fabulously phenomenal. Let's do that," so then that's what we do. We start trying to work towards that objective. Typically the worst thing, people's worst fear when they're dealing with the IRS is that the IRS is going to file liens and levy their assets. That's what people are really afraid is they're going to take my paycheck. They're going to take my bank account.

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What we try to do is we try to step in as soon as makes sense, knowing how the procedures work and how the timelines work. We try to step in and either file an offer and compromise which stops all the bad stuff from happening or we can file an appeal, which stops all the bad stuff from happening or sometimes it's just as easy as "Okay. It's too late to do those things, let's just call and ask can we get a collection hold for 60 days while we get this stuff done?" 9 times out of 10, nothing bad happens. The times that bad things happen are when clients hire us and then fail to cooperate. That's when bad things happen.

I was complaining about this on social media the other day and I really tried not to complain, but sometimes you say "Okay client, I need the last 3 months' worth of your checking account statements" and you have people tell you "oh, well I just can't do that." In today's day in age where everything is online how can you tell me you can't give me 3 months' worth of bank statements? It's just a person that isn't sufficiently motivated to resolve the problem.

David: Got it. Sometimes when you get into helping a client, you discover through your diligence that maybe they've missed some opportunities to actually reduce taxes through loss carry forwards for example. Is that because of just where you know to look or do you have people that just really dig into the financials when you take on a case and look for other things that you could bring to the IRS, and do you use those sometimes again as part of your negotiation?

Darrin: Yeah, maybe times we're going to go ahead and because

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we're dealing with all these financials we're going to see obvious opportunities and mistakes, and for sure. My own personal philosophy is I want to win. I don't really care if I have to win easy or I have to win hard. If I can win easy, that's way better actually, so if we could solve the problem, this is rare, but you can solve the problem by amending the tax return and taking advantage of loss carry forwards, like your example, for sure we're going to do that versus going through the long process of file an offer and compromise or something else, so yeah we definitely, as I'm looking at the problem, I'm trying to take a holistic approach. I don't care how I solve it, it just has to get solved. We take advantage of every opportunity we can see.

David: Okay, good. When you're involved in a collection case, or somebody's involved in a collection case, and you're helping them, is pretty much everything fair game, business assets, personal assets, unless you get involved and help stave it off or slow the process down. You talked about liens and bank account seizures. Is pretty much everything on the table?

Darrin: Well, I'm going to give you the standard lawyer answer, yes and no. Let's say you have a dentist and he's incorporated and he has an income tax problem. Typically the income tax problem is going to be a personal problem. Well then the assets of the business typically are not going to come into play, typically. It just depends. I guess dentists are probably a bad example because dentists and physicians have large capital outlays to open their practices, so the value of the stuff in the building can be substantial, unlike lawyers where my first practice I swear I had a \$300 printer and everything else was rented and I was in business, so whenever I go to in

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particular I'm looking around at all that stuff, I'm like "Man, it must cost a lot to open one of these places" but it would just depend on if that equipment was leased or leveraged or encumbered, that kind of thing.

Typically everybody worries about the worst case horror story scenario and 99 times out of 100 if you're even half way reasonable that really nightmare stuff is not going to happen because there's going to be a better solution out there than "oh yeah, well the IRS is going to roll up in trucks, wrap yellow taped around your place, kick everybody out and take your stuff." That's not real typical. That's reserved for tax protesters and people who have just stuck their head in the sand for years and just refused to take any kind of proactive measures. Now, that kind of leads me to something else and that is this stuff can be really, really scary, and some people have really strong emotional blockages where it just scares the tar out of them when they think about the IRS and the IRS coming and taking their stuff.

My best advice is, you're just going to have to suck it up and you're going to have to face it and left me do the heavy lifting. I'm going to your interface and I'm going to step between you and the IRS and you're just going to have to talk to me and for the most part I'm going to be a nice guy. I'm not going to ask you to do anything unreasonable, but you're going to have to deal with it, so don't be one of these guys. In the healthcare field I've seen a lot of guys do this, where they just sort of stick their head in the sand and they're like "Oh, it'll go away. It's not real." No, it's real and if you ignore it long enough bad stuff will happen.

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David: What about bankruptcy, Daren? A lot of people across the country use bankruptcy or some form of a reset. How does that work with the IRS or does it?

Darrin: 9 out of 10 bankruptcy lawyers will tell you that taxes are not dischargeable in bankruptcy, and I'm here to tell you you should believe me when I say they are. There's some timing rules. Generally speaking, the taxes have to have been due for 3 years, filed if they were filed late for 2 years, and the taxes have to have been assessed for at least 240. Now I just said a whole bunch in one sentence. Think of it like this, the tax returns have to have been due for at least 3 years before you can discharge them in bankruptcy, but I have been involved in 10s of millions of dollars' worth of tax debt which have been discharged in bankruptcy, so it can be a solution. It can also be a way to force the IRS to accept, in a chapter 13 type of plan which is a repayment reorganization kind of consumer bankruptcy, you can force the IRS into more reasonable installment agreement. I'll give you an example, I had a guy recently where the IRS was asking for between 7 to \$10000 a month in an installment agreement plan. He was going to file a bankruptcy and he was going to get that think knocked down to I think \$4000 a month, and he's going to save some money on interest and penalties.

Now, that's not our first option, but in this particular case this guy had stuck his head in the sand for a very long time and also has really minimal records and he has a revenue officer who's just pretty much saying no to everything. I like having that bankruptcy option as my secret nuclear bomb just in case I need to use it. The great news is, it pretty much only

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destroys them. It doesn't destroy the client, if it's done properly.

David: If I'm listening to this today, and I'm out on the internet podcast and I haven't filed tax returns or paid taxes for a few years, my records aren't really up to par, what's my next step? Knowing that, I understand that this is not going to go away, what do I do?

Darrin: Well, I'd like you to contact us and our toll free is 888-Get-Mesh, that's 888-438-6474. I'd like you to contact us because I have lots of people who come in and they haven't filed tax returns in 10 or even 20 years. I'm here to tell you, the rule is you only have to file the last 6 years. Just right there was a tip that could save you tens of thousands of dollars by just not filing returns that aren't demanded. We represent lot's of non-filers. We're used to imperfect people because we're imperfect people too. If we have got to estimate somethings and try and conjure tax returns out of less than perfect records, that's what we're going to do. A lot of times we're going to go ahead and get those returns done and then we're going to do an offer and compromise where you can make a deal to settle for less. You're going to come out much better than if you try to handle it yourself.

David: Last question I want to get on this interview Darrin, and that is what's the position of the H and R auditor who is representing the IRS, do they have to show productive work, in other words, does it do them any good to string somebody out or are they looking to say how quickly can I as the representative from the IRS come in and make something happen here

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because I have to report to my superiors. What's that look like for them?

Darrin: Pre-1998 my understanding is they used to be incentivized based on the amount of money collected. If I was running the IRS, honestly, that's probably how I would do it because I would be a bottom line guy. Get me the money. I need the money. Now post-1998, there was a big overhaul because there was lots of abuse of taxpayers by the IRS. Now my understanding is they're managed more based on production, so how many case files they can close. Now I believe that they have a meeting once a month with their manager and the manager goes through, this is on the collections side, not so much on the audit side, but on the collection side, they have a meeting once a month and the manager looks at every file with the revenue officer and says, "Okay. What are we doing on this case? What are we doing? How are we going to get this closed."

It's still fascinating to me how many revenue officers, though are not solution oriented. They don't have a plan for how they're going to close a case. They leave it up to the taxpayer and or the taxpayer's rep to come up with a plan on how we're going to close the case and many revenue officers just sort of pound the table and say, "Pay me yesterday." That's their solution. That's how they're oriented. They're just saying, "Pay me yesterday." That's silly. They can't pay you yesterday, it's today. Then that's when you really need a rep because what the revenue officer's going to do is they're just going to lien you. Then they're going to start levying. They're going to take your paycheck. They're going to take your bank accounts. Eventually, they're going to take your stuff unless you can

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come up with some kind of solution. You're probably going to come up with a better solution if you have somebody who's been through it a thousand times than somebody like yourself who hasn't.

David: Absolutely. Darrin, thank you so much for your time today. This is very enlightening. I think that we definitely helped people see the distinction between working with the front end, they're CPA setting things up right, but when bad things happen, that you need somebody who has the expertise, the advocacy position, the experience negotiating is just a critical form of what you do and I think that's what makes your unique niche so advantageous for people who are doing with problems. Go to somebody who does this every day, day in and day out. Again, Darrin's last name is spelled Mish. I think your website is GetIRSHelp.com. Did I get that right? Once again, you're phone number, Darrin?

Darrin: It's 888-438-6474. That's 888-Get-Mish. I also have an app in the iTunes and Android store and I have a podcast that right now is called the IRS Problem Solver, but we're changing the name over to the IRS Solution Attorney which is basically my weekly radio show where we delve into things every week and even deeper than we have here today.

David: Awesome. Great place to connect. Thanks again, Darrin. You have a great day. We'll stay connected.

Darrin: Thanks David.

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David: All right. Take care.

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