

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN BAPTIST KOTMAIR, JR., et al.,

Defendants.

Civil No. WMN 05 CV 1297

DECLARATION OF NICHOLAS TAFLAN

This declaration and attached exhibits are submitted under 28 U.S.C. § 1746.

1. I am resident of the state of Ohio and was a member of the Save-A-Patriot Fellowship (SAPF) from 1995 through 2006.

2. I paid an initial membership and annual renewal for each year that I was a member.

3. During the period that I was a member, SAPF provided me materials stating that federal income tax does not apply to U.S. citizens working in the United States.

4. SAPF also informed me that U.S. citizens are not subject to income and employment tax withholding requirements because U.S.-source income is not subject to taxation. This information was reported to me in SAPF's promotional materials, handbook, and the *Reasonable Action* newsletter.

5. During the period I was a member, SAPF also provided me with an "Affidavit of Revocation" and "Statement of Citizenship." I do not recall whether I paid for these documents but they were provided to me from SAPF.

6. In 1999, I was employed as a pharmacist at Rite-Aid Corporation and earned \$82,598.59 in wages, had taxable income of \$62,765.14, and I was liable for \$15,101.00 of income taxes.

7. For the calendar year 1999, I presented my employer with the "Affidavit of Revocation" and "Statement of Citizenship" and requested that Rite Aid discontinue withholding employment and income taxes from my wages.

8. I did not file an income tax return for 2000 or 2001 because I relied on SAPF's materials which stated that U.S. citizens are not subject to income and employment tax withholding requirements because U.S.-source income is not subject to taxation.

9. For the calendar year 2000, I received wage income in the amount of \$86,401.29, had taxable income of \$63,797.10, and I was liable for \$15,331.00 of income taxes.

10. For the calendar year 2001, I received wage income in the amount of \$84,586.11, had taxable income of \$61,859.12, and I was liable for \$14,408.00 of income taxes.

11. SAPF offered to provide several other services to me to assist in reducing the amount of taxes I was required to pay. These services included filing court pleadings, bankruptcy petitions, and writing letters to the IRS contesting my requirement to pay taxes or report domestic income.

12. The staff at SAPF assisted me in filing a bankruptcy petition in the U.S. Bankruptcy Court for the Northern District of West Virginia on June 16, 2003, in Case no. 5:03-bk-02170.

13. The bankruptcy petition that the staff at SAPF assisted me in preparing is attached as Exhibit 1.

14. I also filed several motions in this bankruptcy case which SAPF prepared and

provided to me. These motions or other filings include:

- (a) A motion to extend time filed on June 30, 2003, which is attached as Exhibit 2;
- (b) A motion for contempt filed on October 27, 2003, which is attached as Exhibit 3;
- (c) A motion for sanctions filed on October 27, 2003, which is attached as Exhibit 4;
- (d) An objection to the IRS's proof of claim filed on November 18, 2003, which is attached as Exhibit 5;
- (e) A complaint in an adversary proceeding filed on January 13, 2004, which is attached as Exhibit 6;
- (f) Two oppositions filed on January 13, 2004, which are attached as Exhibits 7 and 8;
- (g) A motion to reconsider filed on January 26, 2004, which is attached as Exhibit 9;
- (h) A motion to amend filed on January 26, 2004, which is attached as Exhibit 10;
- (i) A notice of appeal filed on February 4, 2004, which is attached as Exhibit 11;
- (j) A motion to reconsider filed on February 6, 2004, which is attached as Exhibit 12;
- (k) A motion to stay pending appeal filed on February 6, 2004, which is attached as Exhibit 13;
- (l) An Appellee designation filed on February 17, 2004, which is attached as Exhibit 14;
- (m) A motion to recuse filed on May 28, 2004, which is attached as Exhibit 15; and
- (n) A motion to reconsider filed on July 9, 2004, which is attached as Exhibit 16.

15. I paid the staff at SAPF for preparing, or assisting in the preparation, of the documents described in paragraph 14.

16. I was not promised anything in exchange for providing this declaration.

I declare under penalty of perjury the foregoing is true and correct. Executed this 9th day
of June, 2006.


NICHOLAS TAFLAN

United States Bankruptcy Court
District of

VOLUNTARY PETITION (part 1)

Name of Debtor (If individual, enter Last, First, Middle) Taftan, Nicholas Matthew	NAME OF JOINT DEBTOR (Spouse) (Last, First, Middle) Taftan, Patricia Louise
ALL OTHER NAMES used by the debtor in the last 6 years (including married, maiden and trade names)	ALL OTHER NAMES used by the joint debtor in the last 6 years (include married, maiden and trade names)
SOC. SEC./TAX I.D. NO. (If more than one, state all) 271-44-1901	SOC. SEC./TAX I.D. NO. (If more than one, state all)
STREET ADDRESS OF DEBTOR (No. and street, city, state, zip) 55951 Key Bellaire Rd. Bellaire, Ohio 43906	STREET ADDRESS OF JOINT DEBTOR (No. and street, city, state, zip) 55951 Key Bellaire Rd. Bellaire, Ohio 43906
COUNTY OF RESIDENCE OR PRINCIPAL PLACE OF BUSINESS Belmont	COUNTY OF RESIDENCE OR PRINCIPAL PLACE OF BUSINESS Belmont
MAILING ADDRESS OF DEBTOR (If different from street address)	MAILING ADDRESS OF JOINT DEBTOR (If different from street address)

LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR (If different from addresses listed above)

Information Regarding the Debtor (Check the Applicable Boxes)

VENUE (Check any applicable boxes)

Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.

There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

Type of Debtor (Check all boxes that apply) <input checked="" type="checkbox"/> Individual(s) <input type="checkbox"/> Railroad <input type="checkbox"/> Corporation <input type="checkbox"/> Stockbroker <input type="checkbox"/> Partnership <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Other	Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input checked="" type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding
Nature of Debts (Check one box) <input checked="" type="checkbox"/> Consumer/Non-Business <input type="checkbox"/> Business	Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only) Must attach signed application for court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.
Chapter 11 Small Business (Check all boxes that apply) <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)	

Statistical/Administrative Information (Estimates only)

Debtor estimates that funds will be available for distribution to unsecured creditors.

Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

Estimated Number of Creditors	1-15	16-49	50-99	100-199	200-999	1000-over
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Estimated Assets	\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Estimated Debts	0 to \$0,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

THIS OFFICE IS FOR COURT USE ONLY

2003 JUN 16 AM
 FILED
 U.S. BANKRUPTCY COURT
 NORTHERN DISTRICT OF OHIO

Exhibit 1

VOLUNTARY PETITION (part 2) <i>(This page must be completed in every case)</i>		Name of Debtor(s)	
Prior Bankruptcy Case Filed Within Last 8 Years (If more than one, attach additional sheet)			
Filing Date:	Case Number:	Date Filed:	
Pending Bankruptcy Case filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor:	Case Number:	Date Filed:	
District:	Relationship:	Judge:	
Signatures			
<p style="text-align: center;">Signature(s) of Debtor(s) (Individual/Joint)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct. (If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7) I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p><input checked="" type="checkbox"/> <u><i>[Signature]</i></u> Signature of Debtor</p> <p><input checked="" type="checkbox"/> <u><i>[Signature]</i></u> Signature of Joint Debtor</p> <p><u>740-636-0277</u> Telephone Number (if not represented by attorney)</p> <p><u>6/16/03</u> Date</p>		<p style="text-align: center;">Signature(s) of Debtor (Corporation/Partnership)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p><input checked="" type="checkbox"/> _____ Signature of Authorized Individual</p> <p>_____ Printed Name of Authorized Individual</p> <p>_____ Title of Authorized Individual</p> <p>_____ Date</p>	
<p style="text-align: center;">Signature of Attorney</p> <p><input checked="" type="checkbox"/> _____ Signature of Attorney for Debtor(s)</p> <p>_____ Printed Name of Attorney for Debtor(s)</p> <p>_____ Firm Name</p> <p>_____ Address</p> <p>_____ Telephone Number</p> <p>_____ Date</p>		<p style="text-align: center;">Signature of Non-Attorney Petition Preparer</p> <p>I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.</p> <p>_____ Printed Name of Bankruptcy Petition Preparer</p> <p>_____ Social Security Number</p> <p>_____ Address</p> <p>_____ Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document.</p>	
<p style="text-align: center;">Exhibit A</p> <p>(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 100) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)</p> <p><input type="checkbox"/> Exhibit A is attached and made a part of this petition.</p>		<p>If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.</p> <p>_____ Signature of Bankruptcy Petition Preparer</p> <p>_____ Date</p> <p>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both, 11 U.S.C. § 110; 16 U.S.G. § 158.</p>	
<p style="text-align: center;">Exhibit B</p> <p>(To be completed if debtor is an individual whose debts are primarily consumer debts)</p> <p>I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, and have explained the relief available under each such chapter.</p> <p><input checked="" type="checkbox"/> _____ Signature of Attorney for Debtor(s)</p> <p>_____ Date</p>			

UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors
CHAPTER 13 MOTION FOR ENLARGEMENT OF TIME

FILED
CASE NO: 5:03-bk-02170
2003 JUN 30 AM 9:01

MOTION FOR ENLARGEMENT OF TIME TO FILE SCHEDULES AND PLAN

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 and moves this Court for Enlargement of Time to file their Schedules and Plan and for that provides the following:

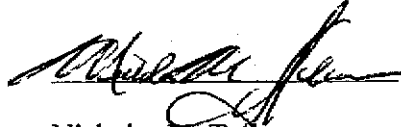
Exhibit 2

1. Debtors filed their voluntary petition on June 16, 2003.
2. This Court has jurisdiction over this matter by virtue of Debtor's having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 in this venue.
3. Debtors are working on their schedules and plan.
4. Debtor's are not seasoned attorneys and are unfamiliar with litigation and the law, being laymen. As such, they should be afforded a degree of latitude with respect to their pleadings and time limits within which to prepare their pleadings and therefore requests more time to complete their Schedules. See *Haines v. Kerner*, 404 U.S. 519.
5. FRBP Rule 9006(b) Enlargement - states in pertinent part: *the court for cause shown may at any time in its discretion(1) with or without motion or notice order the period enlarged if the request is made before the expiration of the period originally prescribed ...*
6. Therefore, based on the aforementioned rule, Debtors are requesting enlargement of time to file their Schedules and Plan.
7. Debtors are proceeding in propria persona, are inexperienced in filing pleadings and desire to ensure that the Schedules and Plan are absolutely correct.
8. Debtors will be able to properly complete the Schedules and Plan to their Petition and file them on or before the 15th day of July, 2003.

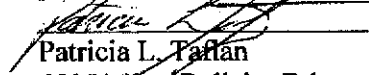
Wherefore Debtors pray that the time to file the Schedules and Plan to their Petition be enlarged for Debtors to

properly complete and file the necessary paperwork.

Respectfully submitted this 30th day of June 2003.



Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277



Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277

UNITED STATES BANKRUPTCY COURT

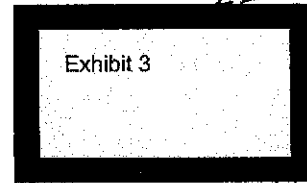
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors CASE NO:5:03-bk-02170
CHAPTER 13 MOTION FOR CONTEMPT AND SANCTIONS

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 to submit a Motion for Contempt and Sanctions for violation of Title 11 United States Code § 362 (a) (4) and (a) (6) which operates as a stay, applicable to all entities, of-

- (4) any act to create, perfect, or enforce any lien against property of the estate; and
- (6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

and for that provides the following:



2003 OCT 27 PM 2:08
FILED

COURT
OF WV

1. Debtors filed their voluntary petition on June 16, 2003.
2. US Premier FCU, the Respondent herein, is an unsecured non priority creditor.
3. On or about June 20, 2003 Debtors received a billing statement from US Premier FCU. (Exhibit A)
4. On or about June 30, 2003 Debtors returned the stub from the June 20, 2003 billing statement with a letter informing US Premier FCU our bankruptcy filing.
5. On or about July 5, 2003 Debtors received a "past due" letter from US Premier FCU, dated July 1, 2003. (Exhibit B)
6. On or about July 7, 2003 Debtors received a second "past due" letter from US Premier FCU, dated July 2, 2003. (Exhibit C)
7. On July 14, 2003 Debtors received a "Proof of Claim" from US Premier FCU, dated July 8, 2003. (Exhibit D)
8. On July 23, 2003 Debtors served the Chapter 13 Plan to all creditors. US Premier FCU was served at two of their addresses as per the Court's listing. Debtor's also mailed a copy of the Chapter 13 Plan to US Premier FCU's 3rd address at P.O. Box 31279, Tampa, Florida. (Exhibit E)

9. On or about July 25, 2003 Debtor's received a statement from US Premier FCU, dated July 22, 2003. (Exhibit F)
10. On or about August 25, 2003 Debtor's received a statement from US Premier FCU, dated August 21, 2003. (Exhibit G)
11. On or about September 25, 2003 Debtor's received a statement from US Premier FCU, dated September 22, 2003. (Exhibit H)
12. On September 29, 2003 a Bill Young from US Premier Federal Credit Union left a message to call him at 800-328-1500, extension 332.
13. The continued by the creditor US Premier FCU since July 5, 2003 has caused emotional distress to the Debtor's. It is clearly harassment by the creditor.
14. Creditor US Premier FCU violated § 362(6) by performing an act as part of the collection process. Section 362(6) prohibits any act to collect, assesses or recover...a claim that arose before the petition was filed.
15. This is a willful violation of the stay which is punishable by Title 11 U.S.C. § 362 (h) which says:

(h) An individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.
16. The aforementioned Exhibits should leave little doubt that creditor US Premier willfully repeated violated the automatic stay, in spite of several notifications.
17. The filing of a Proof of Claim by creditor US Premier listing Debtor's case number, in this Court is proof that US Premier knew of the filing of the Ch. 13 petition.
18. Section 362(h) provides that an individual injured by any willful violation of the stay is entitled to recover actual damages, including costs and attorney's fees, and in appropriate circumstances, punitive damages. This was affirmed by the Court in In re Chateaugay Corp., 920 F.2d 183 (2nd Cir. 12/10/1990) where it stated:

Congress may have concluded that this consideration, as well as others, warranted an explicit code provision to punish stay violations and compensate debtors, in addition to civil contempt, when the debtors are individuals. Section 362(h) expands upon the discretionary nature of contempt proceedings by stating not only that "individual[s] . . . shall recover actual damages," but also that "in appropriate...

19. Further, a willful violation of the stay in the context of § 362(h) does not require an intent to violate nor an awareness that the conduct was prohibited by the stay. It suffices that the violator knew of the existence of the stay, and that he intentionally did the violating act. See In re Atlantic Business and Community Corp., 901 F.2d 325 (3d Cir. 04/18/1990) where the Court stated:

The bankruptcy courts have construed "willful" as used in the code to mean an intentional or deliberate act done with knowledge that the act is in violation of the stay ...

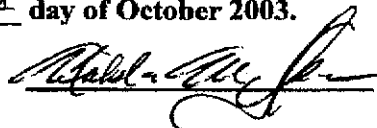
and In re Bloom, 875 F.2d 224 (9th Cir. 02/09/1989) the Court stated:

A "willful violation" does not require a specific intent to violate the automatic stay. Rather, the statute provides for damages upon a finding that the defendant knew of the automatic stay and that the defendant's actions which violated the stay were intentional. Whether the party believes in good faith that it had a right to the property is not relevant to whether the act was "willful" or whether compensation must be awarded.


WHEREFORE, the Debtor's, Nicholas M. Taflan and Patricia L. Taflan, prays that this Court:

- (a) enjoin the above creditor, US Premier FCU, from willful violation of the Automatic Stay, Title 11 U.S.C. § 362(a), and;
- (b) impose such sanctions upon the Creditor(US Premier FCU), as the Court deems just and proper pursuant to § 362 (h), and;
- (c) order US Premier FCU To Show Cause why they are not in contempt of Court.

Respectfully submitted this 27th day of October 2003.



Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277



Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277

CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS _____ DAY OF OCTOBER 2003, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

**Clerk, U.S. Bankruptcy Court
For the Northern District of West Virginia
12th and Chapline Streets
Post Office Box 70
Wheeling, WV 26003**

**CH 13 Trustee
P.O. Box 8531
South Charleston, West Virginia 25303**

**US Premier FCU
Attn: J. Alvater
6462 Little River Tpke
Alexandria, VA 22312-1411**

Cert. Mail No. 7002 - 0460 - 0002 - 1984 - 4032

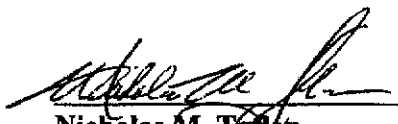
**US Premier FCU
PO Box 31279
Tampa, FL 33631-3279**

**US Premier FCU
Attn: Customer Service
P.O. Box 30495
Tampa, FL 33630**

U.S. BANKRUPTCY COURT
NORTH DISTRICT OF WV
CLERK

2003 OCT 27 PM 2:09

FILED



**Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277**



**Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277**

To Whom It May Concern:

June 30, 2003

Please be advised that on June 16, 2003 a petition for bankruptcy was filed for:

Nicholas M. & Patricia L. Taflan case no: 5:03-bk-02170
55951 Key-Bellaire Rd
Bellaire, Ohio 43906

In: U.S. Bankruptcy Court - Northern District of W. Va.
12th & Chaplain St.
Wheeling, W. Va. 26003
304-233-1655

The Taflan's have been advised not to make any more payments on this account until further notice.

Should you wish to inquire about this matter you may contact the Bankruptcy Court personally.

Appreciate your consideration in this matter.....

acct. # - 5438 290/ 710/ 3004

MAILED 7/3/03 → (CUSTOMER SERVICE
Bx 30485
TAMPA FL 33630) + STUB PYMT ADDRESS
Bx 31279
TAMPA, FL 33631

M/c

7/23/03 We sent "plan" per (D)

FORM B10 (Official Form 10) (4/01)

UNITED STATES BANKRUPTCY COURT <u>N. District</u> DISTRICT OF <u>VA</u>		PROOF OF CLAIM
Name of Debtor <u>Nicholas M TAFIAN</u>		Case Number <u>503BK 02170</u>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): <u>US PREMIER FCU</u>	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.	TO 2 address 300 on ORIG Use sent to Customer Service (for Rem on?)
Name and address where notices should be sent: <u>US PREMIER FCU 6462 LITTLE RIVER TPKE ALEXANDRIA VA 22312-1411</u>	<input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case.	
Telephone number: <u>703-914-8700 x 303</u>	<input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	THIS SPACE IS FOR COURT USE ONLY
Account or other number by which creditor identifies debtor: <u>92326</u>	Check here <input type="checkbox"/> replaces a previously filed claim, dated: _____	
	<input type="checkbox"/> amends	
1. Basis for Claim		
<input type="checkbox"/> Goods sold	<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a)	
<input type="checkbox"/> Services performed	<input type="checkbox"/> Wages, salaries, and compensation (fill out below)	
<input checked="" type="checkbox"/> Money loaned	Your SS #: _____	
<input type="checkbox"/> Personal injury/wrongful death	Unpaid compensation for services performed	
<input type="checkbox"/> Taxes	from _____ to _____	
<input type="checkbox"/> Other _____	(date) (date)	
2. Date debt was incurred: <u>6/96</u>	3. If court judgment, date obtained:	
4. Total Amount of Claim at Time Case Filed: \$ <u>3,027.15</u>		
If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.		
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
5. Secured Claim.		6. Unsecured Priority Claim.
<input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff).		<input type="checkbox"/> Check this box if you have an unsecured priority claim
Brief Description of Collateral:		Amount entitled to priority \$ _____
<input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle		Specify the priority of the claim:
<input type="checkbox"/> Other _____		<input type="checkbox"/> Wages, salaries, or commissions (up to \$4,650)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
Value of Collateral: \$ _____		<input type="checkbox"/> Contributions in an employee benefit plan - 11 U.S.C. § 507(a)(4)
Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____		<input type="checkbox"/> Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
		<input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
		<input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
		<input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).
		*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY
8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.		
9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		
Date <u>7/2/03</u>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>[Signature] Credit MGR</u>	
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.		

J. ALVAREZ

LIVE Database Area - Creditor Mailing Matrix

CASE No: 5:03-bk-02170

(E)

Search Results

Alexandria, VA 22312-1411

Case Number: 5:03-bk-02170

U.S. Dept of Education
Direct Loan Servicing Ctr
Box 1609
Utica NY 13304-4609

Bank One Delaware, NA
The First USA
c/o Weinstein, Trainger and Riley, P.S.
2101 4th Avenue, Suite 900
Seattle, WA 98121

(2)

US Premier MC
Box 30495
Tampa FL 33630 *DUP.*

(3)
7/23 → *(Pymt address)*
Bx 31279
TAMPA, FL
33631-3279

Chevy Chase Bank
6151 Chevy Chase Drive
Laurel MD 20707

United States Trustee
2025 United States Courthouse
300 Virginia Street East
Charleston, WV 25301

Citizens Savings Bank
201 South 4th St Box 10
Martins Ferry OH 43935

East Ohio Regional Hospital
2000 Eoff Street
Wheeling WV 26003

Helen M. Morris
P.O. Box 8535
South Charleston, WV 25303

First USA
Box 94014
Palatine IL 60091-4014

Nicholas Matthew Tallan
55951 Key Delaire Road
Bellvue, OH 43906

IRS Levy
IRS/ACSI CDP Stop 5027
Attn CDP1
Box 219420
Kansas City MO 64121

Patricia Louise Tallan
55951 Key Bellaire Road
Bellaire, OH 43906

Total Labels: 18

MBNA America
Box 15006
Wilmington DE 19850

Rite Aid Payroll
Box 3165
Harrisburg PA 17103

River Health Ent.
2000 Eoff Street
Wheeling WV 26003

Sarah R. Lancione MD
Box 399
St. Clairsville OH 43950

Seacoast National Bank
Box 182149
Columbus OH 43218-2149

CHAPTER 13 PLAN
SERVED TO ABOVE LIST
7/23/03
[Signature]

(1) U.S. Premier PCT
6462 Little River Epke.

UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors CASE NO:5:03-bk-02170
CHAPTER 13 MOTION FOR CONTEMPT AND SANCTIONS

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 to submit a Motion for Contempt and Sanctions for violation of Title 11 United States Code § 362 (a) (4) and (a) (6) which operates as a stay, applicable to all entities, of-

(4) any act to create, perfect, or enforce any lien against property of the estate; and

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

and for that provides the following:

Exhibit 4

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WV

2003 OCT 21 PM 2:08

FILED

1. Debtors filed their voluntary petition on June 16, 2003.
2. US Premier FCU, the Respondent herein, is an unsecured non priority creditor.
3. On or about June 20, 2003 Debtors received a billing statement from US Premier FCU. (Exhibit A)
4. On or about June 30, 2003 Debtors returned the stub from the June 20, 2003 billing statement with a letter informing US Premier FCU our bankruptcy filing.
5. On or about July 5, 2003 Debtors received a "past due" letter from US Premier FCU, dated July 1, 2003. (Exhibit B)
6. On or about July 7, 2003 Debtors received a second "past due" letter from US Premier FCU, dated July 2, 2003. (Exhibit C)
7. On July 14, 2003 Debtors received a "Proof of Claim" from US Premier FCU, dated July 8, 2003. (Exhibit D)
8. On July 23, 2003 Debtors served the Chapter 13 Plan to all creditors. US Premier FCU was served at two of their addresses as per the Court's listing. Debtor's also mailed a copy of the Chapter 13 Plan to US Premier FCU's 3rd address at P.O. Box 31279, Tampa, Florida. (Exhibit E)

9. On or about July 25, 2003 Debtor's received a statement from US Premier FCU, dated July 22, 2003. (Exhibit F)
10. On or about August 25, 2003 Debtor's received a statement from US Premier FCU, dated August 21, 2003. (Exhibit G)
11. On or about September 25, 2003 Debtor's received a statement from US Premier FCU, dated September 22, 2003. (Exhibit H)
12. On September 29, 2003 a Bill Young from US Premier Federal Credit Union left a message to call him at 800-328-1500, extension 332.
13. The continued by the creditor US Premier FCU since July 5, 2003 has caused emotional distress to the Debtor's. It is clearly harassment by the creditor.
14. Creditor US Premier FCU violated § 362(6) by performing an act as part of the collection process. Section 362(6) prohibits any act to collect, assesses or recover...a claim that arose before the petition was filed.
15. This is a willful violation of the stay which is punishable by Title 11 U.S.C. § 362 (h) which says:

(h) An individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.
16. The aforementioned Exhibits should leave little doubt that creditor US Premier willfully repeated violated the automatic stay, in spite of several notifications.
17. The filing of a Proof of Claim by creditor US Premier listing Debtor's case number, in this Court is proof that US Premier knew of the filing of the Ch. 13 petition.
18. Section 362(h) provides that an individual injured by any willful violation of the stay is entitled to recover actual damages, including costs and attorney's fees, and in appropriate circumstances, punitive damages. This was affirmed by the Court in In re Chateaugay Corp., 920 F.2d 183 (2nd Cir. 12/10/1990) where it stated:

Congress may have concluded that this consideration, as well as others, warranted an explicit code provision to punish stay violations and compensate debtors, in addition to civil contempt, when the debtors are individuals. Section 362(h) expands upon the discretionary nature of contempt proceedings by stating not only that "individual[s] . . . shall recover actual damages," but also that "in appropriate..."

19. Further, a willful violation of the stay in the context of § 362(h) does not require an intent to violate nor an awareness that the conduct was prohibited by the stay. It suffices that the violator knew of the existence of the stay, and that he intentionally did the violating act. See In re Atlantic Business and Community Corp., 901 F.2d 325 (3d Cir. 04/18/1990) where the Court stated:

The bankruptcy courts have construed "willful" as used in the code to mean an intentional or deliberate act done with knowledge that the act is in violation of the stay ...

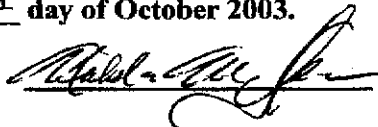
and In re Bloom, 875 F.2d 224 (9th Cir. 02/09/1989) the Court stated:

A "willful violation" does not require a specific intent to violate the automatic stay. Rather, the statute provides for damages upon a finding that the defendant knew of the automatic stay and that the defendant's actions which violated the stay were intentional. Whether the party believes in good faith that it had a right to the property is not relevant to whether the act was "willful" or whether compensation must be awarded.


WHEREFORE, the Debtor's, Nicholas M. Taflan and Patricia L. Taflan, prays that this Court:

- (a) enjoin the above creditor, US Premier FCU, from willful violation of the Automatic Stay, Title 11 U.S.C. § 362(a), and;
- (b) impose such sanctions upon the Creditor(US Premier FCU), as the Court deems just and proper pursuant to § 362 (h), and;
- (c) order US Premier FCU To Show Cause why they are not in contempt of Court.

Respectfully submitted this 27th day of October 2003.



Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277



Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277

CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS _____ DAY OF OCTOBER 2003, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

**Clerk, U.S. Bankruptcy Court
For the Northern District of West Virginia
12th and Chapline Streets
Post Office Box 70
Wheeling, WV 26003**

**CH 13 Trustee
P.O. Box 8531
South Charleston, West Virginia 25303**

**US Premier FCU Cert. Mail No. 7002 - 0460 - 0002 - 1984 - 4032
Attn: J. Alvater
6462 Little River Tpke
Alexandria, VA 22312-1411**

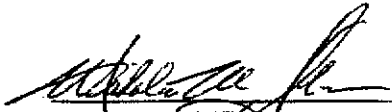
**US Premier FCU
PO Box 31279
Tampa, FL 33631-3279**


**US Premier FCU
Attn: Customer Service
P.O. Box 30495
Tampa, FL 33630**

**U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WV**

2003 OCT 27 PM 2:09

FILED


**Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277**


**Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277**

UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors CASE
NO:5:03-bk-02170 CHAPTER 13 OBJECTION TO PROOF OF CLAIM (IRS)

DEBTOR'S OBJECTION TO PROOF OF CLAIM (IRS)
and
MOTION TO REQUIRE CREDITOR IRS TO PROVIDE ALL UNDERLYING
AGREEMENTS PROVING THEIR CLAIM AS REQUIRED
(FEDERAL RULES OF BANKRUPTCY PROCEDURE RULE 3001)

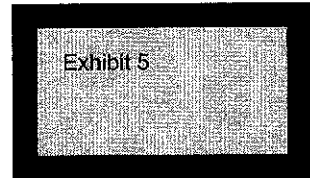
FILED
2003 NOV 18 PM 4:27
U.S. BANKRUPTCY COURT
NORTHWEST DISTRICT OF WEST VIRGINIA

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, in propria persona, in the captioned case to file this objection to proof of claim (IRS) and to move the Court for an order requiring the Internal Revenue Service to provide all underlying documents or agreements to pay a debt that any disputed creditor would be required to submit and for that provides the following:

1. This Court has jurisdiction over this matter by virtue of debtor having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 on or about June 16, 2003, in this venue.

2. The Internal Revenue Service on or about November 14, 2003 served an inaccurate, and thereby false and fraudulent, "PROOF OF CLAIM FOR INTERNAL REVENUE TAXES" (EXHIBIT A) (dated November 14, 2003) alleging a tax liability of \$ 119,818.38 described as follows:

"SECURED CLAIMS	\$23,720.00"
"UNSECURED PRIORITY CLAIMS	\$85,000.00"
"UNSECURED GENERAL CLAIMS	\$11,098.36"



3. The Proof of Claim as filed is fraudulent and contains numerous unsupported allegations, to wit: One (1) "SECURED CLAIM" (Notice of Federal tax lien filed under internal revenue laws before petition date), Three (3) "UNSECURED PRIORITY CLAIMS under section 507 (a) (8) of the Bankruptcy Code" for a period in which no assessment date is listed (*return not filed*) and One (1) "UNSECURED GENERAL CLAIM" for a period for year 1996 that alleges no tax due (in contrast to an alleged tax due for the same assessment date under Secured Claims). Plainly these are inaccurate and therefore fraudulent claims.

4. The claim in the case at bar was purportedly prepared in an office of the Internal Revenue Service, Insolvency Group, P. O. Box 1040, Stop 2202, Parkersburg, West Virginia 26102. It must be presumed that that office of the Internal Revenue Service maintains no delegation order authorizing the signing of a proof

of claim and in fact the claim in the instant case is therefore invalid. The signer of the "Proof of Claim," "Linda Simon" Insolvency Manager, did not print her name as required by law (signature unreadable). In the absence of a delegation order authorizing the act, the act would be void ab initio. In the event the preparing party alleges they were granted authority to prepare and sign the "CLAIM" by the authority of the Internal Revenue Manual that would not be a valid defense. The courts have consistently held that the provisions of the Internal Revenue Manual are only directory not mandatory and therefore have no force of law.

5. Nicholas M. Taflan and Patricia L. Taflan have not filed any type of tax returns for the years (1996, 2000, 2001 and 2002) which are included in the fraudulent claim filed on behalf of the Internal Revenue Service. The alleged claims for the tax periods of 1996, 2000, 2001 and 2002 are all based upon fraudulent assessments (estimates do not qualify as assessment pursuant to 26 U.S.C. § 6203, nor to "unassessed liabilities by definition"). An assessment may be made pursuant to 26 U.S.C. § 6201 "of all taxes...imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law." Debtor's filed no return for any of the periods (1996, 2000, 2001 and 2002), were not required to purchase or pay any kind of tax by stamp, therefore the assessments must have been fraudulently based upon an unknown process and are obviously inaccurate and invalid.

6. The Proof of Claim is wrong in its allegation that debtor's "failed to file the returns for the estimated periods." Debtor's have paid all taxes that they have been made liable for and have filed all returns they have been required to do. (Note: Vernie Kuglin also requested that the IRS show her where she was made liable to pay income taxes. The IRS could not and she was acquitted of all the IRS's wrongful allegations of her owing an income tax. See Case No 03-20111-M1, U.S. District Court, Western District of Tennessee, Western Division)

7. The challenged claim, in the case at bar, must be a "Claim Based on a Writing" pursuant to Federal Rules of Bankruptcy Procedure (FRBP) Rule 3001(c) and as such requires additional documentation as verification of the "Claim."

8. The Internal Revenue Service is merely a disputed creditor in the case at bar and as a creditor with a disputed claim, the burden of proof falls upon the creditor.

9. This pleading is not filed in accordance with FRBP Rule 7003, as affirmative relief is sought. Debtors sincerely seek the assistance of the Court in requiring creditor Internal Revenue Service to provide the same documentation as any other disputed creditor would have to provide to prove a claim, merely the proper documents are sought to verify the Claim of the Internal Revenue Service. The Internal Revenue Service has not

provided proper verification of its claim and an appropriate and acceptable accounting for the moneys paid or seized in the past. Therefore, Debtor's will convene an adversarial proceeding to seek affirmative relief from the claim, if the IRS does not provide authenticated documentation to verify its claim. Debtor's demands that the IRS provide documentation to verify its assessments pursuant to 26 U.S.C. 6203 and 26 C.F.R. § 301.6203-1.

10. The IRS has clearly not followed its prescribed Code (Title 26 U.S.C.) as set forth in 26 U.S.C. 6203 which is cited here:

Sec. 6203. - Method of assessment

The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

11. The IRS has clearly not followed its prescribed Regulations (Title 26 C.F.R..) as set forth in 26 C.F.R. § 301.6203-1 which is cited here:

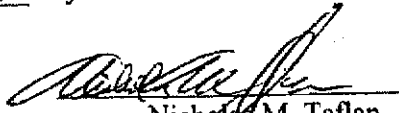
Method of assessment states:

The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. *The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record.* The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.

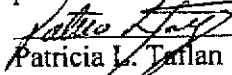
THE FOREGOING PREMISES CONSIDERED the Debtor's respectfully demands this Court require the Internal Revenue Service to provide the same documentary evidence to prove their claim; that any other

creditor with a disputed claim would have to supply.

Respectfully submitted this 18th day of November 2003.



Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277



Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277

CERTIFICATE OF SERVICE

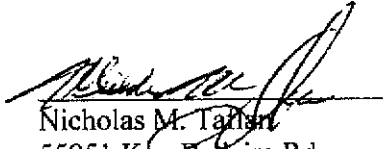
WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS _____ DAY OF NOVEMBER 2003, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.


Clerk, U.S. Bankruptcy Court
For the Northern District of West Virginia
12th and Chapline Streets
Post Office Box 70
Wheeling, WV 26003

CH 13 Trustee
P.O. Box 8531
South Charleston, West Virginia 25303

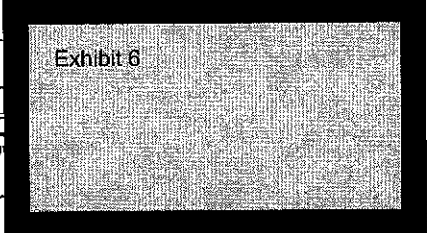
Internal Revenue Service
Insolvency Group
P.O. Box 1040, Stop 2202
Parkersburg, WV 26102

US Premier FCU
Attn: J. Alvater
6462 Little River Tpke
Alexandria, VA 22312-1411


Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277


Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277

§ 104 (Rev. 2/87)		ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)	
PLAINTIFFS NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN			DEFENDANTS INTERNAL REVENUE SERVICE SALLY D. PAPE LINDA SIMON JOHN DOE		
ATTORNEYS (Firm Name, Address, and Telephone No.) SAME - TAFLANS - PROPRIA DEBENT 55751 KEY-BELLAIRE RD BELLAIRE, OHIO 43906			ATTORNEYS (if Known) PATRICK M. FLATLEY		
PARTY (check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input checked="" type="checkbox"/> 2 U.S. DEFENDANT <input type="checkbox"/> 3 U.S. NOT A PARTY					
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) TO DETERMINE THE VALIDITY OF A NOTICE OF FEDERAL TAX LIEN, NOTICE OF LEVY AND PROOF OF CLAIM, F.R.B.P. RULE 7001(2), 26 USC § 6203 26 CFR § 301.6203-1					
NATURE OF SUIT (Check the one most appropriate box only)					
<input checked="" type="checkbox"/> 454 To Recover Money or Property <input checked="" type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property <input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property <input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. § 727		<input type="checkbox"/> 455 To revoke an order of confirmation of a Ch. 11, Ch. 12 or Ch. 13 Plan <input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. § 523 - 459 <input type="checkbox"/> 434 To obtain an injunction or other equitable relief <input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan		<input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action To determine a claim or cause of action removed to a bankruptcy court <input type="checkbox"/> 488 Other (specify) <input type="checkbox"/> 499 Hardship Discharge (Student loan)	
ORIGIN OF PROCEEDINGS (Check one box only.)			<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed Proceeding <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another Bankruptcy Court		
<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23			<input checked="" type="checkbox"/> JURY DEMAND		
DEMAND NEAREST THOUSAND \$ <u>NONE</u>		OTHER RELIEF SOUGHT <u>PROVIDE DOCUMENTATION</u>		BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES	
NAME OF DEBTOR <u>TAFLAN, NICHOLAS & PATRICIA</u>			BANKRUPTCY CASE NO. <u>7303 BK-62170</u>		
DISTRICT IN WHICH CASE IS PENDING <u>NORTHERN - W.V.</u>		DIVISIONAL OFFICE		NAME OF JUDGE <u>E. FRIENDL II</u>	
RELATED ADVERSARY PROCEEDING (IF ANY)					
PLAINTIFF			DEFENDANT		
DISTRICT		DIVISIONAL OFFICE		NAME OF JUDGE	
FILING FEE (Check one box only.) <input type="checkbox"/> FEE ATTACHED <input type="checkbox"/> FEE NOT REQUIRED			SIGNATURE OF ATTORNEY		
DATE		PRINT NAME		SIGNATURE OF ATTORNEY	



ADVERSARY PROCEEDING COVER SHEET (Reverse Side)

This cover sheet must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney) and submitted to the Clerk of the court upon the filing of a complaint initiating an adversary proceeding.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. This form is required for the use of the clerk of the court to initiate the docket sheet and to prepare necessary indices and statistical records. A separate cover sheet must be submitted to the clerk of the court for each complaint filed. The form is largely self explanatory.

Parties. The names of the parties to the adversary proceeding exactly as they appear on the complaint. Give the names and addresses of the attorneys if known. Following the heading "Party," check the appropriate box indicating whether the United States is a party named in the complaint.

Cause of Action. Give a brief description of the cause of action including all federal statutes involved. For example, "Complaint seeking damages for failure to disclose information, Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq.," or "Complaint by trustee to avoid a transfer of property by the debtor, 11 U.S.C. § 544."

Nature of Suit. Place an "X" in the appropriate box. Only one box should be checked. If the cause fits more than one category of suit, select the most definitive.

Origin of Proceedings. Check the appropriate box to indicate the origin of the case:

1. Original Proceeding.
2. Removed from a State or District Court.
4. Reinstated or Reopened.
5. Transferred from Another Bankruptcy Court.

Demand. On the next line, state the dollar amount demanded in the complaint in thousands of dollars. For \$1,000 enter "1." for \$10,000 enter "10," for \$100,000 enter "100," if \$1,000,000, enter "1000." If \$10,000,000 or more, enter "9999." If the amount is less than \$1,000, enter "0001." If no monetary demand is made, enter "XXXX." If the plaintiff is seeking non-monetary relief, state the relief sought, such as injunction or foreclosure of a mortgage.

Bankruptcy Case In Which This Adversary Proceeding Arises. Enter the name of the debtor and the docket number of the bankruptcy case from which the proceeding now being filed arose. Beneath, enter the district and divisional office where the case was filed, and the name of the presiding judge.

Related Adversary Proceedings. State the names of the parties and the six digit adversary proceeding number from any adversary proceeding concerning the same two parties or the same property currently pending in any bankruptcy court. On the next line, enter the district where the related case is pending, and the name of the presiding judge.

Filing Fee. Check one box. The fee must be paid upon filing unless the plaintiff meets one of the following exceptions. The fee is not required if the plaintiff is the United States government or the debtor. If the plaintiff is the trustee or a debtor in possession, and there are no liquid funds in the estate, the filing fee may be deferred until there are funds in the estate. (In the event no funds are ever recovered for the estate, there will be no fee.) There is no fee for adding a party after the adversary proceeding has been commenced.

Signature. This cover sheet must be signed by the attorney of record in the box on the right of the last line of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is *pro se*, that is, not represented by an attorney, the plaintiff must sign.

The name of the signatory must be printed in the box to the left of the signature. The date of the signing must be indicated in the box on the far left of the last line.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors-Plaintiffs v. SALLY D. PAPE,
LINDA SIMON and JOHN DOE, INTERNAL REVENUE SERVICE, Defendants. CASE NO.
5:03-bk-02170 CHAPTER 13 ADVERSARY PROCEEDING NO:

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors-Plaintiffs, in propria persona, in the captioned case under Chapter 13 and they respectfully show and prove to the Court as follows:

1. This action is filed pursuant to F.R.B.P Rule 7003.
2. This Court has jurisdiction over this matter by virtue of debtors-plaintiffs having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 on June 16, 2003 in this venue.
3. This adversary proceeding is filed pursuant to F.R.B.P. Rule 7001 (2) To determine the validity of a "Notice of Levy on Wages, Salary and Other Income" issued on May 5, 2003, by Creditor-Defendant IRS and signed by "Sally D. Pape," (Exhibit A) and;
4. To determine the validity of a "Proof of Claim" filed in this action on or about November 14, 2003, signed by a "Linda Simon" Insolvency Manager, no IRS Badge given, claiming a liability of \$119,818.38 (Exhibit B).
5. To determine the validity of a Notice of Federal Tax Lien listed on the Proof of Claim dated November 14, 2003, for year 1996 and assessed March 22, 1999.

PLAINTIFFS

6. That, Nicholas M. Taflan and Patricia L. Taflan, are citizens of the State of Ohio, their address is 55951 Key-Bellaire Road., Bellaire, Ohio 43906.

DEFENDANTS

7. That "Sally D. Pape" (signature) is Operations Manager, Collections, Internal Revenue Service, P.O. Box

219236, Kansas City, Missouri 64121-9236.

8. That Linda Simon is Insolvency Manager, [signer of alleged Proof of Claim, dated November 14, 2003] Special Procedures Branch, Internal Revenue Service, P.O. Box 1040, Stop 2202, Parkerburg, West Virginia 26102.

9. John Doe, address unknown.

STATEMENT OF CLAIM

10. Debtors-Plaintiffs did file a bankruptcy petition on June 16, 2003, and named the Internal Revenue Service (hereinafter IRS) and the as disputed creditor.

11. Debtors-Plaintiffs disputed a Notice of Levy, pertaining to year 1996, issued on May 11, 2003.

12. Creditor-Defendant IRS has not substantiated its "Notice of Levy" with any authenticated documentation.

13. Creditor-Defendant IRS filed a Proof of Claim in this action on or about November 14, 2003, signed by a "Linda Simon" Insolvency Manager, claiming a liability of \$119,818.38, and as such has not proven any liability of Debtors-Plaintiffs with authenticated documentation pursuant to the Federal Rules of Evidence Rule 901 et seq.

14. Debtors-Plaintiffs filed an Objection to the Proof of Claim (IRS) on or about November 19, 2003.

15. Debtors-Plaintiffs requested the assistance of the Court in requiring creditor Internal Revenue Service to provide the same documentation as any other disputed creditor would have to provide to prove a claim. Merely the proper documents are sought to verify the Claim of the Internal Revenue Service.

16. Rather than provide the proper documents to verify and prove its Proof of Claim, as required pursuant to Rule 3001(c), the U.S. Attorney filed his Motion to Dismiss the Objection to Proof of Claim, dated December 11, 2003.

17. The U.S. Attorney alleged that Debtor's Objection was a contested matter.

18. Because no documentation was provided as requested and the U.S. Attorney deemed this a contested matter, Debtors-Plaintiffs herewith file their adversarial proceeding.

19. The IRS has clearly not followed its prescribed Code (Title 26 U.S.C.) as set forth in 26 U.S.C. 6213(b)

(2) which is cited here:

(A) Request for abatement. Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 60 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice, and upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by this subchapter.

(B) Stay of collection. In the case of any assessment referred to in paragraph (1), notwithstanding paragraph (1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph.

20. The IRS has clearly not followed its prescribed Code (Title 26 U.S.C.) as set forth in 26 U.S.C. § 6404

(a)(3) which is cited here:

The Secretary is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which-

(3) is erroneously or illegally assessed.

21. Mr. Taflan requested an abatement pursuant to IRC §6404(a)(3) as documented herein. The IRS had ample time to abate their "Notice of Levy" as required by law, but instead chose to continue collection activities. Instead the IRS issued numerous "Notice of Levy." Clearly the IRS did not follow administrative procedure as set forth by law and violated due process.

22. The IRS has clearly not followed its prescribed Code (Title 26 U.S.C.) as set forth in 26 U.S.C. § 6212 which is cited here in pertinent part:

(a) In general. If the Secretary determines that there is a deficiency in respect of any tax imposed by subtitle A or B or chapter 41, 42, 43 or 44, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

23. The "deficiency" assessment is erroneous due to the fact that employment (wage) taxes under Subtitle C cannot be included in the deficiency authority of 26 USC § 6212. According to 26 USC § 6211, only a tax return filed by a taxpayer and later found to be deficient, can be subject to deficiency assessment.

24. The IRS has clearly not followed its prescribed Regulations (Title 26 C.F.R.) as set forth in 26 C.F.R. § 601.102.

25. The IRS has clearly not followed its prescribed Code (Title 26 U.S.C.) as set forth in 26 U.S.C. 6203 which is cited here:

Sec. 6203. - Method of assessment

The assessment shall be made by recording the liability of the

taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

26. The IRS has clearly not followed its prescribed Regulations (Title 26 C.F.R.) as set forth in 26 C.F.R. § 301.6203-1 which is cited here:

Method of assessment states:

The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. *The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record.* The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.

27. That actions of District Director, Internal Revenue Service, and Operations Manager, Collections and Insolvency Manager, Special Procedures Branch, as stated in paragraphs 11 through 26, to wit, deprived the plaintiff of a portion of his right to due process as guaranteed by Article V of the United States Constitution.

28. Debtors-Plaintiffs filed an Objection to the Proof's of Claim issued by the IRS.

29. Pursuant to Federal Rules of Bankruptcy Procedure (FRBP) Rule 3001(c), the Proof of Claim require additional documentation as verification of the "Claim."

30. The actions of "Sally D. Pape," Linda Simon and John Doe as stated in paragraph 26, to wit, deprived the Debtors-Plaintiffs of a portion of their right to due process as guaranteed by Article V of the United States Constitution.

RELIEF REQUESTED

WHEREFORE, Debtors-Plaintiffs demands judgment against the Internal Revenue Service, Sally D. Pape, Linda Simon and John Doe as follows:

1) an ORDER that the District Director and Chief, Special Procedures Branch and Sally D. Pape, and Linda Simon provide complete authenticated documentation to support all alleged assessments against Debtor-Plaintiff for years 1996, 2000, 2001 and 2002, pursuant to 26 U.S.C. § 6203 and 26 C.F.R. § 301.6203-1.

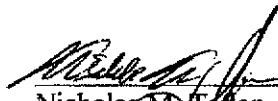
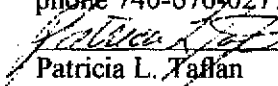
2) an ORDER that the Internal Revenue Service substantiate its Proof of Claim dated November 14, 2003 with authenticated documentation pursuant to the Federal Rules of Evidence Rule 901 et seq. and 26 U.S.C. § 6065 and pursuant to Federal Rules of Bankruptcy Procedure (FRBP) Rule 3001(c) or abate all alleged assessments against Debtor-Plaintiff for years 1996, 2000, 2001 and 2002, if they cannot be substantiated in law and fact to this Court.

3) an Order that the defendants pay costs and reasonable attorney fees to the Debtor-Plaintiff for prosecuting this action; and

4) other such relief that this Court should deem just and equitable.

THE PLAINTIFFS DEMAND A TRIAL BY JURY.

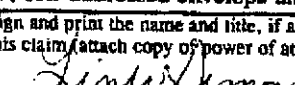
Dated this 13th day of January, 2004, at Wheeling, West Virginia


Nicholas M. Taffan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277

Patricia L. Taffan
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phone 740-676-0277

U.S. BANKRUPTCY COURT
NORTH DISTRICT OF WEST VIRGINIA

2004 JAN 13 PM 1:17

FILED

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF WV		PROOF OF CLAIM
Name of Debtor NICHOLAS M & PATRICIA L TAFLAN		Case Number 5-03-BK-02170
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or entity to whom the debtor owes money or property): Department of the Treasury - Internal Revenue Service		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Name and addresses where notices should be sent: Internal Revenue Service Internal Revenue Service P. O. Box 1040 Stop 2202 Parkersburg, WV 26102 Telephone number: (304) 420-6482 Creditor #:		
Account or other number by which creditor identifies debtor: see attachment		THIS SPACE IS FOR COURT USE ONLY
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input checked="" type="checkbox"/> Taxes <input type="checkbox"/> Other _____		<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Your SS #: _____ Unpaid compensation for services performed from _____ (date) to _____ (date)
2. Date debt was incurred: see attachment		3. If court judgment, date obtained:
4. Total Amount of Claim at Time Case Filed: \$ <u>119,818.36</u> If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
5. Secured Claim. <input checked="" type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input checked="" type="checkbox"/> Real Estate <input checked="" type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other <u>see below*</u> Value of Collateral: \$ <u>see below*</u> <small>* All of debtor's right, title and interest to property - 26 U.S.C. § 6321.</small> Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ <u>23,720.00</u>		6. Unsecured Priority Claim. <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ <u>85,000.00</u> Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,650),* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$2,100* of deposit toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony, maintenance, or support owed to spouse, former spouse, or child - 11 U.S.C. § 507(a)(7) <input checked="" type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>* Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment</small>
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY
8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.		<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: auto;"> GOVERNMENT EXHIBIT <u>1</u> </div>
9. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		
Date 11/14/2003	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <div style="text-align: center;">  _____ Insolvency Manager </div>	
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.		

B

Proof of Claim for Internal Revenue Taxes

Form 10
Attachment

B
11

Department of the Treasury/Internal Revenue Service

In the Matter of: NICHOLAS M & PATRICIA L TAFLAN
55951 KEY BELLAIRE ROAD
BELLAIRE, OH 43906

Docket Number	5:03-BK-02170
Type of Bankruptcy Case	Chapter 13
Date of Petition	06/16/2003

The United States has not identified a right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right to set off against this claim debts owed to this debtor by this or any other federal agency. All rights of setoff are preserved and will be asserted to the extent lawful.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Penalty to Petition Date	Interest to Petition Date	Notice of Tax Lien Filed: Date	Office Location	
[REDACTED]	INCOME	12/31/1996	03/22/1999	\$13,316.33	\$8,727.09	\$1,676.58	05/14/2003	Belmont County	
Total Amount of Secured Claims:							\$23,720.00		

Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
[REDACTED]	INCOME	12/31/2000	1 RETURN NOT FILED	\$30,000.00	\$0.00
[REDACTED]	INCOME	12/31/2001	1 RETURN NOT FILED	\$27,000.00	\$0.00
[REDACTED]	INCOME	12/31/2002	1 RETURN NOT FILED	\$28,000.00	\$0.00
				\$85,000.00	\$0.00
Total Amount of Unsecured Priority Claims:					\$85,000.00

Unsecured General Claims

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
[REDACTED]	INCOME	12/31/1996	03/22/1999	\$0.00	\$11,098.36
				\$0.00	\$11,098.36
Total Amount of Unsecured General Claims:					\$11,098.36

1. ESTIMATED TAX CLAIMS HAVE BEEN FILED BECAUSE THE DEBTOR HAS FAILED TO FILE THE RETURN(S) FOR THE ESTIMATED PERIODS. AS SOON AS THE DEBTOR FILES THE RETURN(S) WITH THE I.R.S. AS REQUIRED BY LAW, THIS CLAIM WILL BE ADJUSTED AS NECESSARY.

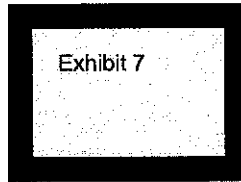
UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors | CASE
NO: 5:03-bk-02170 CHAPTER 13 OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR
IMPROPER VENUE

OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR IMPROPER VENUE

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 and file their Opposition to Defendant's Motion to Dismiss for improper venue and for that provides the following:



1. Debtors filed their voluntary petition on June 16, 2003.
2. This Court has jurisdiction over this matter by virtue of Debtor's having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 in this venue.
3. Debtor works for Rite Aid Corporation (Rite Aid), that has stores in Ohio and West Virginia. He presently works, as a pharmacist, for a Rite Aid store in Ohio, but has worked for Rite Aid stores in West Virginia, in the same capacity. Therefore, his principal place of business is the Rite Aid stores in Ohio and West Virginia, in which he works.
4. Debtor filed in this venue because he considers Rite Aid stores in Ohio and West Virginia as his principle place of business and therefore venue is proper pursuant to 28 U.S.C. § 1408.
5. Debtor is a licensed pharmacist in both Ohio and West Virginia and can be called upon by Rite Aid to work in either Ohio and West Virginia..
6. Debtor notes that because section 1408 lists four alternative venues, a debtor who resides in one state, but does business in another, may file a bankruptcy case in either district. (In re Broady, 247 B.R. 470 (B.A.P. 8th Cir. 2000).
7. An exception to the general venue rules can occur under 28 U.S.C. § 1412. That section provides that even if venue is proper in the district where suit has been brought, the litigation may be transferred to any other district in the interest of justice and for the convenience of the parties. See In Good Hope Refineries, Inc., 4 B.R.

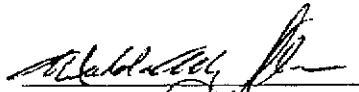
U.S. BANKRUPTCY COURT
NORTH DISTRICT OF WEST VIRGINIA
2004 JAN 13 PM 3:13
FILED

290 (Bankr. D. Mass. 1980)

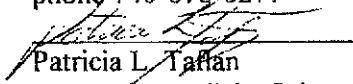
8. Based on the above, Debtor's aver that venue is proper and that the Court should retain the case. If the Court transfers the case, Debtors would move that Court for a change of venue because the nearest court would be over 3 hours away, definitely not convenient for Debtors. Any move would be prejudicial for the Defendants since the IRS and US Attorney has offices near each court.

WHEREFORE, Debtor's pray that this Court will deny Defendant's Motion to Dismiss for improper venue and retain this case in the interests of justice and for convenience of the parties and other such relief that this Court should deem just and equitable.

Respectfully submitted this 13th day of January 2004.



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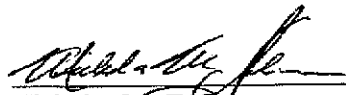
CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 13th DAY OF JANUARY 2004, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

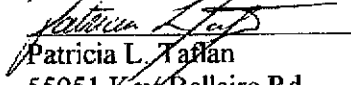
Clerk, U.S. Bankruptcy Court
For the Northern District of West Virginia
12th and Chapline Streets
Post Office Box 70
Wheeling, WV 26003

CH 13 Trustee
P.O. Box 8531
South Charleston, West Virginia 25303

Patrick M. Flatley
Asst. U.S. Attorney
P.O. Box 591
Wheeling, WV 26003



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U.S. BANKRUPTCY COURT
NORTH CHARLESTON, WV
2004 JAN 13 PM 1:13

FILED

Service. Debtor's did not initiate adversarial proceedings at that time. Therefore they did not serve additional parties.

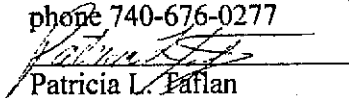
7. Debtor's are not seasoned attorneys and are unfamiliar with litigation and the law, being laymen. As such, they should be afforded a degree of latitude with respect to their pleadings and time limits within which to prepare their pleadings and therefore requests more time to complete their Schedules. See *Haines v. Kerner*, 404 U.S. 519.

WHEREFORE, Debtor's move this Court to Deny the U.S. Attorney's Motion to Dismiss Debtor's Objection to Proof of Claim and to move the Court for an order requiring the Internal Revenue Service to provide all underlying documents or agreements to pay a debt that any disputed creditor would be required to submit and other relief that is just and proper.

Respectfully submitted this 13th day of January 2004.



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CERTIFICATE OF SERVICE

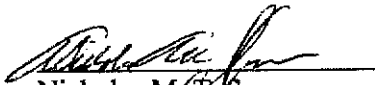
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Clerk, U.S. Bankruptcy Court
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12th and Chapline Streets
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Wheeling, WV 26003

CH 13 Trustee
P.O. Box 8531
South Charleston, West Virginia 25303

Patrick M. Flatley
Asst. U.S. Attorney
P.O. Box 591
Wheeling, WV 26003

John Ashcroft
Attorney General of the United States
10th and Constitution Ave., N.W.
Washington, DC 20530



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U.S. POSTAL SERVICE
FIRST CLASS PERMIT NO. 1000 WHEELING WV

2004 JAN 13 PM 1:14

FILED

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors

NO:5:03-bk-02170 CHAPTER 13 MOTION TO RECONSIDER ORDER DISMISSING PETITION

FILED
2004 SEP 26 AM 10:43
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WV

**MOTION TO RECONSIDER ORDER DISMISSING PETITION
(pursuant to Rule 9023)**

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 and file their Motion to Reconsider Order Dismissing Petition, pursuant to Rule 9023, and for that provides the following:



1. Debtors filed their voluntary petition on June 16, 2003.
2. This Court has jurisdiction over this matter by virtue of Debtor's having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 in this venue.
3. This Court held a hearing on January 13, 2004, to consider a motion to dismiss *Chapter 13 case for improper venue by the Internal Revenue Service. The Court, for reasons fully set forth on the record, and in accordance with this Court's prior decision in the case of Robert J. Erchak, No. 92-30807, issued its Order to Dismiss this case. The Court did not address the issue of venue at the hearing.*
4. This Court stated that: *My ruling has been and will continue to be, if you don't file tax returns, you can't file Chapter 13.* (Transcript p.17, lines 10-12) and: *the Court finds that the chapter 13 case will be dismissed for failure to abide by the law and file the tax returns, which is a standard of this court.* (Transcript p. 18, lines 7-9)
5. This Court cited its prior decision in the case of Robert J. Erchak, supra. That case was a Chapter 11 case and was dismissed because *The Court believes that the debtor [Erchak] intends to delay, for as long as possible, the effect of the levy on his property.* Debtor's, in the case at bar, challenged the IRS "Proof of Claim," because the claim must be a "Claim Based on a Writing" pursuant to Federal Rules of Bankruptcy Procedure (FRBP) Rule 3001(c) and as such requires additional documentation as verification of the "Claim." The IRS has not supplied any such documentation.

6. The CH 13 Trustee, Ms. Morris did not issue a notice to Debtor's that required them to file returns. At the hearing, on January 13, 2004, she stated that: and thought that there were outstanding returns missing that I was going to order to be filed, but the debtors have the opinion that they are not require to file tax returns.

(Transcript p.11, lines 10-12)

7. Nor did this Court order Debtor's to file any tax returns.

8. Debtor's did not disobey any lawful court order.

9. Rule 9023 allows for a court to alter or amend its judgment if there is newly discovered evidence or previously unavailable evidence. This is certainly true in the case at bar.

10. Debtor's note that if a person is required to file and doesn't, then the Secretary is required to file for him as given in Title 26 U.S.C. § 6020(b) which is given here:

(b) Execution of return by Secretary.

(1) Authority of Secretary to execute return. If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, **the Secretary shall make such return from his own knowledge** and from such information as he can obtain through testimony or otherwise. (Emp added)

(2) Status of returns. Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

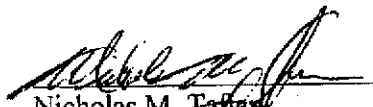
WHEREFORE, if Debtor's are required to file returns, then the Secretary should make returns for us pursuant to § 6020(b).

Debtor's did not file any returns for the years 1996, 2000, 2001 and 2002 because they had no liability and no requirement to do so because **they had NO taxable income pursuant to 26 C.F.R. § 1.861-8(f)(1).**

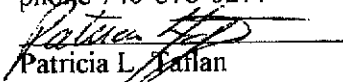
HOWEVER, if the Court orders Debtor's to file returns we will do so.

Wherefore Debtor's pray that the Court's Order entered herein be reconsidered, and a hearing be held on the matter, and that it have such other and further relief as is just.

Respectfully submitted this 26th day of January 2004.



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phone 740-676-0277


CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 26th DAY OF JANUARY 2004. HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

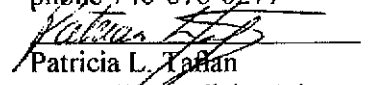
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FILED
2004 JAN 26 AM 10:44
CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WV

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Exhibit 10

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors

CASE NO:5:03-bk-02170

CHAPTER 13

FILED
2008 JAN 26 AM 10:42
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WV

MOTION TO AMEND FINDINGS OR MAKE ADDITIONAL FINDINGS
(pursuant to Rule 7052)

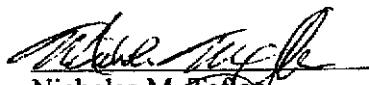
COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 and file their Motion to Order Dismissing Petition, pursuant to Rule 9023, and for that provides the following:

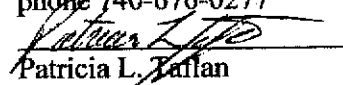
1. Debtors filed their voluntary petition on June 16, 2003.
2. This Court has jurisdiction over this matter by virtue of Debtor's having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 in this venue.
3. This Court held a hearing on January 13, 2004, to consider a motion to dismiss *Chapter 13 case for improper venue by the Internal Revenue Service. The Court, for reasons fully set forth on the record, and in accordance with this Court's prior decision in the case of Robert J. Erchak, No. 92-30807, issued its Order to Dismiss this case. The Court did not address the issue of venue at the hearing.*
4. This Court stated that: *My ruling has been and will continue to be, if you don't file tax returns, you can't file Chapter 13.*(Transcript p.17, lines 10-12) and: *the Court finds that the chapter 13 case will be dismissed for failure to abide by the law and file the tax returns, which is a standard of this court.* (Transcript p. 18, lines 7-9)
5. This Court cited its prior decision in the case of Robert J. Erchak, supra. That case was a Chapter 11 case and was dismissed because *The Court believes that the debtor [Erchak] intends to delay, for as long as possible, the effect of the levy on his property.* Debtor's, in the case at bar, challenged the IRS "Proof of Claim," because the claim must be a "Claim Based on a Writing" pursuant to Federal Rules of Bankruptcy Procedure (FRBP) Rule 3001(c) and as such requires additional documentation as verification of the "Claim." The IRS has not supplied any such documentation.

6. This Court did not state how Debtor's did not "abide by the law."
7. This Court did not state what the "standard of this court" is. Debtor's have searched the Rules of Bankruptcy Procedure and the Local Rules of this Court and can not find a rule requiring them to file tax returns.
8. Debtor's did not disobey any lawful court order.
9. Rule 7052 allows for a court to amend its findings or make additional findings.
10. We see in In re Mazzeo, 167 F.3d 139 (3d. Cir. 1999) that: *they [findings] must be made in a nonconclusory fashion, even those granting or denying relief from stay, in a manner sufficient to permit appellate review.*
11. And in In re Cornelision, 901 F.2d 1073, 23 C.B.C. 2d 852 (11th Cir. 1990) that: *An order must clearly state the factual findings supporting legal conclusions and not simply restate the language of the statute.*
12. This Court did not clearly state its reasons, but rather issued such vague reasons as "did not abide by the law" and "the standard of this court."
13. Debtor's merely request that this Court find the facts specially and state separately its conclusions of law thereon.

Wherefore Debtor's pray that the Court issue findings of fact and conclusions of law which constitute the grounds for its action, and that it have such other and further relief as is just.

Respectfully submitted this 26th day of January 2004.


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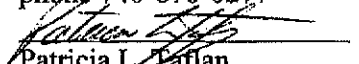
CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 26th DAY OF JANUARY 2004, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

Clerk, U.S. Bankruptcy Court
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CH 13 Trustee
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U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WV

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors
NO:5:03-bk-02170 CHAPTER 13 NOTICE OF APPEAL

CASE

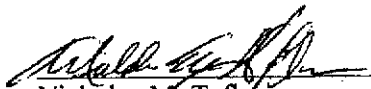
Exhibit 11

NOTICE OF APPEAL

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtor's, in propria persona, in the captioned case under Chapter 13 to appeal to the district Court, under 28 U.S.C. § 158(a), from the Order to Dismiss this case, entered January 22, 2004, and the Order to deny motion to reconsider Order dismissing Petition, entered January 27, 2004, and the Court's ignoring the Motion to amend findings or make additional findings, pursuant to Rule 7052, of the bankruptcy judge L. Edward Friend II.

The names of all parties to the Order's appealed from are as follows:

Respectfully submitted this 4th day of February 2004.



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U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WEST VIRGINIA

2004 FEB -4 AM 9:53

FILED

CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 4th DAY OF FEBRUARY 2004, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

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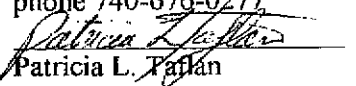
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U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WEST VIRGINIA

2004 FEB -4 AM 9:53

FILED

UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors CASE NO:5:03-bk-02170
CHAPTER 13 MOTION TO RECONSIDER ORDER DENYING MOTION TO RECONSIDER

MOTION TO RECONSIDER ORDER DENYING MOTION TO RECONSIDER
(pursuant to Rule 9023)

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtor's, in propria persona, in the captioned case under Chapter 13 and file their Motion to Reconsider Order Denying Motion to Reconsider, pursuant to Rule 9023, and for that provides the following:

Exhibit 12

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2004 FEB 6 PM 9:02
U.S. BANKRUPTCY COURT
NORTHWEST

1. Debtors filed their voluntary petition on June 16, 2003.
2. This Court has jurisdiction over this matter by virtue of Debtor's having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 in this venue.
3. This Court held a hearing on January 13, 2004, to consider a motion to dismiss *Chapter 13 case for improper venue by the Internal Revenue Service. The Court, for reasons fully set forth on the record, and in accordance with this Court's prior decision in the case of Robert J. Erchak, No. 92-30807*, issued its Order to Dismiss this case. The Court did not address the issue of venue at the hearing.
4. Debtor's filed a timely Motion to Reconsider that noted that the Robert Erchak case cited by the Court was a CH. 11 case and was dismissed for "delaying tactics." Debtor's did not disobey a lawful order by the Court, nor were they required to file tax returns by the Court or by the Trustee.
5. Rather than rebut the statements in the Motion to Reconsider, the Court alluded to confirmation of the Chapter 13 Plan. The Court stated in its Denial that: *The Court informed the Debtors that it would not confirm a Chapter 13 plan unless the tax returns were properly filed.* However the Transcript shows that the Court stated that: *My ruling has been and will continue to be, if you don't file your tax returns, you can't file for Chapter 13.* The Court cited no Bankruptcy Rule or Local Rule that requires Debtors to file tax returns.
6. No Objection to Confirmation to Plan was on the calendar for the January 13, 2004 hearing. No motions were timely made that would qualify for hearing.

7. FRBP Rule 9006 (d) For Motions-states in pertinent part: *A written motion...and notice of any hearing shall be served not later than five days before the time specified for such hearing...* The IRS's motion fails the time test because of rule 9006(a).

8. FRBP Rule 9006 (a) Computation states in pertinent part: *When the period of time prescribed or allowed is less than 8 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.*

9. Therefore, the IRS Objection was not served early enough to meet the time requirements of the aforementioned Rules.

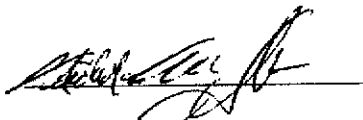
10. In addition, because Debtor's had not timely received the Objection filed by the IRS, they can not adequately prepare for the hearing.

11. The Court's Order Denying Motion to Reconsider also states that: *Inasmuch as the Debtor's refuse to file their tax returns, the Court has no other option but to dismiss the case.* The Court is Wrong in its assertion! Mr. Taflan stated on P. 8, lines 6-8, of the Transcript that: *Your Honor, we are not required to file. We have not failed to file, we are not required to file. Debtor's did not refuse to file any tax returns, they cited their reasons why they are not required to file.* The Court cited no law that required them to file returns.

12. The Court did not order Debtor's to file returns, nor did the Trustee, nor did the IRS move the Court to compel Debtor's to file returns. HOWEVER, if the Court orders Debtor's to file returns we will do so.

Wherefore Debtor's pray that the Court's Order entered herein be reconsidered, and a hearing be held on the matter, and that it have such other and further relief as is just.

Respectfully submitted this 6th day of February 2004.



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CERTIFICATE OF SERVICE

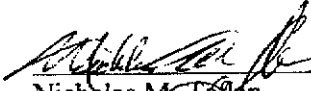
WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 6th DAY OF FEBRUARY 2004, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

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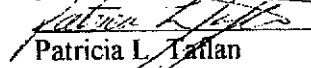
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U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF WV

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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

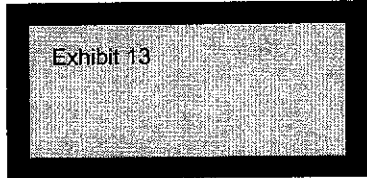
In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors
NO. 5:03-bk-02170 CHAPTER 13 MOTION FOR STAY PENDING APPEAL

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2004 FEB - CASE
AM 9:02
U.S. BANKRUPTCY COURT
WEST VIRGINIA

MOTION FOR STAY OF ORDERS PENDING APPEAL

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtor's, in propria persona, in the captioned case under Chapter 13, pursuant to Rule 8005, and for that provides the following

1. Within ten days of its entry, Debtor's filed a motion for reconsideration and rehearing from the Order of Dismissal entered herein on January 22, 2004.
2. Debtor's motion for reconsideration and rehearing was denied in an Order from the Court dated January 27, 2004, but the Court did not rebut the reasons given by Debtor's in the motion for reconsideration.
3. Within ten days of its entry, Debtor's filed a notice of appeal from the Order to deny motion for reconsideration or rehearing.
4. Debtor's are proceeding with writing documents for appeal.
5. If said Order is not stayed pending appeal, debtor's appeal will become moot, they will be left without remedy herein, and they will suffer irreparable injury.
6. The tax court is not a remedy since:
 - a) the Tax Court is not part of the judicial branch of government.
 - b) It is merely an administrative body acting as a court.
 - c) Though it can make findings of fact, it cannot make conclusions of law.
 - d) It is merely a remedy for those who have a liability. Therefore an appeal to a tax court is an admission that Debtor is liable which she is not.
7. Debtor's likelihood of success on merits is very good because the Court's extreme bias in its Order to dismiss the case should be apparent to an impartial judge. Debtor's herein include excerpts from the Transcript of the hearing, held on January 13, 2004, in which the Court dismissed the case. The Court admits to being biased! The Court stated that: *I would admit to a certain amount of bias, because I pay taxes. I will admit to a further amount of bias.* (See p. 17, lines 20-22 of the Transcript).



8. Debtor's likelihood of success on merits is very good because the Court's extreme bias in its Order dismissing this case should be apparent to an impartial judge. The Court stated at the hearing held on January 13, 2004, that: *My ruling has been and will continue to be, if you don't file tax returns, you can't file Chapter 13.* (Transcript p.17, lines 10-12) and: *the Court finds that the Chapter 13 case will be dismissed for failure to abide by the law and file the tax returns, which is a standard of this court.* (Transcript p. 18, lines 7-9. This Court did not state how Debtor's did not "abide by the law." This Court did not state what the "standard of this court" is. Debtor's have searched the Rules of Bankruptcy Procedure and the Local Rules of this Court and can not find a rule requiring them to file tax returns. The Court has not defined what the "standard of this court" is and Debtor's can not determine what it is.

9. Debtor's likelihood of success on merits is very good because the Court held a hearing on the IRS Objection to Confirmation which was not on the calendar. The IRS service of said motion was not timely and therefore should not have been heard by the Court. The Court clearly erred. Note FRBP Rules 9006(d) and (a).

10. FRBP Rule 9006 (d) For Motions-states in pertinent part: *A written motion...and notice of any hearing shall be served not later than five days before the time specified for such hearing...* The IRS's motion fails the time test because of rule 9006(a).

11. FRBP Rule 9006 (a) Computation states in pertinent part: *When the period of time prescribed or allowed is less than 8 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.*

12. Therefore, the IRS Objection was not served early enough to meet the time requirements of the aforementioned Rules, but the Court was so biased that it clearly erred in allowing an objection and a motion clearly out of time.

13. In addition, because Debtor's had not timely received the Objection filed by the IRS, they could not adequately prepare for the hearing.

14. Debtor's likelihood of success on merits is very good because Mr. Taflan has not received a "Notice & Demand as required by 26 U.S.C. § 6331 for the alleged "Notice's of Levy" sent to Debtor's employer.

15. Debtor's will not be able to have a fair and reasonable redress in a court of law because IRS has seized

Debtor's property without due process of law from an illegal "Notice of Levy" and will suffer irreparable injury.

16. That there is a reasonable apprehension of irreparable loss unless injunctive relief is granted, or in the Court's opinion it appears reasonable necessary to protect Debtor's rights. The impending loss or financial ruin of Debtor's livelihood constitutes irreparable injury. The Court in Interox Am. v. PPG, Indus., Inc., 736 F.2d 194, 202 (5th Cir. 1984) stated that *An injury is irreparable if it cannot be undone through monetary remedies.*

17. And irreparable injury has been characterized as loss of a movant's enterprise. See Ryko Mfg. Corp. v. Delta Servs., Inc., 625 F. Supp. 1247, 1248 (S.D. Iowa 1985)

18. The hardship to Debtor's is real in the possibility of loosing their home and other property versus the defendant's face no loss of equity or property.

19. The IRS will not suffer harm by a stay pending appeal. The IRS has filed a fraudulent tax lien for the year 1996, but has failed to sign and certify them pursuant to 26 U.S.C § 6065. Debtor's have stated previously that the Notice of Deficiency for that year 1996 is invalid. No "Notice and Demand" was given to Debtor's for that year as required by 26 U.S.C. § 6303 (a) which states in pertinent part:

26 U.S.C. § 6303 (a) Notice and Demand for tax.

(a) General Rule...the Secretary shall...give notice on each person liable for unpaid tax, stating the amount and demanding payment thereof:

In Linwood Blackstone et al v. United States of America, 778 F. Supp. 244 (D.Md. 1991) the Court held that the general rule is that no tax lien arises until the IRS makes a demand (5th Cir. 1961). Without a valid notice and demand there can be no lien, the IRS cannot levy against the taxpayer's property...Therefore, the IRS would not be harmed since it has not proven tax liabilities against the Debtor's.

20. Debtor's likelihood of success on merits is very good because the Proof of Claim, in the case at bar, must be a "Claim Based on a Writing" pursuant to Federal Rules of Bankruptcy Procedure (FRBP) Rule 3001(c) and as such requires additional documentation as verification of the "Claim." The IRS has failed to provide any documentation to support their fraudulent "Claim." Mr. Flatley, attorney for the IRS, stated at the hearing: *...the total amount of the claim is almost \$120,000, but a lot of that is estimated because there are three tax years for which 1040 returns have not been filed.* Transcript, p.4, lines 12-15. By the Defendant's own words it is obvious why they can't produce any documentation to support their fraudulent "Claim."

21. A stay would not be in the public's interest since no tax liability has been proven against the Debtor. In Linwood Blackstone et al, supra.

22. Debtors have met the Standards for Stay Pending Appeal which are: (1) likelihood of success on the merits, (2) whether the movant will suffer irreparable harm if the stay is denied, (3) whether granting the stay will cause substantial harm to other parties, and (4) whether the relief requested is contrary to the public interest. See In re Martin, 199 B.R. 175 (Bankr. E.D. Ark. 1996), *aff'd*, 116 F.3d 480 (8th Cir. 1997).

Debtors asked that the Court merely to do its duty. Black's Law Dictionary (5th Ed.) states the Courts are an organ of the government, belonging to the judicial department, whose function is the application of the laws to controversies brought before it and the public administration of justice. Is it too much to ask the Courts to carry out their duties? The Supreme Court has stated:

It is emphatically the province and duty of the judicial department to say what the law is...this is the very essence of judicial duty...that law repugnant to the Constitution is void and that the courts, as well as other departments, are bound by that instrument. Marbury v. Madison (1803) 5 US 137, 2 L Ed 60.

Here again the courts are bound by that instrument, the Constitution. Laws are not discretionary. The Oath required of all United States Judges is found in Title 28 U.S.C. § 453 which reads as:

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office; "I do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as -- under the Constitution and laws of the United States. **So help me God.**" (emphasis added)

And since each justice or judge has taken an oath before Almighty God each should read and study these passages from the Bible:

1. Deuteronomy CH 1, v 16, 17

And I charged your judges at that time, saying, Hear the causes between your brethren, and judge righteously between every man and his brother, and the stranger that is with him. (listen to the problems)

Ye shall not respect persons in judgment; but ye shall hear the small as well as the great;

ye shall not be afraid of the face of man; for the judgment is God's: and the cause that is too hard for you, bring it unto me, and I will hear it.

2. Leviticus Ch 19, v 15

Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou judge thy neighbor.

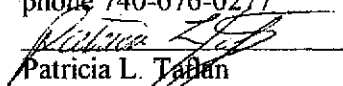
Wherefore Debtor's pray that the Court's Order entered herein be stayed pending appeal and that this Court will issue a order for a stay pending appeal enjoining Defendants from proceeding with their collection actions contrary to law, and that it have such other and further relief as is just.

The party to the orders appealed from and the name and address of the debtor's in propria persona is as follows:

Respectfully submitted this 6th day of February 2004.



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CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 6th DAY OF FEBRUARY 2004, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

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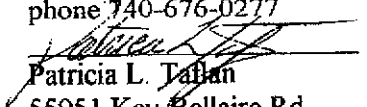
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U.S. Bankruptcy Court
Northern District of West Virginia

2004 FEB -6 AM 9:02

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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Exhibit 14

In Re: NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, Debtors, CASE NO: 5:03-bk-02170
CHAPTER 13

DESIGNATION OF CONTENTS FOR INCLUSION IN RECORD ON
APPEAL AND STATEMENT OF ISSUES ON APPEAL

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 and the instant action hereby files this Designation of Contents for inclusion in the Record on Appeal and Statement of Issues on Appeal and for that provides the following:

DESIGNATION OF CONTENTS

1. Debtor's voluntary petition for Chapter 13 protection filed on June 16, 2003. (Exhibit A)
2. The Internal Revenue Service (IRS) on or about November 14, 2003 served (but did not file) a Proof of Claim For Internal Revenue Taxes. (Exhibit B)
3. Debtor's Objection to Proof of Claim (IRS) and Motion to Require Creditor IRS to Prove all Underlying Agreements Proving Their Claim As Required, filed on November 18, 2003. (Exhibit C)
4. Motion to Dismiss for Improper Venue by US Attorney on behalf of IRS filed on December 11, 2003. (Exhibit D)
5. Motion to Dismiss Debtor's Objection to Proof of Claim (IRS) filed on December 11, 2003. (Exhibit E)
6. Notice of Hearing, dated December 15, 2003, to hear Debtor's Objection to Proof of Claim, IRS Motion to Dismiss for Improper Venue and Motion to dismiss Objection to Proof of Claim, scheduled for January 13, 2004. (Exhibit F)
7. Debtor's Opposition to Motion to Dismiss for Improper Venue filed January 13, 2004. (Exhibit G)
8. Debtor's Opposition to Motion of US Attorney to Dismiss Debtor's Objection to Proof of Claim filed January 13, 2004. (Exhibit H)
9. Debtor's adversarial proceeding filed on January 13, 2004 to determine the validity of the IRS' claims. (Exhibit I)

FILED
2004 FEB 17 AM 9:05
WEST VIRGINIA

10. Hearing held on January 13, 2004 to hear Debtor's Objection to Proof of Claim, IRS Motion to Dismiss for Improper Venue and IRS Motion to Dismiss Objection to Proof of Claim. (Exhibit J)
11. Debtor's fact sheet on their requirement to file returns, presented to the Court at the January 13, 2004 hearing. (Exhibit K)
12. Order entered on January 14, 2004 dismissing this case, with Memorandum Opinion. (Exhibit L)
13. Docket for case through and including January 14, 2004. (Exhibit M)
14. Transcript of hearing held on January 13, 2004. (Exhibit N)
15. Order dismissing Debtor's adversarial Proceeding entered January 22, 2004. (Exhibit O)
16. Motion to Reconsider Order dismissing this case filed on January 26, 2004. (Exhibit P)
17. Motion to Amend Findings or Make Additional Findings filed on January 26, 2004. (Exhibit Q)
18. Order Denying Motion to Reconsider entered on January 27, 2004. (Exhibit R)
19. Debtor's Notice of Appeal filed on February 4, 2004. (Exhibit S)
20. Motion to Reconsider Order Denying Motion to Reconsider filed on February 6, 2004. (Exhibit T)
21. Motion For Stay Pending Appeal filed on February 6, 2004. (Exhibit U)

STATEMENT OF THE ISSUES

1. Whether the Court erred when it did not apply the law as it is written, but instead showed its bias for the IRS and admitted as much at the hearing.
2. Whether the Court erred when it did not state what the "standard of this court" is and how it was applied to the dismissal of Debtor's case.
3. Whether the Court erred when it based its dismissal in part in accordance with the Court's prior decision in the case of Robert J. Erchak, No. 92-30807, which did not apply to this case.
4. Whether the Court erred when it did not show how Debtor's disobeyed any lawful court order, making their case subject to dismissal.
5. Whether the Court erred when it found that the chapter 13 case will be dismissed for failure to abide by the law and file the tax returns, which is a standard of this court, but did not provide any order of the Court to

file returns or motions to dismiss for failure to file.

6. Whether the Court erred when it did not state how Debtor's did not "abide by the law" and yet gave this as a reason as a basis to dismiss this case.

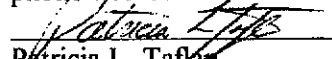
7. Whether the Court erred when it did not address the three issues set forth on the December 15, 2003 notice of hearing (Exhibit F), but instead concentrated discussion on confirmation of Debtor's plan.

8. Whether the Court erred when it failed to make and issue its Findings of Fact and Conclusions of Law, used as a basis for its Order dismissing this case. And whether the Court erred when it did not clearly state the factual findings supporting legal conclusions for its Order.

Respectfully submitted this 12th day of February 2004.



Nicholas M. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277



Patricia L. Taflan
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906
phone 740-676-0277

CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 17th DAY OF FEBRUARY 2004, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

Clerk, U.S. Bankruptcy Court
For the Northern District of West Virginia
12th and Chapline Streets
Post Office Box 70
Wheeling, WV 26003


CH 13 Trustee
P.O. Box 8531
South Charleston, West Virginia 25303


Patrick M. Flatley
Asst. U.S. Attorney
P.O. Box 591
Wheeling, WV 26003

Insolvency Group, IRS
P.O. Box 1040, Stop 2202
Parkersburg, WV 26102

US Premier FCU
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Jeremy R. Mason, attorney
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FILED
2004 FEB 17 AM 9:05
U.S. BANKRUPTCY COURT
NORTH DISTRICT OF WEST VIRGINIA
WHEELING, WV

RELIEF REQUESTED

Exhibit 14 (continued)

WHEREFORE, Debtors-Plaintiffs demands judgment against the Internal Revenue Service, Sally D. Pape, Linda Simon and John Doe as follows:

1) an ORDER that the District Director and Chief, Special Procedures Branch and Sally D. Pape, and Linda Simon provide complete authenticated documentation to support all alleged assessments against Debtor-Plaintiff for years 1996, 2000, 2001 and 2002, pursuant to 26 U.S.C. § 6203 and 26 C.F.R. § 301.6203-1.


2) an ORDER that the Internal Revenue Service substantiate its Proof of Claim dated November 14, 2003 with authenticated documentation pursuant to the Federal Rules of Evidence Rule 901 et seq. and 26 U.S.C. § 6065 and pursuant to Federal Rules of Bankruptcy Procedure (FRBP) Rule 3001(c) or abate all alleged assessments against Debtor-Plaintiff for years 1996, 2000, 2001 and 2002, if they cannot be substantiated in law and fact to this Court.

3) an Order that the defendants pay costs and reasonable attorney fees to the Debtor-Plaintiff for prosecuting this action; and

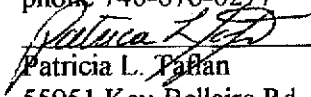
4) other such relief that this Court should deem just and equitable.

THE PLAINTIFFS DEMAND A TRIAL BY JURY.

Dated this 13th day of January, 2004, at Wheeling, West Virginia



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Your honor, I see no reason why there should be a change in venue. The IRS is simply trying to delay the exposure of the truth by making it inconvenient for me. The truth can be found in this court just as easily as in any other court across the nation. Since the IRS knows the truth, why delay the inevitable?

Now, I am not an unintelligent man. I, too have had 9 years of college, yet I consider myself of average intelligence. So I should be able to understand the Constitution of these United States and the IRS code as it is written just as easily as any one else in this court room. But two fact remain illusive to me. Number 1: Where in the 26 Code section A is it written that a Unites States citizen, working in these 50 states of the union for a United States corporation, is liable for tax on his income? And number 2: If a United States citizen, working in these 50 states of the union for a US corporation, is liable, what form is required to file a return? You see, the only the only person I can find who is specifically made liable in 26Code Section A, is a withholding agent who is limited to withhold under section 1461 and only for sections 1441(withholding of tax on non-resident aliens), 1442(withholding of tax on foreign corporations), and 1443(foreign tax-exempt organizations). A withholding agent has no direction to withhold anything in the way of federal taxes from a citizen of the United States.

Now unless the IRS can show me and show this court, they're wasting the courts' time, your honor. And if there were a change in venue, additional court time would be wasted on an assumption that is not written in the law.

FILE RETURNS

Your Honor, We have searched the code and we can find no statute where we are required to file, and **the only section of the Code which makes a person liable to pay income taxes is Title 26 U.S.C. § 1461** which is given here:

Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

The only statute that makes a requirement for an individual to file is 26 U.S.C. § 6012 which states in pertinent part:

(a) General rule.

Returns with respect to income taxes **under subtitle A** shall be made by the following:

(1) (A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual (Emphasis added)

And under Subtitle A, 26 U.S.C. § 1. states in pertinent part:

(a) Married individuals filing joint returns and surviving spouses.

There is hereby imposed on **the taxable income** of (Emphasis added)-

And if a person is required to file and doesn't, then the Secretary is required to file for him as given in Title 26 U.S.C. § 6020(b) which is given here:

(b) Execution of return by Secretary.

(1) Authority of Secretary to execute return. If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, **the Secretary shall make such return from his own knowledge** and from such information as he can obtain through testimony or otherwise. (Emp added)

(2) Status of returns. Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

WHEREFORE, if we are required to file returns, let the Secretary make returns for us pursuant to § 6020(b). Let the Court take judicial notice of § 1461 and § 6020(b) of Title 26.

We did not file any returns for the years 1996, 2000, 2001 and 2002 because we had no liability and no requirement to do so because **we had NO taxable income as stated above AND pursuant to 26 C.F.R. § 1.861-8(f)(1).**

HOWEVER, if the Court orders us to file returns we will do so.

① I am a citizen of these United States, not a "taxpayer"
I do not wish to be referred to as a "taxpayer"

K

② I would make the assumption that if any one part in a legal document were to be false or fraudulent, it would make the whole document in its entirety false or fraudulent.
Let me point out out 2 items in the IRS proof of claim document which are false and fraudulent.

A - we are dealing here only with the IRS claim that I owe taxes from 1996, Not with any other years.

B. - They use the words "failed" to file for the years 2000, 2001, 2002. I didn't fail to file - I'm not required to file, and have not filed a return since 1995 and do not intend to do so.

③ I would like to challenge this court (or the U.S. attorney) to show me where, in 26 USC Subtitle A, it is written that any one other than a "withholding agent" has been made liable for the tax on income. The "withholding agent" being made liable to withhold income tax from non-resident aliens under section 1441, foreign corporations under 1442, and certain foreign tax-exempt organizations under 1443.

WHY WE DON'T HAVE INCOME

Title 26, Section 61 is Gross Income (Exhibit F) (1986 VERSION OF THE CODE) and is defined as follows:

(a) General definition.

Except as otherwise provided in this subtitle, gross income means all income from whatever **source** derived, including (but not limited to) the following **items**:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent;
- (15) Income from an interest in an estate or trust.

Note: The source law of Section **61** as revealed in the footnote of this section in the **1954 version of the IRC** is section **22(a)**, and is unchanged from the **1939 version**. The **CFR INDEX PARALLEL TABLE 1991** lists the enabling section, per "**26 U.S.C. (1939 I.R.C.)**," as **Title 26 Part 519**. Income under this section pertained only to foreign earned income from Canada, and as of 1993 that Treaty no longer exists, and never will again due to NAFTA. This section of law is now related to **Title 7** which has to do with Agriculture

And note that Section 61 is derived from IRC section 22 of the 1939 Code and is essentially unchanged. Section 22 reads as follows:

And Sec. 22 GROSS INCOME , (a) General Definition is given in pertinent part as -- "Gross Income" includes gains, profits, and income **derived from salaries, wages, or compensation for personal service....(Emp added)**

WHEREFORE, any salaries, wages or compensation for personal services that we receive can not be gross income. They do not fit the definition. They are not derived.

Exhibit 14 (continued)

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* * *

P R O C E E D I N G S

Tuesday, January 13, 2004, 1:59 p.m.

* * *

THE COURT: We have to wait for Ms. Morris. I thought we were ready.

I don't know that we can do anything without -- these are all confirmation plans.

Which case are you here on, Mr. Flatley?

MR. FLATLEY: Taflan case, Your Honor.

THE COURT: Taflan. Okay.

Let's see.

Okay. You all are Mr. and Mrs. Taflan?

MS. TAFLAN: Yes.

THE COURT: Let's take the part -- your part of it, because there seems to be quite a difference in the numbers, which is the biggest problem I see.

Okay. Skipping through the technical aspects for just a minute, let me ask Mr. Flatley: What do your records show that they owe in the way of taxes from the IRS's records?

MR. FLATLEY: Well, Your Honor,

1 attached to our Objection to the Confirmation of the
2 Plan is the --

3 THE COURT: Okay. I only have your
4 motion. Hold on. I'll go get it.

5 I was looking at the other motion.

6 Okay. Now, I recognize...

7 The Proof of Claim?

8 MR. FLATLEY: Yes, Your Honor. It's
9 attached as Exhibit 1 to our Objection to the
10 Confirmation of the Plan. And, of course, the Taflans
11 have filed an Objection to the Proof of Claim, but, as
12 noted, Your Honor, the total amount of the claim is
13 almost \$120,000, but a lot of that is estimated
14 because there are three tax years for which 1040
15 returns have not been filed. Those are noted as the
16 "Unsecured Priority Claims" in the total amount of
17 \$85,000.

18 Without the returns being filed, of course, we
19 are unable to reduce those sums to an exact figure.
20 And, in part, the Objection to Confirmation is based
21 on the failure to file for those three years, such
22 that we cannot reduce the unsecured priority claim to
23 a sum certain.

24 THE COURT: Okay. If we just take the

1 amount that is due -- before we get into those
2 years -- let's just look at the first line.

3 MR. FLATLEY: Yes, Your Honor.

4 THE COURT: That's 19-- -- for 1996
5 assessed in 1999, there was \$13,316. Can I assume
6 that the '96 was filed and that's where you got those
7 numbers?

8 MR. FLATLEY: It's my understanding,
9 Your Honor, that this was a substitute return.

10 THE COURT: Okay. How about ninety-- --
11 I'm going to come to you all in just a minute.
12 I want to figure out what they think and then I'm
13 going to find out...

14 Taxes are our big problem here, obviously.

15 How about '97? '98?

16 MR. FLATLEY: Those are not listed on
17 the Proof of Claim because they are not susceptible to
18 our recapture under the Bankruptcy Code. And it's my
19 understanding that there are missing returns from
20 those years too. But we are not claiming those as
21 part of this bankruptcy because we cannot reach back
22 far enough under the Bankruptcy Code. Now, whether
23 there may be other issues related to unfiled years
24 outside of bankruptcy is another issue.

1 THE COURT: Okay.

2 MR. FLATLEY: But, at least with
3 respect to the Bankruptcy Code, we can't reach back
4 that far to include those years.

5 THE COURT: But is it your
6 understanding, from whatever information you have,
7 that we don't have '97, '98, '99, either?

8 MR. FLATLEY: That's correct, Your
9 Honor.

10 THE COURT: Okay.

11 So the last one we have is 1996, and it was a
12 substituted return?

13 MR. FLATLEY: That's right, Your Honor.

14 THE COURT: Okay.

15 Anything else on the taxes that you noticed
16 from your -- on the face of it that you should point
17 out to me?

18 MR. FLATLEY: I don't think so, Your
19 Honor. I believe that our Objection to the Plan, of
20 course, relates to the Plan, not necessarily to the
21 Proof of Claim.

22 Now, separately we have addressed some
23 pleadings, at least in response to the Objection to
24 the Proof of Claim by the Taflans, but those largely

1 speak for itself.

2 The real problem, as I see it with the Proof
3 of Claim as it currently exists, is -- at least with
4 respect to the unsecured priority claim -- those are
5 estimated figures. At least I am led to believe by
6 IRS that there has been withholding by virtue of Mr.
7 Taflan's employment so that if returns were filed and
8 a reconciliation occurred, it may be that some if not
9 all of this -- well, I can't say all -- but some may
10 be adjusted, perhaps even downward.

11 THE COURT: Okay.

12 MR. FLATLEY: So, again, without having
13 returns in hand, as is the normal practice of this
14 course -- or court, in terms of Chapter 13
15 proceedings, it's just very difficult to know what the
16 final liability would be.

17 THE COURT: Okay. So we have -- I'm
18 just talking about the tax aspect of it, because the
19 claim -- they do an estimated tax.

20 I have a rule in Chapter 13s that all of the
21 attorneys that practice here know, and I'm sure the
22 other judges do the same thing, it isn't difficult,
23 that you have to have your tax returns filed because
24 if you don't, I don't know how much you owe. And then

1 I don't know how much you need to pay back.

2 Now, let me ask you to start off with, on the
3 1997 -- let me see. I have to look here. 2000, 2001,
4 and 2002. Do you all contend that you have filed
5 those with the government and they don't have them?

6 MR. TAFLAN: Your Honor, we are not
7 required to file. We have not failed to file, we are
8 not required to file.

9 THE COURT: Okay. The only thing I'm
10 asking is, do they -- do you think they have the
11 returns? See, that's happened sometimes --

12 MR. TAFLAN: No. They do not have --

13 THE COURT: -- that they have the
14 returns --

15 MR. TAFLAN: We have not filed returns.

16 THE COURT: Okay. Not filed.

17 MR. TAFLAN: We are not required to
18 file returns.

19 THE COURT: Okay.

20 Now, do you disagree with -- you must have
21 filed one back in 1999, is that --

22 MR. TAFLAN: We did not. No.

23 MS. TAFLAN: No, sir.

24 MR. TAFLAN: No, sir, we did not.

1 THE COURT: How about '96?

2 MR. TAFLAN: No, sir. We did not.

3 THE COURT: Okay. Somehow they got a
4 tax due, and it looks like it came from a return of
5 \$13,000. Do you see that on the Proof of Claim? Do
6 you know how that came about? I thought that was from
7 your tax return.

8 MR. TAFLAN: We did not file a tax
9 return, Your Honor, in 1995 or subsequent years, once
10 we learned -- according to what the Internal Revenue
11 Service says in their documents.

12 THE COURT: Okay.

13 MR. TAFLAN: So we did not -- we did
14 not return -- we did not file a return because we
15 found out that we were not required to file. At that
16 point on, what they say, I guess, is what they say.
17 We have -- we have record of them filing a substitute
18 for return in the years 1995 and 1997.

19 THE COURT: Okay.

20 MR. TAFLAN: There was nothing filed --
21 there was no record of any sort, either a substitute
22 of return or otherwise, for 1996.

23 THE COURT: Okay.

24 So it was -- the substituted return was

1 actually prepared by the Internal Revenue Service?

2 MR. TAFLAN: That's true.

3 THE COURT: Okay.

4 Now, let me see from your bankruptcy petition
5 -- which I don't have.

6 Are you working?

7 MR. TAFLAN: Yes.

8 THE COURT: And where do you work?

9 MR. TAFLAN: I work for Rite Aid
10 Corporation in Bellaire, Ohio.

11 THE COURT: And Mrs. Taflan, do you
12 work?

13 MS. TAFLAN: No, sir.

14 THE COURT: Okay. Okay.

15 I suspect I'm going to get around to this. I
16 didn't look at this as the type of -- I had considered
17 this, that you just didn't get your tax return filed
18 and thought you'd have them here today.

19 Are you under the impression that you are not
20 required to file any returns even though you are
21 employed by Rite Aid Corporation as an employee?

22 MR. TAFLAN: That's true.

23 THE COURT: And is that a
24 constitutional reason somewhere?

1 MR. TAFLAN: That is true. Yes, sir.

2 THE COURT: Okay.

3 Ms. Morris, I just wanted to -- do you --

4 This is our Chapter 13 trustee.

5 You might as well come on up.

6 I just took the first case that we had,
7 because I noticed that the Internal Revenue Service
8 had made an objection and Mr. Flatley was here and I
9 had not looked at it in advance to see what kind of
10 objection it was, and thought that there were
11 outstanding returns missing that I was going to order
12 to be filed, but the debtors have the opinion that
13 they are not required to file tax returns.

14 So...

15 Let's see.

16 You're not represented by anybody? Have not
17 been represented by anybody?

18 MR. TAFLAN: True. True.

19 THE COURT: I have had some cases in
20 the past of the -- certain groups that indicate that
21 they do not wish to file returns, and, normally, I get
22 memorandums from them. Have you filed anything on
23 your behalf as to why you don't think you should be
24 required to file a return? Should I have that?

1 MR. TAFLAN: I did not file anything as
2 to why, Your Honor, but I do have some documentation
3 with me, if I could present it as judicial notice.

4 THE COURT: That's what we're here to
5 look at, to see why -- it is assumed by me in most of
6 the cases that I come in to --

7 MR. TAFLAN: If -- if -- if I may make
8 a statement, Your Honor, then I will present to you
9 the statement.

10 THE COURT: You may.

11 MR. TAFLAN: Okay.

12 I see no reason why there should be a change
13 in venue, of course, this is the whole ball of wax,
14 here. I am not -- I am not an unintelligent man, and
15 I, too, have had nine years of college, yet I consider
16 myself of average intelligence. So I should be able
17 to understand the Constitution of these United States
18 and the Internal Revenue Service Code as it is written
19 just as easily as anyone else in this courtroom.

20 But two facts remain elusive to me, Your
21 Honor. Number one, where in the 26 Code, Section A,
22 is it written that a United States citizen, working in
23 these fifty states of the Union, for a United States
24 corporation, is liable for the payment of income tax?

1 And, Number two, if a United States citizen
2 working in these fifty states of the Union for a
3 United States corporation is liable, what form is
4 required to file a return?

5 You see, the only place -- the only person I
6 can find who is specifically made liable in 26
7 Section -- 26 Code Section A, is a withholding agent,
8 who is limited to withhold under Sections 1461, and
9 only for Sections 1441, Withholding of Tax on
10 Nonresident Aliens, of which I am not; 1442,
11 Withholding a Tax on Foreign Corporations, which my
12 company is not, nor am I; and, 1443, Foreign
13 Tax-Exempt Organizations. Withholding agent has no
14 direction to withhold anything in the way of federal
15 taxes from a citizen of the United States.

16 May I present this to you?

17 THE COURT: You may. You may.

18 MR. TAFLAN: (Tendering)

19 THE COURT: And we'll mark it --

20 Do you have a copy of that, Mr. Flatley?

21 MR. FLATLEY: I do not, Your Honor.

22 MR. TAFLAN: I have additional copies.

23 THE COURT: I will -- if you can give
24 him a copy and we'll mark this as Exhibit -- Debtors'

1 Exhibit 1.

2 * * *

3 (Debtor's Exhibit No. 1 marked
4 for purposes of identification.)

5 * * *

6 THE COURT: If you can give Mr. Flatley
7 a copy of that, I'd appreciate it.

8 MR. TAFLAN: And I have one other thing
9 to bring up too.

10 Mr. Flatley mentioned that I was -- I failed
11 to file tax returns. Section 1.1-1 is tax imposed.
12 The OMB number assigned to this section is 1545-0067.
13 Section 16 -- I'm sorry. 6012-0 is persons required
14 to make returns. OMB number to this -- assigned to
15 this section is 1545-0067. Sounds easy enough.

16 According to 6012-0, you are required to file
17 the form with OMB number 1545-0067 and the tax in
18 Section 1.1-1 also says you must file the form with
19 the same OMB number. There is one problem. The form
20 that has OMB number 1545-0067 is Form 2555, Foreign
21 Earned Income, not Form 1040. It also says at the top
22 of Form 2555, that it is used only for U.S. citizens
23 and resident aliens only, but it is foreign earned
24 income. I have no foreign earned income.

1 So what file -- what form am I to use as far
2 as filing taxes?

3 THE COURT: Okay. Do you want to
4 submit that also?

5 MR. TAFLAN: I could submit this also.
6 (Tendering)

7 So you see, Your Honor, I don't really believe
8 that a United States citizen, working in the United
9 States, under the Constitution -- incidentally, the
10 constitutional laws have not been repealed. And it is
11 my thinking that if you have a law on the book that
12 says, "No, you don't have to do this," and then you
13 have another law, the 16th Amendment, it says,
14 supposedly says, that, "Yes, we are going to do this,"
15 don't they have to get rid of this law over here first
16 before they can change it to this law? That's my
17 understanding.

18 And the United States Supreme Court, ruling on
19 the 16th Amendment, said that that does not give the
20 Treasury Department any additional right to tax
21 anyone.

22 So I'm relying on that Constitution, plus the
23 16th Amendment, plus the United States Supreme Court
24 decision on the 16th Amendment as my basis for being

1 where I am at today.

2 So I would like to find out where in the
3 Internal Revenue Code that a United States citizen,
4 working in the United States, working in the fifty
5 United States, is made liable for the payment of
6 income taxes?

7 THE COURT: Okay. I have been on the
8 bench, nigh onto twenty years. I've had three people
9 who have exactly espoused the same view that you have.
10 In each case, I have advised them that such a position
11 has been declared invalid by the United States Supreme
12 Court. And that as a Bankruptcy Court, I don't have
13 the authority nor do I want the authority to reverse
14 the United States Supreme Court.

15 In those instances, the party served jail
16 time. I warn you of that.

17 There are 240 million people in the United
18 States. About 300 to 10,000, somewhere in there, it's
19 a real big number, because I never can have a handle
20 on it, have insisted that they do not have to pay
21 income taxes.

22 This issue won't be decided by me, because I
23 am four steps down, or maybe even five, from the
24 United States Supreme Court. I am bound by the laws.

1 I have issued three opinions already that indicate
2 that you have to pay taxes. You have to file the
3 returns.

4 So my advice to you is, that as an intelligent
5 man of nine years of college, that you spend some time
6 perhaps and talk to a lawyer, because I think the
7 information that you are giving me is incorrect. I'm
8 not going to look it up. I've issued three opinions.
9 I'll go copy it again, and I'll issue another opinion.

10 My ruling has been and will continue to be, if
11 you don't file your tax returns, you can't file for
12 Chapter 13. The reason being, if you owe money on
13 your taxes -- and I don't know how much they are until
14 you file a return -- if you don't file a return, the
15 Internal Revenue Service estimates the return, which
16 is where we end up with \$126,000, which can't possibly
17 be paid in the Chapter 13.

18 I will issue you the written ruling that I
19 have issued before in cases where people don't believe
20 that they should pay taxes. I would admit to a
21 certain amount of bias, because I pay taxes. I will
22 admit to a further amount of bias. Of all of the
23 people I know, you are the only one I know that
24 doesn't pay taxes or believe that he has to pay taxes,

1 setting aside the three that have been in my
2 courtroom.

3

* * *

4 So without further discussion, without any
5 input from the government -- I've been through the
6 cases before -- Mr. Flatley, the Court finds that the
7 Chapter 13 case will be DISMISSED for failure to abide
8 by the law and file the tax returns, which is a
9 standard in this court. That being the case, I won't
10 address the venue, because that's a very different
11 proposition which has other ramifications to it that
12 really aren't relevant to this case.

13 So, Mr. Taflan, Ms. Taflan, your case is
14 DISMISSED. You are no longer in the province of the
15 bankruptcy court. You have the right, of course, to
16 appeal that to the district court.

17 MR. TAFLAN: We do?

18 THE COURT: Yes, you do.

19 MR. TAFLAN: Yes, I will. I will
20 appeal it.

21 THE COURT: And, maybe at a higher
22 level you'll get some relief, but it can't be -- can't
23 be had here.

24 Okay. I'll do an order.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED
2004 MAY 28 PM 3:38

In Re:

NICHOLAS M. TAFLAN and
PATRICIA L. TAFLAN,
Debtors

CASE NO:5:03-bk-02170

CHAPTER 13

MOTION TO RECUSE L. EDWARD FRIEND II

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, in propria persona, in the captioned case under Chapter 13 and to move this Court to recuse itself from this action pursuant to 28 U.S.C. § 455 (a) & (b)(1) and for that provides the following:

1. Debtor's filed for bankruptcy protection in the instant case on June 16, 2003.
2. Judge Friend should recuse himself pursuant to Title 28 § 455(a) because as a defendant in the district Court appeal might affect his impartiality in the instant case or in future cases.
3. In addition, Judge Friend's previous ruling in the Hearing, in the bankruptcy case No 5:03-bk-02170, held on January 13, 2004 reflects a bias so pervasive and so prejudicial as to render him unfit to discharge his judicial duties. (By his own admission he is biased towards the Debtor's. (See Transcript of January 13, 2004 hearing, page 17, lines 20-22).
4. The Judge's prejudice is so great as to make him incapable of judging the facts before him.

The oath of office that every federal judge takes is:

Exhibit 15

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office. " I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____, under the Constitution and laws of the United States, So help me God.

28 U.S.C. § 453

That oath comes to us from ancient precedents. For example: Deuteronomy 1:16-17 (quoted in Canons of Judicial Ethics, Black's Law Dictionary, 4th Ed. Rev. LXIX). That oath became one of the Statutes of Westminster in 1275 A.D.

Depending upon which authority one cares to believe, Edward I removed either all or all but two of his judges in 1289 A.D. for violations of that statute.

The English system that our ancestors fought to abolish appears to mirror our own:

"Heart-breaking delays and ruinous costs were the lot of suitors. Justice was dilatory, expensive, uncertain, and remote. To the rich it was a costly lottery: to the poor a denial of right, or certain ruin. The class who profited most by its dark mysteries were the lawyers themselves. A suitor might be reduced to beggary or madness, but his advisors reveled in the chicane and artifice of a lifelong suit and grew rich."

Concise History of the Common Law, by Plucknett
(Little Brown & Co. 12956) 5th Ed. page 73

The Judicial Improvements Act of 1990, P.L. 101-650 (18 U.S.C. § 471 et seq.) indicates the same problem is now rampant in our courts. See page 6809, U.S. Code Cong. & Administrative News 1990 (legislative history of the Judicial Improvements Act).

As the legislative history of 28 U.S.C. § 471 et seq. points out:

“The purpose of this legislation is to promote for all citizens - rich or poor, individual or corporation, plaintiff or defendant - the just, speedy and inexpensive resolution of civil disputes in our Nation’s Federal courts.”

U.S. Code Cong & Admin News, pg 6804 (1990)

The courthouse door rapidly being slammed shut on the middle class in this country is addressed on page 6809. Confidence in the judiciary being sustained and preserved so long as the populace respects individual judges is addressed on page 6882.

Failure to administer justice without respect to persons, to do equal right, and to impartially discharge duties incumbent upon the court is more than a petty annoyance to the citizen.

Violation of a federal judge’s oath is grounds for impeachment. U.S. Code Cong & Admin News, pg. 6896 (1990).

It is unfortunate that the federal courts do not have an automatic preemptory challenge to recuse a judge as many states do. However, there is still statute law to cure the problem, if the court will follow it.

Congress, by statute, has outlined the conditions for disqualification of a judge in 28 U.S.C. § 455. Section 455 is designed to assure that all parties receive a trial before a judge who is not biased against them, and, if a judge’s impartiality might be questioned, disqualification is mandatory. Beverly Hills Bancorp v. Commercial Paper Holders, 752 F.2d 1334, 1341 (9th Cir. 1984); 32 Am. Jur. 2d, Federal Practice and Procedure, section 40. Any judge of the United States shall disqualify himself in any proceeding in which his or her “impartiality might be reasonably be questioned.” 28 U.S.C. § 455 (a). Or

whenever he “has a personal bias or prejudice concerning a party.” Id. § 455 (b)(1).

Under Canon 3 of the Code of Judicial Conduct, a judge must avoid the appearance of impropriety in all of his activities. In short, Canon 3 defines the ethical boundaries while § 455 outlines legal boundaries.

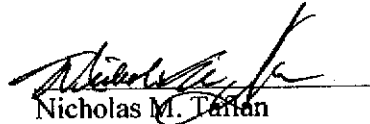
Congress in 1974 shifted the focus on 28 U.S.C. § 455 in order to promote public confidence in the federal judicial system. See H.R. Report No. 93-1453, 93rd Congress, 2d Session (1974), reprinted in U.S. Code Cong. and Admin. News at p. 6351 and note 8 at p. 6355. 28 U.S.C. § 455 contains two sections that provide for disqualification. The first section is 455(a), which provides that a judge “shall disqualify himself in any proceeding in which his impartiality might be reasonably be questioned.” The second section is 455(b), which provides for disqualification on a showing of certain facts, e.g., personal bias, pecuniary interest in the case, etc., without the necessity of demonstrating that those facts establish impartiality.

A federal judge is required to take the steps necessary to maintain public confidence in the impartiality of the judiciary. Liljeberg v. Health Services Acquisition Corp., 108 S.Ct. 2194, 2203 (1988).

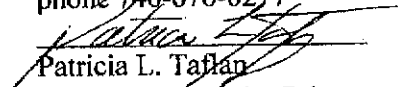
The statute enacted by Congress, 42 U.S.C. § 1983, is plain on its face. The sole function of the court is to enforce the law according to statute. Caminetti v. U.S., 37 S.Ct. 192, 194 (1917). Not according to misapplied doctrine.

WHEREFORE, in order that Debtor's may have meaningful access to the courts
and due process of law, this court must recuse itself.

Respectfully submitted this 28th day of May 2004.



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CERTIFICATE OF SERVICE

WE, NICHOLAS M. TAFLAN and PATRICIA L. TAFLAN, CERTIFY THAT ON THIS 28th DAY OF MAY 2004, HAVE CAUSED TO BE SERVED UPON THE PARTIES LISTED BELOW A TRUE COPY OF THE FOREGOING DEBTOR'S PLEADINGS BY PLACING SAID COPY IN AN ENVELOPE WITH THE PROPER POSTAGE AFFIXED THERETO, SEALING SAME AND PLACING IT IN THE UNITED STATES POSTAL SERVICE.

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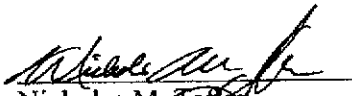
CH 13 Trustee
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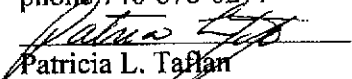
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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In Re:

NICHOLAS M. TAFLAN and
PATRICIA L. TAFLAN,

Debtors

CASE NO:5:03-bk-02170

CHAPTER 13

**MOTION TO RECONSIDER ORDER
DISMISSING PETITION FOR
IMPROPER VENUE**

**MOTION TO RECONSIDER ORDER DISMISSING PETITION FOR
IMPROPER VENUE**

(pursuant to Rule 1014 and Rule 9023)

COMES NOW, Nicholas M. Taflan and Patricia L. Taflan, Debtors, *seu propria* persona, in the captioned case under Chapter 13 and file their Motion to Reconsider Order Dismissing Petition for Improper Venue, pursuant to Rule 1014 and Rule 9023, and for that provides the following:

1. Debtors filed their voluntary petition on June 16, 2003.
2. This Court has jurisdiction over this matter by virtue of Debtor's having filed a voluntary petition (11 United States Code (11 U.S.C. § 302)) seeking protection under Chapter 13 in this venue.
3. This Court held a hearing on January 13, 2004, to consider a motion to dismiss *Chapter 13 case for improper venue by the Internal Revenue Service. The Court, for reasons fully set forth on the record, and in accordance with this Court's prior decision in the case of Robert J. Erchak, No. 92-30807, issued its Order to Dismiss this case. The Court did not address the issue of venue at the hearing.*

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Exhibit 16

4. Debtor's appealed the Court's Orders to the U.S. District Court which, on June 25, 2004, issued its Opinion that:

a) REVERSED the January 14, 2004 Order of the bankruptcy Court dismissing the debtor's petition and the January 27, 2004 Order of the bankruptcy Court denying the motion to reconsider this case.

b) The case is REMANDED to the bankruptcy Court for further proceedings consistent with this opinion.

c) The district Court cited Fed. R. Bankr. P. 1014 and stated that: Thus, if venue is improper, the bankruptcy Court must either dismiss the action or transfer the same, if transfer is in the interest of justice or for the convenience of the parties. ... Moreover, when venue is found to be improper under 28 U.S.C. § 1408, the debtor is entitled to notice and to request a hearing under Bankruptcy Rule 1014(a) and 11 U.S.C. § 102 to allow the debtor to argue that transfer of the case is preferable to dismissal.

d) The district Court also stated that: Accordingly, this civil action must be remanded to the Bankruptcy Court to determine if venue is proper, and if venue is found to be improper, whether a dismissal or transfer of this case is appropriate in light of the the Bankruptcy Court's previous finding that the petition was not filed in good faith due to debtor's failing to file tax returns.

5. The bankruptcy Court issued an Order Dismissing the Bankruptcy Petition for Improper Venue, dated June 29, 2004, but did not provide for a hearing on the matter and did not give Notice of a hearing, as required by Law.

6. The Court is wrong with the Bankruptcy Code in dismissing the case without a hearing on the matter. Section 1014 of the Bankruptcy Rules (Fed R. Bankr. P Rule 1014(a) states in pertinent part:

(2) Cases filed in improper district.

If a petition is filed in an improper district, on timely motion of a party in interest and **after hearing on notice to the petitioners**, the United States trustee, and other entities as directed by the court, the case may be dismissed or transferred to any other district if the court determines that transfer is in the interest of justice or for the convenience of the parties.
(Emp added)

7. The bankruptcy Court did not address the matter of improper venue at the January 13, 2004 hearing and did not hold a hearing on the matter of improper venue before it issued its Order dismissing the case for improper venue.

8. The bankruptcy Court is also wrong in NOT providing Notice of a Hearing. We see in Fed. R. Bankr. P. Rule 2002(f) that:

(f) Other notices.

Except as provided in subdivision (1) of this rule, **the clerk, or some other person as the court may direct, shall give the debtor, all creditors, and indenture trustees notice by mail of:** (1) the order for relief; (2) **the dismissal or the conversion of the case to another chapter;** (3) the time allowed for filing claims pursuant to Rule 3002; (4) the time fixed for filing a complaint objecting to the debtor's discharge pursuant to § 727 of the Code as provided in Rule 4004; (5) the time fixed for filing a complaint to determine the dischargeability of a debt pursuant to § 523 of the Code as provided in Rule 4007; (6) the waiver, denial, or revocation of a discharge as provided in Rule 4006; (7) entry of an order confirming a chapter 9, 11, or 12 plan; and (8) a summary of the trustee's final report in a chapter 7 case if the net proceeds realized exceed \$1,500. Notice of the time fixed for accepting or rejecting a plan pursuant to Rule 3017(c) shall be given in accordance with Rule 3017(d). (Emp added)

9. The bankruptcy Court is also wrong in its allegation in its June 29, 2004 Order that: *Inasmuch as the Debtors have indicated that they are not going to file the tax returns, there would be little benefit in transferring the case to another bankruptcy court.* The bankruptcy Court overlooked Debtor's Motion to Reconsider.

10. Debtor's stated in No. 10 of their Motion to Reconsider, filed January 26, 2004, that:

WHEREFORE, if Debtor's are required to file returns, then the Secretary should make returns for us pursuant to § 6020(b).

Debtor's did not file any returns for the years 1996, 2000, 2001 and 2002 because they had no liability and no requirement to do so because **they had NO taxable income pursuant to 26 C.F.R. § 1.861-8(f)(1).**

HOWEVER, if the Court orders Debtor's to file returns we will do so.

Debtor's did **not** state that they were not going to file tax returns; rather they stated that: they were not required to file, and that pursuant to § 6020(b), if Debtor's are required to file returns, then the Secretary should make returns for them pursuant to § 6020(b), and **that if the Court orders them to file returns they would do so.**

11. Debtor's also filed their Memorandum In Support of Lack of Requirement to File Income Tax Returns, on May 28, 2004. As of this date, neither the bankruptcy Court, nor the IRS, nor the U.S. Attorney have made any rebuttal or comment on this Memorandum.

12. The Court is also wrong with the Bankruptcy Code in dismissing the case without a hearing on the matter. Section 930 of the Bankruptcy Code (11 U.S.C. § 930) states in pertinent part:

§ 930. Dismissal.

(a) After notice **and hearing**, the court may dismiss a case under this chapter for cause, including-(Emp added)

Because Debtor's were not afforded a hearing on the matter, section 930 of the Bankruptcy Code was violated as was their due process rights.

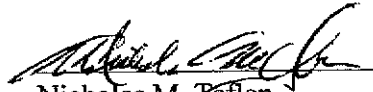
13. Debtor's due process rights were violated by not providing them a hearing. Due process is clearly stated in the Bill of Rights in Amendment V of the United States Constitution in pertinent part as follows:

No person shall be held to answer for a capital, or otherwise infamous crime, ...**nor be deprived of life, liberty, or property, without due**

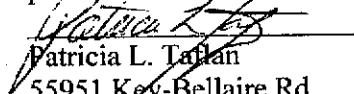
process of law; nor shall private property be taken for public use, without just compensation. (Emp added)

Wherefore Debtor's pray that the Court's Order entered herein be reconsidered, and a hearing be held on the matter, and that it have such other and further relief as is just.

Respectfully submitted this 9th day of July 2004.



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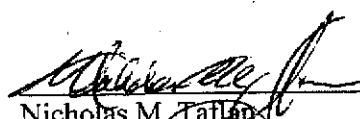
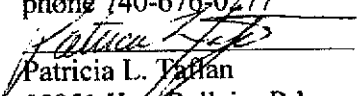
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