

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No.: WMN 05 CV 1297
)	
JOHN BAPTIST KOTMAIR, et al.,)	
)	
Defendants.)	

United States' Reply to Defendant SAPF's Response to the United States' Memorandum of Law in Support of Motion for Summary Judgment

INTRODUCTION

On May 31, 2006, defendant SAPF, filed a motion for summary judgment. (Docket number 38.) On June 19, 2006, the United States filed its opposition and cross-moved for summary judgment in its favor. (Docket number 42.) Defendant SAPF filed its response on June 7, 2006. (Docket number 54.) The United States now files this reply.¹

STATEMENT OF FACTS

Defendants Kotmair and SAPF market the discredited “§ 861 Argument” or “U.S.-source” tax-fraud scheme through their newsletter *Reasonable Action*, the save-a-patriot.org website.² Defendants charge customers fees ranging from \$99 to \$697 to become SAPF members and offers to prepare court pleadings, sell “Affidavits of Revocation” purporting to rescind the customers’ Social Security obligation and number, “Statements of Citizenship,”

¹ The United States is filing a separate reply brief as to Kotmair’s response to the United States’ motion for summary judgment.

² First Rowe Dec. ¶¶ 6-15, 15-22, 26-32, Exhs. 2-4, 6-6E, 9-14; docket nos 6 & 8, ¶¶ 8, 10.

frivolous letters to the IRS, and offers “insurance-like” coverage for members who violate the tax laws.³

Defendants instruct customers not to file income tax returns after executing the “Affidavit of Revocation,”⁴ which contains numerous statements regarding taxes, including, *inter alia*, that: (1) “there is no provision in the Code that imposes the tax on employees. . . or to pay the tax;” (2) “I do hereby declare that I am not subject personally to an Income Tax;” and (3) “I . . . am actually and legally not subject to or liable for any income tax and have no legal duty or obligation whatsoever to complete and file an income tax return.”⁵ In addressing the affidavit and the “Statement of Citizenship,” Kotmair stated in a pleading filed on behalf of an SAPF member that “it is a fact that the [SAPF customer], as a U.S. Citizen, is by statute, regulation, and Supreme Court decision, entitled to 100% of his earnings for his labor” without withholding of taxes.⁶ This information is also stated in defendants’ handbook which explains that their customers can “quit” the Social Security System via affidavit and file a Statement of Citizenship

³ Second Rowe Declaration (“Second Rowe Dec.”) ¶¶9-10, Exh. 37, Declaration of Camille Nagy ¶4-13, Exhs. 1-4, Declaration of Joseph Nagy ¶¶ 3-6, Declaration of Gary Metcalfe ¶¶5-7, Declaration of Nicholas Taflan ¶¶3-30, Exhs. 1-9.

⁴ Taflan Dec. ¶¶22-28, Exhs. 8-9.

⁵ *Id.*

⁶ *Mathews v. Goodyear*, 7 OCAHO 929 (OCAHO, May 1, 1997). In other cases filed by Kotmair, he stated: an employer “treated [his customer] like an alien by deducting social security contributions and withholding income taxes from his paycheck.” *Wilson v. Harrisburg*, 6 OCAHO 919 (OCAHO, March 10, 1997); “Statement of Citizenship (stating [the SAPF member] is a U.S. citizen and is not subject to withholding of income taxes under Federal Law)” and an “Affidavit of Constructive Notice ([SAPF member] does not have an SSN and is not subject to the Social Security Act).” *Lee v. Airtouch*, 6 OCAHO 888 (OCAHO, August 30, 1997); *Winkler v. Timlin*, 6 OCAHO 912 (OCAHO, January 30, 1997).

in order to “prevent” income tax withholding.⁷

Defendants also offer to send frivolous protest letters to the IRS contesting their customers’ obligations to pay taxes, and further state that they can sue the IRS employee who is responsible for assessing the taxes on U.S.-source income.⁸ As part of this service, defendants have prepared for customers complaints to sue individual IRS employees in district court and supporting motions.⁹

For additional fees, defendants offer their customers insurance-like coverage, which they call the Patriot Defense Fellowship of Membership Assistance Program.¹⁰ As part of this scheme, defendants mail pamphlets stating that one of their customers suffered a qualified loss—which defendants define as confiscation of property by the IRS or incarceration for a tax crime—and other participants in the scheme are required to send cash to the claimant to remain in “good standing.”¹¹

LEGAL ARGUMENT

I. SAPF’s Allegations Regarding the United States’ Complaint.

Defendant SAPF’s claim that the United States’ complaint lacks specificity is without merit. The complaint includes specific references to defendants’ false statements, where they are made, and that defendants’ conduct is ongoing. Moreover, the complaint refers to defendants’

⁷ First Rowe Dec. ¶5, Exh. 1A, p. 10-11.

⁸ First Rowe Dec. ¶¶5, 29-31, Exhs. 1B (p. 22), 12-13A.

⁹ Taflan Dec. ¶¶3-11, Exhs. 1-3.

¹⁰ Second Rowe Dec. ¶¶ 9-10, Ex. 37; Joseph Nagy Dec. ¶¶3-6; Camille Nagy Dec. ¶¶4-12, Exhs. 1-4.

¹¹ *Id.*
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“Affidavit of Revocation and Rescission,” the “Victory Express,” and the “Patriot Defense Fellowship,” specifies the various types of letters sold by defendants in addition to where, and to whom, they sell these documents.¹² Contrary to SAPF’s assertion, the United States asserted a harm that is caused by defendants’ conduct—their customers don’t file tax returns or pay taxes and they obstruct the administration of the IRS.

Moreover, Rule 9(b)’s particularity requirements must be read in conjunction with Rule 8. To that end, a complaint is not required to plead evidence as suggested by SAPF. Thus, the inclusion of any additional facts in plaintiff’s motion for summary judgment does not amount to an amendment of the complaint.¹³

II. The Declarations Submitted in Support of the United States’ Motion for Summary Judgment Should not be Excluded.

SAPF has requested that all of the declarations attached to the United States’ motion for summary judgment should be excluded suggesting that the United States or plaintiff’s counsel has withheld information. SAPF’s argument is misleading and should be rejected. Each declaration will be discussed in turn.

SAPF argues that the declarations of Joseph Nagy, Camille Nagy, and Nicholas Taflan,—all of whom are defendants’ customers,—should be disregarded under Rule 37(c)(2).¹⁴ Federal Rule 37(c)(2) provides in part that “A party that *without substantial justification* fails to disclose information required by Rule 26(a) or 26(e)(1), or to amend a prior response to discovery as

¹² See Docket no. 1.

¹³ *Schlick v. Penn-Dixie Cement Corp.*, 507 F.2d 374 (2nd Cir. 1974).

¹⁴ It should be noted that the discovery requests, which SAPF argues that the United States did not supplement, have a common element: each requests that the United States identify witnesses that may testify *at trial* and *their expected testimony*.

required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed.”¹⁵ To determine whether there is “substantial justification” warranting any purported non-disclosure, this court examines any ongoing discovery disputes.¹⁶ Moreover, Rule 26(e)(2) requires supplemental responses only if the information is not in the other party’s possession. Here, SAPF’s argument fails because it was aware of its customers’ identities and the government seasonably supplied the identification of these individuals. Although nothing was withheld as suggested, substantial justification exists because the United States cannot supply “trial testimony” of witnesses.

Although this Court exempted this case from initial disclosures, the United States supplied over 8,000 pages of frivolous letters sent by SAPF on behalf its customers— *including these individuals*. Because SAPF their identities were disclosed, SAPF cannot seek to exclude their declarations. Secondly, SAPF cannot argue that any supplemental discovery responses were unseasonable. The United States contacted these individuals, received their declarations, and filed its motion for summary judgment—thereby disclosing their identities—no more than five days after receiving the declarations and some on the same day.¹⁷

Third, the United States would have substantial justification even if it failed to disclose the information requested by SAPF, because the United States objected to SAPF’s seeking disclosure of trial witnesses interrogatory as improper, and also in response to SAPF’s motion to

¹⁵ It should be noted that this Court issued an order exempting this case from the provision of Rule 26(a)(1).

¹⁶ *Sullivan v. Glock*, 175 F.R.D. 497 (D. Md. 1997).

¹⁷ Declaration of Thomas M. Newman ¶¶9-13. This reasoning is also true of the Declaration of Dr. Sherling which was served on June 19, 2006, with the United States’ motion for summary judgment.

compel. The request for expected testimony is objectionable because it is work-product and barred from disclosure in this circuit.¹⁸

Moreover, courts have noted that “witnesses testify orally at trial, Their prior declarations, if any, evaporate for all practical purposes and are made part of the evidentiary record only via impeachment. If a witness is properly disclosed, there can be no FRCP 26 bar to allowing the witness to testify orally.”¹⁹ Thus, the United States’ response it had not identified trial witnesses is not disingenuous, as SAPF suggest, because the United States has made no determination if these individuals may testify at a trial in this matter.

Moreover, SAPF misrepresents the circumstances of Revenue Agent Rowe’s deposition in arguing that she lacks first-hand knowledge of statements in her declaration. Defendants are aware that Revenue Agent Rowe appeared for her deposition without reviewing many of the documents in the administrative file—but she reviewed them prior to signing her declaration.²⁰ Plaintiff agrees that this court should disregard her statements to the extent they are construed as legal conclusions. However, the factual statements should not be excluded, because they are

¹⁸ While, the United States maintains that SAPF’s interrogatories are objectionable because trial testimony is requested, it does not take the position that any responses providing possible witnesses will not be seasonably amended. Plaintiffs counsel previously offered to identify trial witnesses in advance of preparing the pre-trial order and maintains that position, but this case has not been prepared for trial.

¹⁹ See, e.g., *Intel Corp. v. Via Technologies, Inc.*, 204 F.R.D. 450, 452-53 (N.D. Cal. 2001); *Young v. Warden*, 383 F. Supp. 986, 1010 (D. Md. 1974)(“The decision as to whether a witness should testify is a matter of the attorney’s judgment or a matter of trial tactics.”)

²⁰ Second Rowe Dec. ¶¶ 2-8 (Revenue Agent Rowe states that she had not reviewed SAPF’s materials because she was appearing to testify about the procedures of a similar investigation. Revenue Agent Rowe also states that she had reviewed SAPF’s materials in preparation of her first declaration.)

based on her knowledge.²¹

Lastly, SAPF's assertion regarding plaintiff's counsel's declaration lack merits to the extent it asserts the declaration contains "legal conclusions."²² As SAPF notes, the declaration only contains documents, which were retrieved from files in plaintiff's possession. Thus, it is not objectionable.

II. The Facts Submitted in Support of the United States' Motion for Summary Judgment are Uncontroverted and Must be Taken as True.

In deciding a motion for summary judgment, uncontroverted material facts submitted by a party are deemed admitted.²³ Here, SAPF was afforded the opportunity to explain its activities in discovery and its motion for summary judgment, but did not. Thus, this Court should take as true the information submitted in support of the United States' motion for summary judgment,

²¹ Revenue Agent Rowe's statements that some information is "false" is directed to defendants' assertions that their customers do not have to file returns or pay taxes. Rowe's statement can only be accepted lay opinion because "the average citizen knows that the payment of income taxes is legally required." *Schiff v. United States*, 919 F.2d 830, 834 (2nd Cir. 1990). This testimony does not assist this Court in its determination, however, are should be disregarded.

²² *Reed v. Aetna Cas. & Sur. Co.*, 160 F.R.D. 572 (N.D. Ind. 1995)(Affidavit is not improper for summary judgment purposes simply because it was signed by attorney of record.)

²³ *Kemper v. American Broadcasting Cos.*, 365 F. Supp. 1275 (S.D. Ohio 1973); *Doctors Hospital, Inc. v Recio* 383 F. Supp. 409 (D.C. Puerto Rico 1974); *Katz v. Realty Equities Corp.* 406 F. Supp. 802 (S.D..N.Y. 1976) (Material facts submitted in statement by a party would be deemed admitted since they were not controverted by statement of the party opposing summary judgment.); *Baldini v. International Union, United Auto.*, 435 F. Supp 264 (N.D. Ind. 1977) (Court must take as true party's affidavits on motion for summary judgment where they stand uncontested by sworn testimony; this is required under Rule 56); *Rusack v. Harsha*, 470 F. Supp. 285. (M.D. Pa. 1978) (Court will accept as true facts alleged in complaint, affidavit, and counteraffidavit which are uncontroverted by opposing party.)

including that defendants: (1) organized SAPF and charges membership fees ranging from \$99 to \$697 for participating in defendants' scheme; (2) provide documents which assist members in evading federal income and employment tax payment requirements; (3) provides tax advice; (4) sends written protest letters to the IRS; and (5) drafts court pleadings to block IRS collection efforts. Moreover, Kotmair and SAPF reward customers who violate the income tax laws through an "insurance-like" scheme he calls the "Patriot Defense Fellowship."

In addition, defendants sell, *inter alia*, an "Affidavit of Revocation"—which allegedly revokes their customers' Social Security numbers and obligation to file income tax returns—and "Statement of Citizenship"—which they instruct customers to use instead of a Form W-4 so that customers can declare themselves U.S. citizens not subject to income tax withholding.

Defendants further instruct customers that after executing these document, they "cannot file an IRS Form W-4 with an employer, or any other IRS or state income tax forms."

SAPF contends that the United States copies of the "Affidavit of Revocation" they sell and other court pleadings. However, the non-existence of these documents is not a material fact because the use and purpose of these documents are undisputed. Moreover, copies of court pleadings, FOIA requests, and an "Affidavit of Revocation" are affixed to this reply, leaving no genuine issues of material fact.²⁴

SAPF's argument that it does not control the taxfreedom101.com and taxtruth4u.com websites does not present a genuine issue of material fact. SAPF attempts to attribute some of the false statements contained in the complaint only to the individuals owning those sites—those regarding "quitting" the Social Security system, keeping 100% of one's earnings tax free, and

²⁴ Taflan Dec. ¶¶3-28, Exhs. 1-9; Second Rowe Dec. ¶¶11-15, Exhs. 38-39.
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that the income tax is limited to U.S. citizens' foreign income. However, these same statements are made in defendant's handbook, letters defendants sent to the IRS, and in the court pleadings defendants draft. Thus, the fact that defendants do not own these websites does not present a material fact because the statements are made by them elsewhere.

Moreover, SAPF misrepresents plaintiff's statements in the motion for summary by stating that it has abandoned arguments related to the Patriot Defense Fellowship or Membership Assistance schemes. SAPF acknowledges that plaintiff's motion addressed this service when it referenced insurance-like coverage. Moreover, the United States has demonstrated that defendants' customers use this program, that SAPF members send support to those who suffered a "qualified" loss property is seized by the IRS, and that this program is part of defendants' overall scheme to incite other into violating the income tax laws.

In the same context, the United States did not abandoned any claim that defendants' FOIA requests should be enjoined. Rather, the United States argued that these requests were part of defendants' scheme to allegedly build a case for their customers. The clear import of the FOIA requests, seeking the "source" of their customers' income from the IRS and other non-existent documents, make clear that this is part of their § 861 promotion—which alleges that only foreign source income is taxable.²⁵

The only remaining disputed fact,—that Mr. Taflan's bankruptcy petition was prepared by someone other than SAPF,—would not alter the outcome of this case, and is therefore not material.²⁶

²⁵ Second Rowe Dec. ¶¶ 11-14, Exhs. 38-39.

²⁶ Mr. Lehnhardt's declaration filed by SAPF does not state that he prepared anything other than the petition for Mr. Taflan. In his subsequent declaration, Mr. Taflan has provided 1822458.1

III. A Permanent Injunction Should Issue under IRC § 7408 Before Defendants Engage in Further Conduct Subject to Penalty under §§ 6700 and 6701.

(1) Defendants Participated in the Organization of an Entity, Plan, or Arrangement.

SAPF argument that Section 6700 is limited to “investments” is misleading because the statute and the legislative history clearly contemplate a broad range of abusive scheme. Section 6700 is not limited to an “interest” in an entity; rather it can be any plan or arrangement, including tax protest organization.²⁷

(2) Defendants Repeatedly Makes False Statements Regarding the Internal Revenue Code.

SAPF assertion that there are no tax benefits associated with SAPF’s products is inconsistent with statements contained in each product it sells. Defendants state that their customers can stop filing returns, SAPF can prevent withholding of income and employment taxes, and offer to compensate customers who have had property levied by the IRS or are incarcerated for tax crimes. These are tax benefits advertised as available only to their customers.

Moreover, SAPF’s opposition fails to address any of the reported cases cited in plaintiff’s brief in which SAPF’s customers argued the legality of defendants’ position. In each case, the customers were found to have under-reported their income and have failed to file tax returns, and

receipts from SAPF demonstrating that he purchased the motions he filed in that case, in addition to court pleadings, an Affidavit of Revocation and Statement of Citizenship. Taflan Dec. ¶¶3-28, Exhs. 1-9.

²⁷ See, e.g., *Raymond*, 228 F.3d 804, 811-15 (step-by-step instructions for removing the purchaser from the tax system); *Abdo v. United States*, 234 F. Supp. 2d 553, 562 (M.D.N.C. 2002) (“wages are not income” program), *aff’d without published op.*, 63 Fed. Appx. 163 (4th Cir. 2003), *cert. denied*, 540 U.S. 1120 (2004); *United States v. Savoie*, 594 F. Supp. 678, 680 (W.D. La. 1984).

were found guilty of tax evasion.

(3) Defendants Knew or Had Reason to Know of the Falsity of the Statements.

In its opposition, SAPF incorrectly argues that the government must prove defendants know their statements are false, and attempts to graft an element of willfulness into establishing violations of 6700. The gravamen of SAPF's contention is that the United States can never establish defendants know their statements are false because they blindly insist on the legality of their position. This is not the standard, and in fact defendants' insistence on the legality of their position supports enjoining them.²⁸

(5) Defendants Customers Understate Their Tax Liabilities.

SAPF argues that in order to understate a liability its customers must report actual figures. Thus, SAPF's claim is that their customers cannot understate anything by reporting nothing—because they file no tax return at all—SAPF implicitly argues that there is a difference between reporting “nothing” or a zero (amount as they suggest).

SAPF's premise is unsound and untrue. First, their customers have filed returns reporting all zeroes.²⁹ Second, SAPF's customers who do not file returns are understating their income because they have a liability which they fail to report. With respect to withholding of income and employment taxes, all employees residing in the United States are subject to withholding taxes and Social Security (FICA) contributions, which employers must collect “at

²⁸ *Bell v. United States*, 414 F.3d 474 (3rd Cir. 2003)(noting that the promoter's instance on the legality of his position warranted an injunction.)

²⁹ Second Rowe Dec. ¶28, Exh. 48.
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the source” —i.e., in the workplace.³⁰

IV. A Permanent Injunction Should be Issued Based on I.R.C. § 7402.

This Court is authorized by I.R.C. § 7402 to issue an injunction “as may be necessary or appropriate for the enforcement of the internal revenue laws.” That statute manifests “a Congressional intention to provide the district courts with a full arsenal of powers to compel compliance with the internal revenue laws,”³¹ and “has been used to enjoin interference with tax enforcement even when such interference does not violate any particular tax statute.”³² SAPF argues that injunctions under Section 7402 should only be issued only if a defendants violated a specific statute. SAPF’s position should be rejected as it is unsupported by any case and, as SAPF notes, the only case reaching limiting Sections 7402 injunctions in this manner was overruled.

CONCLUSION

SAPF’s activities have caused, and are causing, substantial harm—to their clients, to the Government, and to taxpayers who pay their proper tax liabilities. The Court should permanently enjoin him to prevent further harm.

³⁰See *Mcfarland v. Bechtel Petroleum, Inc.*, 586 F. Supp. 907, 910 (N.D. Cal. 1984)(holding that 26 U.S.C. § 3403 “clearly proscribes employer liability” to the employee where wages are withheld, as the employer is merely complying with its federal “legal obligations, with the result that [the employee’s] claim is statutorily barred.”); See also *Bright v. Bechtel Petroleum, Inc.*, 780 F.2d 766, 770 (9th Cir. 1986). See also I.R.C. § 6694; *Wheeler v. Commissioner*, T.C. Memo. 2006-109.

³¹ See *United States v. First Nat’l City Bank*, 568 F.2d 853 (2nd Cir. 1977).

³² *United States v. Ernst & Whinney*, 735 F.2d 1296, 1300 (11th Cir. 1984). See *United States v. Kaun*, 633 F. Supp. 406, 409 (E.D. Wis. 1986) (“federal courts have routinely relied on [§ 7402(a)] . . . to preclude individuals . . . from disseminating their rather perverse notions about compliance with the Internal Revenue laws or from promoting certain tax avoidance schemes”), *aff’d*, 827 F.2d 1144 (7th Cir. 1987).

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing REPLY TO DEFENDANT SAPF'S OPPOSITION TO THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT has been made upon the following by depositing a copy in the United States mail, postage prepaid, this 21st day of July, 2006.

John Baptist Kotmair, Jr.
P.O. Box 91
Westminster, MD 21158

George Harp, Esq.
610 Marshall St., Ste. 619
Shreveport, LA 71101

/s/ Thomas M. Newman
THOMAS M. NEWMAN
Trial Attorney, Tax Division
U.S. Department of Justice

6. As stated during that deposition, which is attached as Exhibit 36, I had only looked at the first page of defendants' website and some portions of their membership handbook.

7. I had attempted to contact retired Revenue Agent Gary Metcalfe to determine if he could appear for the deposition but was unable to do so prior to February 14, 2006.

8. After the deposition, I have since reviewed the administrative file associated with this case.

9. I had attached as Exhibit 34 to my previous declaration a statement sent by SAPF requesting that defendants' customers send money to an individual that has suffered a loss under their "Patriot Defense Fellowship."

10. Attached as Exhibit 37 is a copy of defendants agreement related to the Patriot Defense Fellowship.

11. Attached as Exhibit 38 is a copy of a privacy act request sent by defendants requesting information on behalf of an SAPF customer.

12. Attached as Exhibit 39 is a copy of a privacy act request sent by defendants requesting information on behalf of an SAPF customer.

13. The letters attached as Exhibits 38-39 are all signed by John B. Kotmair, Jr.

14. The letters attached as Exhibits 38-39 requested that the IRS provide the source of the income related to a "NOTICE OF DEFICIENCY" sent to an SAPF customer.

15. The letters sent from the IRS Disclosure Officers, (Exhibit 38-39), indicate that the privacy act request was mailed to the individuals and not to Mr. Kotmair.

16. Attached as Exhibit 40 is a copy of a letter sent to SAPF member Earl Werline from the IRS and a response from Mr. Kotmair. The letter sent from the IRS, (Exhibit 40) states that

the arguments raised by Mr. Werline in his correspondence from Mr. Kotmair are frivolous, in a letter dated March 13, 2006. Mr. Kotmair responded to the letter from the IRS on April 19, 2006. Mr. Kotmair's letter states that Mr. Werline revoked his Social Security number, did not file an income tax return for 2003, and is "not a member of a class of person Congress specifically made liable for the tax."

17. Earl Werline was a complainant in the cases reported as *Werline v. Public Service Gas & Electric Co.*, 7 OCAHO 955 (August 1, 1997) and 7 OCAHO 935 (May 27, 1997). Those cases state that Mr. Werline presented a Statement of Citizenship and Affidavit of Constructive Notice to his employer. The cases also state that Mr. Werline was represented by John B. Kotmair, Jr.

18. Attached as Exhibit 41 is a copy of a letter sent to the IRS by Mr. Kotmair on behalf of an SAPF customer. In the letter Mr. Kotmair requests a conference with IRS Appeals to dispute his customer's individual tax liabilities. Exhibit 41 also contains a letter sent by Mr. Kotmair in response to a notice from the IRS stating that the arguments raised in a previous correspondence he sent are frivolous.

19. Attached as Exhibit 42 is a copy of a letter sent to an SAPF member from the IRS, and a response from Mr. Kotmair. The letter, (Exhibit 42), sent from the IRS, dated April 3, 2006, states that the arguments raised by Mr. Kotmair are frivolous. Mr. Kotmair responded on April 17, 2006. Mr. Kotmair's letter states that the SAPF member did not file an income tax return for 2002 and is "not a member of a class of person Congress specifically made liable for the tax."

20. Attached as Exhibit 43 is a copy of a page from save-a-patriot.org's website. This webpage states that Social Security "can only be 100% voluntary (and is)" and that some leaders for the "patriot" movement "continue to file tax returns (not required by law of a citizen living and working with the States of the union.)"

21. Attached as Exhibit 44 is a copy of a written protest to the IRS from Mr. Kotmair on behalf of an SAPF member dated June 14, 2000, stating that the SAPF member denies having any requirement to file a tax return for 1998.

23. Attached as Exhibit 45 is a copy of a written protest from Mr. Kotmair on behalf of the same SAPF member referenced in paragraph 21, which contests a levy for 1998.

22. Attached as Exhibit 46 is a copy of a privacy act request sent by Mr. Kotmair on behalf of the same SAPF member referenced in paragraph 21.

23. Attached as Exhibit 47 is a copy of a written protest sent by Mr. Kotmair on behalf of the taxpayer referenced in paragraph 21. Mr. Kotmair requested a hearing on behalf of the SAPF member and states that he denies any requirement to file a tax return.

26. Attached as Exhibit 48 is a true and correct copy of the tax return of the SAPF member referenced in paragraph 21 filed for 1998. The tax return attached as Exhibit 47 contains all zeroes, including the box requiring the reporting of wage income. The SAPF member attached to his return a Form W-2 indicating that he received \$50,361 of wage income in 1998.

Under 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 21st day of July, 2006.

A handwritten signature in black ink, appearing to read "Joan Rowe", written over a horizontal line.

Joan Rowe
Revenue Agent
Internal Revenue Service

- 1 Q And what was that agent's name?
2 A Gary Metcalfe, M-E-T-C-A-L-F-E.
3 Q So your testimony would be that he did
4 most of the work on this and you just sort of
5 inherited the file?
6 A Exactly.
7 Q Okay. Do you recall, I mean you've
8 reviewed the file and everything --
9 A Yes, I have.
10 Q Since he's retired. Do you recall the
11 date that the referral was made,
12 approximately?
13 A I really -- I think it was done in
14 2004, but I really don't know specifically.
15 Q Do you know, Mr. Metcalfe is retired.
16 Do you have any idea where he is now?
17 A No, actually. I even tried to, you
18 know, communicate. He hasn't written back.
19 Q But I mean is he from this area or?
20 A Yes.
21 Q Or somewhere else? So somebody at
22 your office would know how to locate him?
23 A Hopefully.
24 Q Okay. All right. Was anybody else

A rectangular box with a thick black border containing the text "Exhibit 36".

- 1 anything other than Sav-A-Patriot.org.
2 A That's the only website I happened to
3 look at.
4 Q The Sav-A-Patriot?
5 A This morning, right.
6 Q Okay.
7 MR. KOTMAIR: Is that the first time
8 you looked at it was this morning?
9 THE DEPONENT: Yes, sir.
10 BY MR. HARP:
11 Q Okay. So I was wondering if maybe you
12 picked up the employee leasing thing off of
13 one of the other websites?
14 A No, I don't know.
15 Q Okay.
16 A Maybe -- I don't know. ASC, is it
17 called?
18 MR. KOTMAIR: I don't know.
19 THE DEPONENT: I thought that was from

20 the handbook. No, it wasn't. It was -- it
21 was from some of the other items. Okay.
22 I did notice some misleading
23 statements with regard to 3121 employment tax
24 where mention was made of the aliens, that it



Protection • Education • Fellowship

Patriot Defense Fellowship

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Together We Stand — Or — Separately You Will Be Stood On!!!

Program Agreement

The Patriot Defense Fellowship (PDF) is designed to help the SAP Fellowship member under criminal attack by IRS and state taxing agencies with the needed support to help defray the cost of his/her criminal defense.

ELIGIBILITY

Membership in the Patriot Defense Fellowship is open to members of the Save-A-Patriot Fellowship only. The member must be in good standing, up to date with all of his/her SAP Fellowship obligations, before his/her application will be accepted and validated.

MEMBER'S ID NUMBER

The PDF Identification Number is separate and distinct from the SAP Fellowship Number. The PDF Number is used on all Patriot Defense Fellowship correspondence. Whenever the member is making a PDF assessment payment to a claimant, the member uses his/her PDF I.D. Number only.

COVERAGE OFFERED

Coverage under the Patriot Defense Fellowship Program is extended to criminal defense in tax cases only: a maximum of 10,000 FRNs toward trial expenses, and 5,000 FRNs toward any appeal (if convicted). Claims are apportioned among the PDF membership by SAPF Headquarters only after SAPF Headquarters has determined that the Claimant member was actually prosecuted

according to the terms of the PDF Program Agreement, and said member, to the best of his/her ability, resisted at every step throughout the criminal investigation, and all other agency and court proceedings.

CLAIMANT

Claimant must be a member in good standing whose annual participation fee is paid up to date in both the Patriot Defense and Save-A-Patriot Fellowships, and who has physical proof of the foregoing described resistance.

CLAIMS

All claims are applied for by using a PDF Claim form from SAPF Headquarters. Proof of Claim must accompany the completed PDF Claim form. To prevent unprincipled persons from taking unfair advantage of Fellowship members, a Claimant must be a member in good standing six (6) months before the occurrence of any of the following: 1) the IRS or any state criminal investigation division reading said claimant his/her rights, and/or 2) before the notification of an ongoing criminal investigation by the IRS or state criminal investigation division, whichever comes first. All Claims will be processed by SAPF Headquarters as soon as possible after receipt of a properly completed Claim form. A Claim cannot be submitted to SAPF Headquarters until the Patriot member has actually been indicted by a state or federal grand jury, or charged

on an information brought by a U.S. Attorney, state or local prosecutor, and must contain verifiable evidence of the actual money spent on the Patriot member's defense.

TRIAL / APPEAL

The Trial and Appeal (if any) will be handled as separate claims, and will not be assessed at the same time.

MEMBER'S RESPONSIBILITY

Upon receipt of a Claim assessment containing the apportioned amount to be paid, (unless otherwise instructed by SAPF Headquarters), members have 35 days to forward their portion of the claim (in FRNs or a totally blank Postal Money Order) directly to the Claimant or his/her assign. Members must not use their name and address on the envelope used to convey the assessment payment, only their **PDF I.D. Number** (the return address should be that of SAPF Headquarters).

CLAIMANT'S RESPONSIBILITY

Upon receipt of any claim payment the Claimant or his/her assign must carefully compile all of the claim statements and UPS them to SAPF Headquarters, 12 Carroll Street, Westminster, Maryland 21157, Tel: (410) 857-4441, within 30 days. SAPF Headquarters' telephone number must be used along with SAPF Headquarters' address for UPS purposes. Any member whose Claim statements are not returned to SAPF Headquarters by the Claimant or his/her assign, will be terminated for violation of the Patriot Defense Fellowship Agreement, and must show proof of error or give good reason to be reinstated.

VALIDITY OF CLAIM

For a Claim to be valid, all actions must be initiated by the IRS or state taxing agency, not the Patriot member.



Applicant's SAPF ID # _____

Application: _____ Renewal: _____ (Check one)

Having read the before-going conditions, I agree with the terms and conditions, and by my signature, herein set forth, I make application for membership (Please print or type and use Mr., Mrs., Ms., Miss).

Name of applicant	Street	City	State	Zip Code	Telephone No.	E-mail Address
-------------------	--------	------	-------	----------	---------------	----------------

I have enclosed the annual participation fee of 50 FRNs, tendered in Federal Reserve Notes (FRNs) or a totally blank Postal Money Order. I understand that my membership will lapse one year from this date, and if the annual participation fee is not tendered before the date entered below in the following year, all rights, privileges, and claims of any kind under this Patriot Defense Fellowship Agreement will be forfeited. I also understand that notification of change of address is my responsibility.

Signature of applicant _____

Date assigned: _____ Name of SAPF IR: _____

Concerning:
Steve J. Woodrow
22549 Downing St.
Moreno Valley, CA 92553
IRS Reference Number: [REDACTED]

Exhibit 38

Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(c)(1)(iv):

John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

November 18, 2005

Certified Mail No. 7005 1160 0004 9957 0321

Scott B. Prentky, Director
Internal Revenue Service Center
1973 Rulon White Blvd.
Ogden, UT 84404

RECEIVED IN CORRES
IRS - OSC - 915

NOV 28 2005

Re: August 30, 2005, reply to my July 21, 2005, Privacy Act request.

OGDEN, UTAH

Dear Mr. Prentky:

On July 21, 2005, Mr. Woodrow submitted a Privacy Act request for "copies of all the authenticated documents, executed pursuant to IR Code Section 6065, identifying the source from which the income relating to the Notice(s) of Deficiency dated April 5, 2005 and June 21, 2005, for the years 2002 and 2003, was derived."

In response to that request, Mr. Woodrow received the enclosed letter from the Disclosure Office which claims that Internal Revenue Code (IRC) § 6065 does not apply to documents prepared by the IRS, despite the clear statutory language to the contrary.

Further, the Disclosure Specialist contends that Mr. Woodrow should direct any questions regarding the "authentication" of the documents used to the "payers who maintain these documents." Of course, Mr. Woodrow is not interested in documents which any such payers might possess. Rather, he has requested records which the IRS has used to generate the Notice(s) of Deficiency against him. To the extent that they exist, they must be in possession of the Internal Revenue Service. Therefore, only the IRS could possibly give him access to them.

Either the IRS possesses records which have been authenticated pursuant to IRC § 6065, or they do not. Mr. Wilder, the Disclosure Specialist, states in his letter that he has "enclosed the documents that would be considered most responsive to [Mr. Woodrow's] request." Yet, he has provided no copies of any authenticated records. Therefore, unless I hear otherwise within 30 days of your receipt of this letter, it must be presumed that the IRS possesses no authenticated

NOV 29 2005

NOV 28 2005

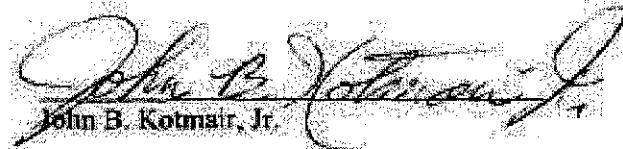
(that is, sworn under penalty of perjury) records submitted by any person which establish the "source" from which Mr. Woodrow's "income" was derived, with respect to the "Notice(s) of Deficiency," dated April 5, 2005 and June 21, 2005, for the years 2002 and 2003.

Further, unless I hear otherwise within 30 days of your receipt of this letter, it will be presumed that the documents provided (copies enclosed) were the *only* documents relied on to establish the "source" from which Mr. Woodrow's "income" was derived, with respect to the "Notice(s) of Deficiency," dated April 5, 2005 and June 21, 2005, for the years 2002 and 2003.

I hereby declare that:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in Title 26 Code of Federal Regulation Part 600, at 26 CFR § 601.502(a)(1) and (2), §601.502(b)(5)(ii) and in Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.


John B. Kotmsir, Jr.

Enclosures: Original Power-of-Attorney; copy of August 30, 2005, reply; copy of page one of Mr. Woodrow's July 21, 2005 Privacy Act request; copy of the documents disclosed on August 30, 2005.

cc: Steve J. Woodrow

RECEIVED IN CORRES
IRS - OSC -615

NOV 28 2005

OGDEN, UTAH

PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR 301.6103(c)-1, 26 CFR ~~601.502(a)(1)~~ and (2) 26 CFR ~~601.502(b)(5)(ii)~~ and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, Steve Woodrow, of 22549 Downing Street, Moreno Valley, California, Internal Revenue Reference Number [redacted] a member of the Save-A-Patriot Fellowship, do hereby give John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to taxes of any kind that agency alleges I owe, to include income tax returns (1040, 1040A, related forms and assessments) maintained within any of the internal revenue Service Offices, regarding the years 2001 through and including 2005.

On this 7th day of November, 2005, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.

Steve Woodrow
Steve Woodrow

STATE OF CALIFORNIA _____)

COUNTY OF LOS ANGELES _____)

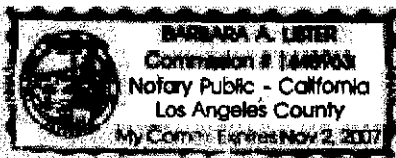
RECEIVED IN CORRES
IRS - OSC - 615
NOV 28 2005

On 11/7/05 before me BARBARA A. LISTER NOTARY PUBLIC OGDEN UTAH

personally appeared STEVE WOODROW

Notary Seal

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/she/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS MY HAND AND OFFICIAL SEAL.

Barbara A. Lister
NOTARY PUBLIC



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

August 30, 2005

Steve J. Woodrow
22549 Downing Street
Moreno Valley, CA 92553

Dear Mr. Woodrow:

This is in response to your Privacy Act request dated July 21, 2005, and received in our office August 3, 2005.

In response to your request, internal Revenue Code (IRC) 6065 does not require the Internal Revenue Service to authenticate, verify, or certify documents. No documents were found responsive to your request, as IRC 6065 refers to documents required to be made by taxpayers or other parties (e.g. return preparers).

We have enclosed the documents that would be considered most responsive to your request, consisting of nine pages. If you have questions on the "authentication" of the documents used in preparing the Notice of Deficiency, you should contact the payers who maintain these documents. Subsequent inquiries in this regard will not be considered.

This completes all action on your request by this office.

If you have any questions regarding this correspondence, Case Control Number KW0504261, contact Kenneth Wilder, #7951706383, at (801) 620-7643 between the hours of 8:00 a.m. and 4:30 p.m. Mountain Time or write to Internal Revenue Service, Ogden Campus Disclosure Office, M/S 7000, PO Box 994, Ogden, UT 84409.

Sincerely,

Kenneth Wilder
Disclosure Specialist

Enclosure(s):

RECEIVED IN CORRES
IRS - OSC - 615

NOV 28 2005

OGDEN, UTAH

**PRIVACY ACT REQUEST
FOR NOTIFICATION AND ACCESS**

Steve J. Woodrow
22549 Downing St.
Moreno Valley, CA 92553
IRS Reference Number: 568-08-6958

July 21, 2005

Certified Mail No. 7004 2890 0004 1912 3097

JaNean Ellis, Disclosure Officer
Internal Revenue Service Center
P.O. Box 9941, MS 7000 OSC
Ogden, UT 84409

Dear Ms. Ellis:

This is a request under the Privacy Act, 5 USC 552a.

This is my firm promise to pay costs up to \$17.00 for duplicating the documents requested below, as required by 5 USC Section 552a(f)(5). If costs are expected to exceed the stated amount, please send me an estimate of costs, pursuant to 26 CFR § 601.702(c)(3). Please reply within 10 days of your receipt of this request and provide me with instructions on perfecting any errors, pursuant to IRM § 11.3.18.3(5). Otherwise, please process it in a timely manner pursuant to IRM § 11.3.18.3(4), not later than 30 days of your receipt, pursuant to IRM § 11.3.18.3(15).

If you find this request imperfect in any way please provide me with a copy of all the rules necessary for me to perfect this request. In addition please advise me of any and all procedures required to exhaust all administrative remedies before requesting judicial review.

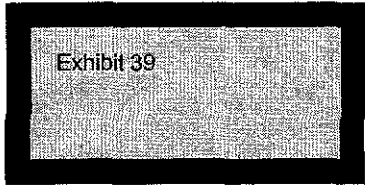
Please be advised that I am requesting records pursuant to 5 USC 552a(d)(1). I am not requesting any amendment of records.

Please forward copies of all the authenticated documents, executed pursuant to IR Code Section 6065, identifying the "source" from which the "income" relating to the "NOTICE(s) OF DEFICIENCY" dated April 5, 2005 and June 21, 2005, for the years 2002 and 2003, was derived. Please search the following systems of records for the document(s) requested:

Treasury/IRS 22.032,
Individual Microfilm Retention Register, D:R:R;
Treasury/IRS 22.034,
Individual Returns Files, Adjustments and Miscellaneous Documents File;
Treasury/IRS 22.060,
Automated Non-Master File (ANMF);
Treasury/IRS 22.061,

RECEIVED IN CORRES
IRS - OSC -615
NOV 28 2005
OGDEN, UTAH

Concerning:
Jon A. Stratton
308 North 1st
Krum, TX 76249
IRS Reference Number: [REDACTED]



Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(e)(1)(iv):

John B. Kotmair, Jr. Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

December 18, 2005

Certified Mail No. 7005 1160 0004 9956 5396

Scott B. Prentky, Director
Internal Revenue Service Center
1973 Rulon White Blvd.
Ogden, UT 84404

RECEIVED IN CORRES
IRS - OSC - 817
DEC 28 2005
BOENAUTAH

Re: September 30, 2005, reply to Mr. Stratton's July 13, 2005, Privacy Act request

Dear Mr. Prentky:

In your Disclosure Specialist's September 30, 2005, reply to Mr. Stratton's July 13, 2005, Privacy Act request, she stated that the documents enclosed with her reply—"information returns master file transcripts and the examination file pertaining to the 2003 tax period"—were the only documents responsive, and that "no other documents" were responsive to his request.

Enclosed with Ms. Berrie's letter were copies of a Form 4549 and a Form 886-A, which had already been sent to Mr. Stratton as part of the Notice of Deficiency. Neither of those forms contained documentation of the "sources" of the income Mr. Stratton is alleged to have received. Also included was a copy of the Letter 1862 sent to Mr. Stratton on February 11, 2005, this document also contains no indication of the "sources" of the income Mr. Stratton is alleged to have received. Two other documents were enclosed, a Form 12616 and a Form 13496, which also do not name or contain any indication of the "sources" of the income Mr. Stratton is alleged to have received.

Finally, Ms. Berrie included three pages of computer printouts which apparently represent the "information returns master file transcripts" she mentioned in her letter. A copy of those three pages is enclosed.

Although Mr. Stratton requested "all the authenticated documents, executed pursuant to IR Code Section 6065, identifying the 'source' from which the 'income' relating to the NOTICE

OF DEFICIENCY" was derived." Disclosure Specialist Karen Berrie apparently is unable to produce any authenticated documents.

Therefore, unless I hear otherwise within 30 days of your receipt of this letter, it will be presumed that the three pages of documents mentioned above (copies enclosed) were the only documents relied on to establish the "source" from which Mr. Stratton's "income" was derived, with respect to the "Notice of Deficiency," dated April 26, 2005, for the year 2003.

I hereby declare that:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in Title 26 Code of Federal Regulation Part 600, at 26 CFR § ~~601.502(a)(1)~~ and (2), §~~601.502(b)(5)(ii)~~ and in Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.


John B. Kotmair, Jr.

Enclosures: Original Power-of-Attorney; copy of September 30, 2005, reply; copy of page one of Mr. Stratton's July 13, 2005 Privacy Act request; copy of Ms. Berrie's letter of September 30, 2005; copy of the three pages of the documents disclosed on September 30, 2005.

cc: Jon A. Stratton

PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY

RECEIVED IN CORRES
IRS - OSC - 817

DEC 28 2005

AGDEN, LUTAN

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a)(1) and (2), 26 CFR § 601.502(b)(5)(ii) and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, Jon A. Stratton, of 308 North 1st, Krum, TX 76249, Internal Revenue Reference Number [REDACTED] a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A, related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the following years: 1996 through and including 2005.

On this 21 day of November, 2005, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.



Jon A. Stratton

Subscribed and sworn to before me, a Notary Public, of the State of Texas, County of Denton, on this 21 day of November, 2005.



Notary Public



My Commission Expires On: 10/20/2009



SMALL BUSINESS EMPLOYER DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
SEP 30 2005

Jon A Stratton
308 North 1st
Krum, TX 76249

RECEIVED IN CORRES
IRS - OSC - 617
DEC 28 2005
GLEN, UTAH

Disclosure Case No: 33-2005-05075

Dear Mr. Stratton:

This is in response to your Privacy Act request of July 13, 2005 received by this office August 26, 2005.

Enclosed are eighteen pages consisting of information returns master file transcripts and the examination file pertaining to 2003 tax period. There are no other documents responsive to your request.

Should you have any questions, please contact Karen Berrie (ID 33-01658), at (949) 389-4382, or write to the Internal Revenue Service, Disclosure Office, 24000 Avila Road, Mail Stop 2201, Laguna Niguel, CA 92677. Please refer to the case number shown above.

Sincerely,

K. Berrie
Karen Berrie
Disclosure Specialist

Enclosure(s)

PRIVACY ACT REQUEST
FOR NOTIFICATION AND ACCESS

Jon A. Stratton
308 North 1st
Krum, TX 76249
IRS Reference Number [REDACTED]

RECEIVED IN CORRES
IRS - OSC - 017
DEC 28 2005
OGDEN, UTAH

July 13, 2005

Certified Mail No. 7004 2890 0004 1912 2922

JaNean Ellis, Disclosure Officer
Internal Revenue Service Center
P.O. Box 9941, MS 7000 OSC
Ogden, UT 84409

Dear Ms. Ellis:

This is a request under the Privacy Act, 5 USC 552a.

This is my firm promise to pay costs up to \$17.00 for duplicating the documents requested below, as required by 5 USC Section 552a(f)(5). If costs are expected to exceed the stated amount, please send me an estimate of costs, pursuant to 26 CFR § 601.702(c)(3). Please reply within 10 days of your receipt of this request and provide me with instructions on perfecting any errors, pursuant to IRM § 11.3.18.3(5). Otherwise, please process it in a timely manner pursuant to IRM § 11.3.18.3(4), not later than 30 days of your receipt, pursuant to IRM § 11.3.18.3(15).

If you find this request imperfect in any way please provide me with a copy of all the rules necessary for me to perfect this request. In addition please advise me of any and all procedures required to exhaust all administrative remedies before requesting judicial review.

Please be advised that I am requesting records pursuant to 5 USC 552a(d)(1). I am not requesting any amendment of records.

Please forward copies of all the authenticated documents, executed pursuant to IR Code Section 6065, identifying the "source" from which the "income" relating to the "NOTICE OF DEFICIENCY" dated April 26, 2005, for the year 2003, was derived. Please search the following systems of records for the document(s) requested:

Treasury/IRS 22.032,
Individual Microfilm Retention Register, D:R:R;
Treasury/IRS 22.034,
Individual Returns Files, Adjustments and Miscellaneous Documents File;
Treasury/IRS 22.060,
Automated Non-Master File (ANMF);
Treasury/IRS 22.061,

IRPTRN37788202202003000000

*(TY2003)

PAGE 0001 OF 0002

DOCUMENT TYPE: 1099-MISC

PAYEE ENTITY DATA:

STRATTON JON ANDREW

6783 AMYX RD

PONDER

STATE: TX ZIP: 76259-0000

NOT DIRECT SALES
NO SECOND NOTICE

ACCOUNT NUMBER: N/A

PAYER ENTITY DATA:

S D HILBURN CONTRACTORS

202 LA MESA DR

HIGHLAND VILLAGE

TX 75077

NONEHP COM.....\$26,470+

RECEIVED IN CORRES
IRS - OSC - 817
DEC 28 2005
GLEN, UTAH

TAXPAYER COPY

IRPTRN37788202202003000000

*(TY2003)

PAGE 0002 OF 0002

DOCUMENT TYPE: 1099-MISC

PAYEE ENTITY DATA:

JON STRATTON

6783 AMYX RD

PONDER

STATE: TX ZIP: 76259-0000

MOT DIRECT SALES
NO SECOND NOTICE

ACCOUNT NUMBER: N/A

PAYER ENTITY DATA:

NEW HAVEN HOMES CUSTOM INC

5700 IMPERIAL CT

PLANO

TX 75093

NONEMP COM.....\$4,168+

***** TAXPAYER COPY *****

IRPTRW3778820220200300

(TY2003) IRMF ON LINE TRANSCRIPT SYSTEM SUMMARY

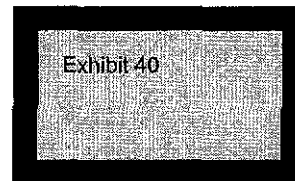
TIN-	TIM TYPE AND VALIDITY-	0	DOCUMENT CODE-	00	2 DOCS
GROUP	AMOUNT	GROUP	AMOUNT		
NONEMP COM.....	\$30,638+				

ENTER-PAYE (E), PAYE (R), (O)NLINE, (W)HITE OUT, IRPO (L), HARD (C)OPY OR (H)ELP

Letter
to FBI HQ

Concerning:
Earl W. Werline, III
P.O. Box 488
Cedarville, NJ 08311
IRS Reference Number: [REDACTED] (SS-5 revoked 4-28-93)

RECEIVED
MAY 11 2006



FRP 303

Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(c)(1)(iv):

John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

April 19, 2006

Certified Mail No. 7002 3150 0003 7299 1472

Dennis L. Parizek, Operations Manager
Internal Revenue Service Center
1973 Rulon White Blvd.
Ogden, UT 84404

RECEIVED IN CORRES
IRS - OSC -532

APR 27 2006

Re: Your Letter 3175C, dated March 13, 2006.

OGDEN, UTAH

Dear Mr. Parizek:

I am in receipt of your letter, dated March 13, 2006, which I presume references my letter dated June 13, 2005, to the Atlanta Service Center. That letter was in response to a Notice CP-515 dated May 23, 2005, regarding the year 2003. Mr. Parizek, although your letter purports to be a reply to my correspondence, it doesn't address any of the issues presented therein.

In your letter, you state: "We have determined that the arguments you raised are frivolous and have no basis in law. Federal courts have consistently ruled against such arguments and imposed significant fines for taking such frivolous positions." Mr. Parizek, I have already pointed out the basis in the law for the issues I raised in my earlier letters on behalf of Mr. Werline. If you are contending that any of them are wrong, then according to the IRS' Mission Statement: found in IRM § 1.1.1.1, it is your duty to help Mr. Werline understand the law. You can do this by pointing out exactly where you believe any mistakes have been made. It is Mr. Werline's intention to comply with all laws as they are written, and I urge you to do the same.

You state further: "The claims presented in your correspondence do not relieve you from your legal responsibilities to file federal income tax returns and pay taxes. We urge you to honor those legal duties." Mr. Parizek, it seems you missed the point of my previous correspondence. The point is that the law does not impose any legal responsibilities or duties upon Mr. Werline. The only section found which establishes a liability for income taxes under Subtitle A is § 1461, and only withholding agents are made liable by that section for the income taxes they withhold from the entities listed in the rest of Chapter 3. That being the case, the various sections you cite

in your letter, which are **all** conditioned on being made liable for the tax, do not apply to Mr. Werline, since he is not a withholding agent as that term is defined at § 7701(a)(16).

Additionally you state, "There are people who encourage others to violate our nation's tax laws by arguing that there is no legal requirement for them to file income tax returns or pay income taxes. These persons base their arguments on legal statements taken out of context and on frivolous arguments that have been repeatedly rejected by federal courts." However, it is not clear from these statements whether you are accusing Mr. Werline of encouraging others to violate tax laws, or whether you are accusing him of violating such laws himself. In either case, he takes such libelous accusations seriously and intends to vigorously pursue all available remedies.

You next state: "If you persist in sending frivolous correspondence, we will not continue to respond to it. Our lack of response to further correspondence does not in any way convey agreement or acceptance of the arguments advanced." Mr. Parizek, it appears that you are refusing to follow the mandates of the Internal Revenue Manual. According to §§ 21.3.3.2(1) and 3.30.123.2.9(2), the IRS is required to issue, within 30 days, a final response to all written communications from taxpayers or their representatives. Can you explain the reasons for your refusal to comply with those provisions?

Finally, you quote IRC § 6702, which penalizes the filing of frivolous income tax returns. However, I am unable to determine why you would cite that provision since it is my understanding that Mr. Werline has not filed any returns for the year 2003, nor anything which "purports to be a return."

Mr. Parizek, as explained herein and in my previous correspondence, Mr. Werline is not a person who is required to deduct and withhold any tax under Chapter 3, and therefore is not a member of that class of persons which Congress specifically made liable for the tax. If you are contending that Mr. Werline has been made liable for (or subject to) a tax by any law of Congress, then you should have no trouble identifying such law(s), so that he may verify its applicability to himself. If you can not identify the specific statute which makes him liable for the taxes at issue, then please state that fact in your reply.

If you fail or refuse to respond as requested within 30 days of your receipt of this letter, it must be presumed that you cannot identify any lawful authority for the actions you are taking, and therefore, such actions must be considered knowing and willful violations of Mr. Werline's right to due process.

I hereby declare that:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;

3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in 26 CFR ~~§601.502(a)(1)~~ and (2), ~~§601.502(b)(5)(ii)~~ and in Treasury Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.


John B. Kotmair, Jr.

Enclosures: Original Power-of-Attorney; copy of page one of my original letter, dated June 13, 2005; copy of your letter, dated March 13, 2006.

cc: Earl W. Werline, III

Richard E. Byrd, Director
Internal Revenue Service Center
2385 Chamblee Tucker Road
Chamblee, GA 30341

**PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY**

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a)(1) and (2), 26 CFR § 601.502(b)(5)(ii) and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, Earl W. Werline III, of P.O. Box 488, Cedarville, NJ 08311, Internal Revenue Reference Number [REDACTED] (SS-5 revoked 4-28-93), a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A, related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the following years: 1992 through and including 2006.

On this 4th day of April, 2006, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.

Earl W. Werline III

Earl W. Werline III

Subscribed and sworn to before me, a Notary Public, of the State of New Jersey, County of Cumberland, on this 4th day of April, 2006.

Jane Temple Moser
Notary Public

My Commission Expires On: _____

Jane Temple Moser
Notary Public of New Jersey
My Commission Expires 11/22/2006

RECEIVED IN CORRES
IRS - OSC - 532

WPR 2 7 2006

Rev. 12130196

OGDEN, UTAH



Internal Revenue Service
1973 North Rulon White Blvd.
Ogden, UT 84404-0040

Department of the Treasury

Taxpayer Identification Number:
[REDACTED]

Person to Contact: Dennis Parizek

Employee Identification Number: 29-61699

Contact Telephone Number: 866-899-9083

Contact Hours: 7:00 am - 7:00 pm MST Mountain Time

Date: March 13, 2006

EARL W WERLINE
PO BOX 488
CEDARVILLE, NJ 8311-488881

RECEIVED IN CORRES
IRS - OSC -532

APR 27 2006

OGDEN, UTAH

Dear Taxpayer(s):

This is in reply to your recent correspondence dated 6/16/2005

We have determined that the arguments you raised are frivolous and have no basis in law. Federal courts have consistently ruled against such arguments and imposed significant fines for taking such frivolous positions.

You can obtain IRS Publication 2105, *Why Do I Have to Pay Taxes?*, from our internet website at www.irs.gov/pub/irs-pdf/p2105.pdf. We also refer you to a document entitled *The Truth About Frivolous Tax Arguments*. It is also on our website at www.irs.gov/pub/irs-utl/friv_tax.pdf. If you do not have internet access, you can obtain copies of these documents from your local IRS office.

There are some people who encourage others to violate our nation's tax laws by arguing that there is no legal requirement for them to file income tax returns or pay income taxes. These people base their arguments on legal statements taken out of context and on frivolous arguments that have been repeatedly rejected by federal courts. People who rely on this kind of information can ultimately pay more in taxes, interest and penalties than they would have paid simply by filing correct tax returns.

People who violate the tax laws also may be subject to federal criminal prosecution and imprisonment. Information about the IRS's criminal enforcement program is available on the internet at www.irs.gov. Once there, enter the IRS keyword: fraud.

The IRS is working with the United States Department of Justice and state taxing authorities to ensure that all taxpayers pay their lawful share of taxes and to seek criminal indictments or civil enforcement actions against people who promote or join in abusive and fraudulent tax schemes.

The claims presented in your correspondence do not relieve you from your legal responsibilities to file federal tax returns and pay taxes. We urge you to honor those legal duties.

If you persist in sending frivolous correspondence, we will not continue to respond to it. Our lack of response to further correspondence does not in any way convey agreement or acceptance of the arguments advanced. If you desire to comply with the law concerning your tax liability, you are encouraged to seek advice from a reputable tax practitioner or attorney.

Letter 3175C (Rev. 3-1-2004)

Concerning:
Earl W. Werline, III
P.O. Box 488
Cedarville, NJ 08311
IRS Reference Number: [REDACTED] (SS-5 revoked 4-28-93)

Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR §§ 601.502(a), ~~601.502(b)(5)(ii)~~ and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv):

John B. Kotmair, Jr., Representative Number: 2605-47815R
P.O. Box 91, Westminster, MD 21158

June 13, 2005

Certified Mail No. 7004 2890 0004 1912 4469

William J. Zachery, Director
Internal Revenue Service Center
2385 Chamblee Tucker Road
Chamblee, GA 30341

Re: Attached Notice CP-515 concerning the year 2003.

Dear Mr. Zachery:

Mr. Werline has given me Power-of-Attorney to represent him for the purposes of your inquiry. Therefore, all future correspondence should be forwarded to me. Please contain all communications to a written form, so that a permanent record can be maintained.

Your Notice CP-515 does not have an OMB Control Number as required in IRM § 21.3.3.3.1, "OMB Codes for Forms," which states in pertinent part:

"1. Public Law 104-13, Paperwork Reduction Act of 1995, requires that the Office of Management and Budget (OMB) approve forms or documents before they are issued.

2. Items that carry OMB information can be classified into two categories:

1. Information Collection Requests (ICRs)—A form, letter, notice, or other document used to request necessary information from at least 10 taxpayers. Each ICR is assigned a unique OMB number.

2. Document Perfection Requests (DPRs)—Also used to request information from at least 10 taxpayers. However, each DPR is not assigned a unique OMB number. Rather, it carries the OMB number of the document it perfects. An expiration date is not required on DPRs. DPRs include: public-use forms, C (SC), and (SC/SP) letters, draft and dictated letters, CP notices, quick notes, and CNOTES.

Example: ICRs include major tax forms and instructions, public use forms, C, (SC), and (SC/SP) letters, draft and dictated letters, and CP notices.

3. OMB number and expiration date must be typed or computer-generated on ICRs.;

It continues at § 21.3.3.3.1(5):

"5. OMB requires that OMB number and expiration date appear in upper right corner of documents.

6. ICRs must contain Paperwork Reduction Act Notice Language."

Concerning:
Scott A. Mosher
2871 University Ave, PMB 153
San Diego, CA 92104
IRS Reference Number: [REDACTED]

Exhibit 41

Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(c)(1)(iv):

John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

April 8, 2005

Certified Mail No. 7004 2890 0004 1916 6667

Re: Letter 1862, dated March 11, 2005.

Scott B. Prentky, Director
Internal Revenue Service Center
1973 Rulon White Blvd.
Ogden, UT 84404

RECEIVED IN CORRES
IRS - OSC -532

APR 24 2006

Dear Mr. Prentky:

OGDEN, UTAH

This letter is a written protest to the Letter 1862, dated March 11, 2005. It is submitted pursuant to instructions in Internal Revenue Service Publication 5, *"Your Appeal Rights and How to Prepare a Protest If You Don't Agree."* I want to appeal the examination to the appeals office and I hereby request a conference on behalf of Mr. Mosher for the year you have proposed an adjustment: 2003. Since this appeal confines its subject matter to challenging the proposed assessment within the scope of the Internal Revenue Laws, as described in Publication 5, an appeals conference is an authorized and available appeal right to Mr. Mosher. Pursuant to that publication, this letter is to serve as the statement of facts and statement of law relied on by the appellant, and the attachment is to serve as the schedule of disputed issues.

Your use of Letter 1862 must be in error. Mr. Mosher has informed me that he did not make or file any type of tax return for the year 2003 that could be "examined." Nor did he make any agreement with or request any assistance from anyone employed by the Internal Revenue Service pursuant to 26 U.S.C. § 6020(a) involving anything relating to those years. Therefore, how could there have been an examination of a tax return that never has existed?

"The taxpayer return is considered the account." Internal Revenue Manual Chapter 3, § 3(17)(46)1.2(10)(a).

On the worksheets enclosed with the Letter 1862, no specific sources or payers are shown under the heading "Adjustments to Income." Before an appeal can proceed, Mr. Mosher must be informed as to the actual sources of the income upon which the IRS has based this proposed

Concerning:
Scott A. Mosher
2871 University Ave, PMB 153
San Diego, CA 92104
IRS Reference Number: [REDACTED]

Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § ~~601.502(b)(5)(i)~~ and Treasury Circular No. 230, at § ~~10.7(c)(1)(iv)~~:

John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

April 11, 2005

Certified Mail No. 7004 2890 0004 1916 6674

Re: CP 504, Notice of Intent to Levy, dated March 14, 2005, concerning 2002.

Scott B. Prentky, Director
Internal Revenue Service Center
1973 Rulon White Blvd.
Ogden, UT 84404

Dear Mr. Prentky:

Mr. Mosher has forwarded to me for response the enclosed Notice of Intent to Levy dated March 14, 2005. In addition to the deficiencies of the Notice itself, it appears that it has also been sent to Mr. Mosher in error. The requirement for this Notice is set out in Internal Revenue Code (IRC) § 6331(d)(1), which states:

“(d) Requirement of notice before levy.--

(1) In general.--Levy *may be made under subsection (a)* upon the salary or wages or other property of any person with respect to any unpaid tax *only after the Secretary has notified such person in writing of his intention to make such levy.*”
[Emphasis added]

It can be seen that this notice is a necessary step before levy can be made pursuant to subsection (a), which states:

“(a) Authority of Secretary.--If any *person liable to pay any tax* neglects or refuses to pay the same within 10 days *after notice and demand*, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment

Concerning:

Scott A. Mosher

2871 University Ave, #153

San Diego, CA 92104

IRS Reference Number [REDACTED]

Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § ~~601.502(b)(5)(ii)~~ and Treasury Circular No. 230, at § ~~10.7(c)(1)(iv)~~:

John B. Kotmair, Jr., Representative Number 2605-47815R

Post Office Box 91, Westminster, MD 21158

April 17, 2006

Certified Mail No. 7002 3150 0003 7299 1298

Dennis L. Parizek, Operations Manager

Internal Revenue Service Center

1973 Rulon White Blvd.

Ogden, UT 84404

Re: Your Letter 3175C, dated March 13, 2006.

Dear Mr. Parizek:

I am in receipt of your letter, dated March 13, 2006, which references "recent correspondence dated 4/14/2005." Since neither Mr. Mosher nor I have sent the Ogden Service Center any correspondence with that date, I can only presume you are referencing either a letter dated April 8, 2005, in response to a proposed assessment for the year 2003 dated March 11, 2005, or a letter dated April 11, 2005, in response to a Notice CP504 regarding the year 2002, dated March 14, 2005. Mr. Parizek, although your letter purports to be a reply to my correspondence, it doesn't address any of the issues presented therein.

In your letter, you state: "We have determined that the arguments you raised are frivolous and have no basis in law. Federal courts have consistently ruled against such arguments and imposed significant fines for taking such frivolous positions." Mr. Parizek, I have already pointed out the basis in the law for the issues I raised in my earlier letters on behalf of Mr. Mosher. If you are contending that any of them are wrong, then according to the IRS' Mission Statement, found in IRM § 1.1.1.1, it is your duty to help Mr. Mosher understand the law. You can do this by pointing out exactly where you believe any mistakes have been made. It is Mr. Mosher's intention to comply with all laws as they are written, and I urge you to do the same.

You state further: "The claims presented in your correspondence do not relieve you from your legal responsibilities to file federal income tax returns and pay taxes. We urge you to honor those legal duties." Mr. Parizek, it seems you missed the point of my previous correspondence. The point is that the law does not impose any legal responsibilities or duties upon Mr. Mosher. The only section found which establishes a liability for income taxes under Subtitle A is § 1461,

and only withholding agents are made liable by that section for the income taxes they withhold from the entities listed in the rest of Chapter 3. That being the case, the various sections you cite in your letter, **which are all conditioned on being made liable for the tax**, do not apply to Mr. Mosher, since he is not a withholding agent as that term is defined at § 7701(a)(16).

Additionally you state, "There are people who encourage others to violate our nation's tax laws by arguing that there is no legal requirement for them to file income tax returns or pay income taxes. These persons base their arguments on legal statements taken out of context and on frivolous arguments that have been repeatedly rejected by federal courts." However, it is not clear from these statements whether you are accusing Mr. Mosher of encouraging others to violate tax laws, or whether you are accusing him of violating such laws himself. In either case, he takes such libelous accusations seriously and intends to vigorously pursue all available remedies.

You next state: "If you persist in sending frivolous correspondence, we will not continue to respond to it. Our lack of response to further correspondence does not in any way convey agreement or acceptance of the arguments advanced." Mr. Parizek, it appears that you are refusing to follow the mandates of the Internal Revenue Manual. According to §§ 21.3.3.2(1) and 3.30.123.2.9(2), the IRS is required to issue, within 30 days, a final response to all written communications from taxpayers or their representatives. Can you explain the reasons for your refusal to comply with those provisions?

Finally, you quote IRC § 6702, which penalizes the filing of frivolous income tax returns. However, I am unable to determine why you would cite that provision since it is my understanding that Mr. Mosher has not filed any returns for the years 2002 and 2003, nor anything which "purports to be a return."

Mr. Parizek, as explained herein and in my previous correspondence, Mr. Mosher is not a person who is required to deduct and withhold any tax under Chapter 3, and therefore is not a member of that class of persons which Congress specifically made liable for the tax. If you are contending that Mr. Mosher has been made liable for (or subject to) a tax by any law of Congress, then you should have no trouble identifying such law(s), so that he may verify its applicability to himself. If you can not identify the specific statute which makes him liable for the taxes at issue, then please state that fact in your reply.

If you fail or refuse to respond as requested within 30 days of your receipt of this letter, it must be presumed that you cannot identify any lawful authority for the actions you are taking, and therefore, such actions must be considered knowing and willful violations of Mr. Mosher's right to due process.

I hereby declare that:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;

2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in 26 CFR ~~§601.502(a)(1)~~ and (2), ~~§601.502(b)(5)(ii)~~ and in Treasury Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.



John B. Kotmar, Jr.

Enclosures: Original Power-of-Attorney; copy of page one of each of my original letters, dated April 8, 2005 and April 11, 2005; copy of your letter, dated March 13, 2006.

cc: Scott A. Mosher


**PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY**

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR ~~§ 301.6103(c)-1~~, 26 CFR § 601.502(a)(1) and (2), 26 CFR § ~~601.502(b)(5)(ii)~~ and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, ~~permission~~ to investigate this matter for me.

I, Scott A. Mosher, of 2871 University Ave, PMB 153, San Diego, CA 92104, Internal Revenue Reference Number [REDACTED] a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, ~~permission~~ to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A, related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the following years: 1999 through and including 2006.

On this 27th day of MARCH, 2006, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.


Scott A. Mosher

We, the undersigned, hereby affix our signatures in affirmation that the above signed person did identify self, by State identification, as Scott A. Mosher, and did date and affix signature to this Power of Attorney on this 27th day of MARCH, 2006. We ~~affirm~~ this to be true, correct, and complete to the best of our knowledge.


Witness

A Citizen of

California
State


Witness

A Citizen of

CALIFORNIA
State

RECEIVED

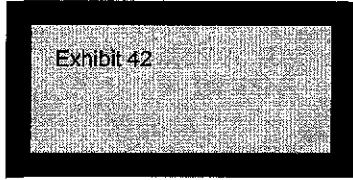
MAY 19 2006

O C S C

Input to Frpmaster

Concerning:
John E. Deaton
16160 Kieth-Harrow Blvd., Apt.# 1111
Houston, TX 77084
IRS Reference Number: [REDACTED]

RECEIVED
JUN 07 2006
FRP 303



Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(c)(1)(iv):
John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

April 17, 2006

Certified Mail No. 7002 3150 0003 7299 1328

Dennis L. Parizek, Operations Manager
Internal Revenue Service Center
1973 Rulon White Blvd.
Ogden, UT 84404

RECEIVED IN CORRES
IRS - OSC - 816
APR 24 2006
OGDEN, UTAH

Re: Your Letter 3175C, dated April 3, 2006.

Dear Mr. Parizek:

I am in receipt of your letter, dated April 3, 2006, which states that it is "in reply to your recent correspondence dated 5/9/2005." Since neither Mr. Deaton nor I wrote the IRS on that date, I must presume you are referencing my letter dated April 29, 2005, in response to a Notice CP504, dated April 18, 2005, regarding the year 2002. Mr. Parizek, although your letter purports to be a reply to my correspondence, it doesn't address any of the issues presented therein.

In your letter, you state: "We have determined that the arguments you raised are frivolous and have no basis in law. Federal courts have consistently ruled against such arguments and imposed significant fines for taking such frivolous positions." Mr. Parizek, I have already pointed out the basis in the law for the issues I raised in my earlier letters on behalf of Mr. Deaton. If you are contending that any of them are wrong, then according to the IRS' Mission Statement, found in IRM § 1.1.1.1, it is your duty to help Mr. Deaton understand the law. You can do this by pointing out exactly where you believe any mistakes have been made. It is Mr. Deaton's intention to comply with all laws as they are written, and I urge you to do the same.

You state further: "The claims presented in your correspondence do not relieve you from your legal responsibilities to file federal income tax returns and pay taxes. We urge you to honor those legal duties." Mr. Parizek, it seems you missed the point of my previous correspondence. The point is that the law does not impose any legal responsibilities or duties upon Mr. Deaton. The only section found which establishes a liability for income taxes under Subtitle A is § 1461, and only withholding agents are made liable by that section for the income taxes they withhold from the entities listed in the rest of Chapter 3. That being the case, the various sections you cite

in your letter, **which are all conditioned on being made liable for the tax**, do not apply to Mr. Deaton, since he is not a withholding agent as that term is defined at § 7701(a)(16).

Additionally you state, "There are people who encourage others to violate our nation's tax laws by arguing that there is no legal requirement for them to file income tax returns or pay income taxes. These persons base their arguments on legal statements taken out of context and on frivolous arguments that have been repeatedly rejected by federal courts." However, it is not clear from these statements whether you are accusing Mr. Deaton of encouraging others to violate tax laws, or whether you are accusing him of violating such laws himself. In either case, he takes such libelous accusations seriously and intends to vigorously pursue all available remedies.

You next state: "If you persist in sending frivolous correspondence, we will not continue to respond to it. Our lack of response to further correspondence does not in any way convey agreement or acceptance of the arguments advanced." Mr. Parizek, it appears that you are refusing to follow the mandates of the Internal Revenue Manual. According to §§ 21.3.3.2(1) and 3.30.123.2.9(2), the IRS is required to issue, within 30 days, a final response to all written communications from taxpayers or their representatives. Can you explain the reasons for your refusal to comply with those provisions?

Finally, you quote IRC § 6702, which penalizes the filing of frivolous income tax returns. However, I am unable to determine why you would cite that provision since it is my understanding that Mr. Deaton has not filed any returns for the year 2002, nor anything which "purports to be a return."

Mr. Parizek, as explained herein and in my previous correspondence, Mr. Deaton is not a person who is required to deduct and withhold any tax under Chapter 3, and therefore is not a member of that class of persons which Congress specifically made liable for the tax. If you are contending that Mr. Deaton has been made liable for (or subject to) a tax by any law of Congress, then you should have no trouble identifying such law(s), so that he may verify its applicability to himself. If you can not identify the specific statute which makes him liable for the taxes at issue, then please state that fact in your reply.

If you fail or refuse to respond as requested within 30 days of your receipt of this letter, it must be presumed that you cannot identify any lawful authority for the actions you are taking, and therefore, such actions must be considered knowing and willful violations of Mr. Deaton's right to due process.

I hereby declare that:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;

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IRS - OSC - 815

APR 24 2006

OGDEN, UTAH

3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in 26 CFR §601.502(a)(1) and (2), ~~§601.502(b)(5)(ii)~~ and in Treasury Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.


John B. Kotmair, Jr.

Enclosures: Original Power-of-Attorney; copy of page one of my original letter, dated April 29, 2005; copy of your letter, dated April 3, 2006.

cc: John E. Deaton

RECEIVED IN CORRES
IRS - OSG-615
APR 24 2006
OGDEN UTAH


**PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY**

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a)(1) and (2), 26 CFR § 601.502(b)(5)(ii) and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, John E. Deaton, of 16160 Kieth-Harrow Blvd., Apt.#1111, Houston, TX 77084, Internal Revenue Reference Number [REDACTED] a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A, related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the following years: 1990 through and including 2006.

On this 4th day of April, 2006, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.



John E. Deaton

We, the undersigned, hereby affix our signatures in affirmation that the above signed person did identify self, by State identification, as John E. Deaton, and did date and affix signature to this Power of Attorney on this _____ day of April, 2006. We affirm this to be true, correct, and complete to the best of our knowledge.

Benny D. Boyer _____ A Citizen of TEXAS
Witness

Keith Jones _____ A Citizen of Texas
Witness



Internal Revenue Service
1973 North Rulon White Blvd.
Ogden, UT 84404-0040

Department of the Treasury

Taxpayer Identification Number:
[REDACTED]

Person to Contact: Dennis Parizek

Employee Identification Number: 29-61699

Contact Telephone Number: 866-899-9083

Contact Hours: 7:00 am - 7:00 pm MST Mountain Time

Date: April 3, 2006

JOHN E DEATON
16160 KIETH HARROW BLVD APT 1111
HOUSTON, TX 77084-5313868

RECEIVED IN CORRES
IRS - OSC - 615

APR 24 2006

OGDEN, UTAH

Dear Taxpayer(s) :

This is in reply to your recent correspondence dated 5/9/2005.

We have determined that the arguments you raised are frivolous and have no basis in law. Federal courts have consistently ruled against such arguments and imposed significant fines for taking such frivolous positions.

You can obtain IRS Publication 2105, *Why Do I Have to Pay Taxes?*, from our internet website at www.irs.gov/pub/irs-pdf/p2105.pdf. We also refer you to a document entitled *The Truth About Frivolous Tax Arguments*. It is also on our website at www.irs.gov/pub/irs-uti/friv_tax.pdf. If you do not have internet access, you can obtain copies of these documents from your local IRS office.

There are some people who encourage others to violate our nation's tax laws by arguing that there is no legal requirement for them to file income tax returns or pay income taxes. These people base their arguments on legal statements taken out of context and on frivolous arguments that have been repeatedly rejected by federal courts. People who rely on this kind of information can ultimately pay more in taxes, interest and penalties than they would have paid simply by filing correct tax returns.

People who violate the tax laws also may be subject to federal criminal prosecution and imprisonment. Information about the IRS's criminal enforcement program is available on the internet at www.irs.gov. Once there, enter the IRS keyword: fraud.

The IRS is working with the United States Department of Justice and state taxing authorities to ensure that all taxpayers pay their lawful share of taxes and to seek criminal indictments or civil enforcement actions against people who promote or join in abusive and fraudulent tax schemes.

The claims presented in your correspondence do not relieve you from your legal responsibilities to file federal tax returns and pay taxes. We urge you to honor those legal duties.

If you persist in sending frivolous correspondence, we will not continue to respond to it. Our lack of response to further correspondence does not in any way convey agreement or acceptance of the arguments advanced. If you desire to comply with the law concerning your tax liability, you are encouraged to seek advice from a reputable tax practitioner or attorney.

Letter 3175C (Rev. 3-1-2004)

This letter advises you of the legal requirements for filing and paying federal individual income tax returns and informs you of the potential consequences of the position you have taken. Please observe that the Internal Revenue Code sections listed below expressly authorize IRS employees that act on behalf of the Secretary of the Treasury to: 1.) **examine** taxpayer books, papers, records, or other data which may be relevant or material; 2.) issue summonses in order to gain **possession** of records so that determinations can be made of the tax liability or for ascertaining the correctness of any return filed by that person; and 3.) collect any such liability.

General Information on Filing Requirements and Authority to Collect Tax

Title 26, United States Code

Section 6001 Notice or regulations requiring records, statements, and special returns
Section 6011 General requirement of return, statement, or list
Section 6012 Persons required to make returns of income
Section 6109 Identifying numbers
Section 6151 Time and place for paying tax shown on returns
Section 6301 Collection Authority
Section 6321 Lien for taxes
Section 6331 Levy and distraint
Section 7602 Examination of books and witnesses

INTERNAL REVENUE CODE SECTION 6702 (FRIVOLOUS INCOME TAX RETURN PROVIDES:

CIVIL PENALTY - IF -

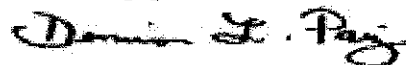
- (1) any individual files what purports to be a return of the tax imposed by subtitle A but which -
 - (A) does not contain information on which the substantial correctness of the self- assessment may be judged, or
 - (B) contains information that on its face indicates that the self- assessment is substantially incorrect; and
- (2) the conduct referred to in paragraph (1) is due to -
 - (A) a position which is frivolous, or
 - (B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax law, then such individuals shall pay a penalty of **\$500.00**

PENALTY IN ADDITION TO OTHER PENALTIES - The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.

If you have questions, please write to us at the address shown at the top of the first page of this letter. Or, you may call us toll free at 1-800-829-8374 between the hours of **7:00 AM** and **10:00 PM** local time. Whenever you write, please include this letter and, in the spaces below, give us your telephone number with the hours we can reach you. You may also wish to keep a copy of this letter for your records.

Your telephone Number () _____ Hours _____

Sincerely yours,



Operations Manager,
Exam SC Support

Exhibit 43

Caveat Emptor

Let's get it right!



Due to the increasingly common and flagrantly unconstitutional acts of those within our government who are charged with the duty of upholding the law -- yet who continue to willfully ignore its clear, written provisions in order to advance their own agendas and those of their superiors (*) -- Americans in record numbers are waking up and being drawn to the Constitutional Revival Movement.

Here at the *Save-A-Patriot Fellowship*, it has been our experience that many drawn to our movement are of above average intelligence. As such, they may also be possessed of above average imaginations (and of above average egos!). Newly awakened from decades of media and public school induced slumber and infused with a missionary zeal often fueled by outrage over the newly discovered truth that has been concealed from them (and still rubbing the disbelief from their eyes), these "budding patriots" can, in their newborn enthusiasm, seize upon a newly discovered snippet of fact and truth and proceed to extrapolate and expand it beyond all logic and reason.

Even seasoned warriors in the Cause of Liberty who experience yet more betrayal over the latest unlawful transgression by a bloated government now overflowing its constitutional container can (although they should know better) fall prey to the current "silver bullet de jour." Believe us, we know. They call here all the time, sometimes coming to visit with boxes full of court cases and other materials to support their claims.

Most surprising of all (to us, anyway), even many of the movement's most prominent and visible spokespersons have themselves fallen prey on occasion to a garden variety of erroneous and absurd notions. Many of these individuals (of whose patriotism we have no doubt) have attempted at one time or other to assert their rights and due process only to be A) met by a stone wall of corruption and tyranny in the courts; B) plundered of all possessions by any one of an alphabet soup mixture of state and federal agencies, not the least unrepenting of which is the IRS; or C) both.

These self-styled "constitutionalists", due to their failure to actually understand the Constitution (**), become not just real victims of government abuse, but unwitting victims of one or more popularly circulating "wild theories" as well. Regrettably however, as a result of their notoriety and visibility in the print media, on videos and on the Internet, many "newbies" believe and repeat their every utterance without research or further consideration.

To further spread this fog of confusion, there are now many Pied Pipers within the patriot community (and, no doubt, some agents provocateurs) claiming: A) to be able to lead all followers to the Promised Land; B) to have "The Answer"; and C) that if you follow exactly what they preach, you will be free of the IRS and state taxing agencies.



Wherefore, if someone tells you that (among numerous other examples) if you use the United States

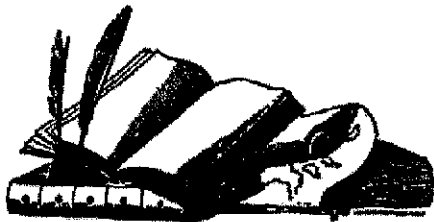
postal ZIP code in your return address you will be subject to the federal income tax laws; that an ornamental gold fringe on a flag located within a federal or state courtroom suspends the Constitution and your rights; that if you reside within one of the fifty States of the union you are therefore nonresident to the seat of government (currently situated within Washington, D.C.) and alien to its jurisdiction and, as such, are a "nonresident alien" as defined in Title 26, Internal Revenue Code and therefore immune to the federal income tax statutes; that if you punctuate your first and last names with a semicolon you are suddenly transformed into a true Sovereign whom the courts "can't touch"; that the IRS is a Delaware corporation, "fronting" as a trustee for the Federal Reserve System in receivership to the World Bank (huh?); or, otherwise promotes any of a gaggle of equally preposterous contentions, you should ask the proponent of such a claim to **SHOW YOU THE LAW** that states the "fact" proposed.

*This might sound like a preposterous request; however there are individuals currently crisscrossing the country, giving lucrative seminars (even lecturing on cruise ships!) and preaching such theories so convincingly that they have thousands of new converts believing and flocking to them, like proverbial moths to the flame. And many of these moths are getting badly burned. Henceforth, whenever someone presents one of these erroneous and specious arguments -- what we fondly refer to as "wild theories" -- simply use the acid test of "**SHOW ME THE LAW!**" Wherefore, as a public service and in order to help you from falling into this state of [in]security; carefully consider the truth of the following.*

The United States of America has a Constitutional Republic as its form of federal government (not all republics have a written constitution), therefore it is said that we have a government of **LAW** and not of **MEN**. The document called the United States Constitution was ratified by the States of the union and accepted as the supreme Law of the Land, and all acts passed by Congress, treaties made by the Executive Branch and ratified by the Senate, State Constitutions and laws made in pursuant thereof must be in conformance to the Constitution. Any law that is not so in conformity is void and should be treated as though it never existed.

The Constitution actually created a federal government and gave to it **ONLY** those powers granted and enumerated therein, reserving all other powers to the States and to the People respectively. The **ONLY** enumerated powers given to the federal government are foreign affairs, interstate commerce and the post office (if you haven't read the Constitution since the 6th grade, read it again!). The federal government also has the power to lay and collect indirect taxes in the form of duties, imposts and excise taxes, but all direct taxes must be apportioned to the States of the union according to their respective representation within the Congress.

Because we are subject to these written laws, and because ignorance of the law is no excuse, all laws must be written so that any citizen (or resident alien) of average intelligence can understand them. Any law not so written is void because of vagueness. This established doctrine of American jurisprudence is explained in Black's Law Dictionary thusly: *"Under this principle, a law which does not fairly inform a person of what is commanded or prohibited is unconstitutional as violative of due process."*



Wherefore, because all our laws are written in plain English by a legislature which understands the rules of statutory construction, and must be written in such a manner so as to be clearly and readily understood by any person of average intelligence, any person making a claim that A) you do not owe the income tax because you are a nonresident alien to Washington D.C.; B) that you **DO** owe the income tax if you use the ZIP code; or, C) any other such ludicrous claim, should be able to **SHOW YOU THE WRITTEN LAW** that clearly says (and thereby proves) that

that his contention is so.

Please take careful note that, when we speak of Law, we are not speaking of "case law", but of the written law as enacted by the Congress. Article 1, Section 1 states that "All legislative Powers herein granted shall be vested in a Congress of the United States ..." Note that it does not state "Some legislative Powers ..." or "Most legislative Powers." It states "All legislative Powers ..." All means all. Period. Wherefore, what comes out of a judge's mouth (so called "case law") doth not law make. Here at the Fellowship, we teach people to read, in many cases ... all over again!

One vendor on the Internet, who claims great knowledge and all manner of victories over government tax agencies, states within his web site: *"It is not always what is in a law that is important. Frequently what is not stated in a law is equally important."* (Need we say more about such a notion, which is transparently ludicrous on its face?)

For years we have heard such charlatans making claims of victory and found them to be false. Every time we asked to see the paperwork, it could not be produced. On those occasions when the paperwork was produced, it turned out to be that the case was won because of other extenuating circumstances and not due to the reason(s) given. On one occasion, victory was claimed yet the court order clearly stated otherwise. The individual was so caught up in the particular wild theory that he could not even understand that the court ruled AGAINST him!

Some of these vendors have Patriots believing that they "won" because the respective taxing agency has not answered within six months or so. Our experience has been that we occasionally receive a response from tax agencies up to a year later. On other occasions, we have had the tax agency drop the investigation altogether, but for reasons known only to that agency, and with no bearing on the way we phrased the law. We've tried and tried but, alas, magic punctuation seems to have no effect in the real world.

Use your common sense. It is well documented that the taxing agencies and the courts are not following the tax laws. So do not be taken in by the latest Truth Vendor (with his Pouch of Magic Beans) who claims that he phrased the law in such a magical manner that it was acceptable to the IRS, and for that reason he "won." Our recommendation is that you leave "Imagineering" to Disney. Like microwave dinners, wild theories are quick to prepare and just as easy to digest. And like a cheap date, they require little effort to embrace. Getting back to the Law, on the other hand, takes time and study. As long as there are those inclined to replace logic with a Silver Bullet, we will not be able to stop these wild weeds from propagating entirely. However, we can each be a good gardener, for that is only Reasonable Action.

Remember: **CAVEAT EMPTOR!!**

(*) "I was only following orders" didn't work at Nuremberg.

(**) Because Liberty cannot exist without private property being protected against unlawful plunder by government (see the 5th Amendment), it can accurately be stated that if one does not fully understand the taxing clauses within the Constitution, one cannot possibly understand the Constitution itself. Nor can one possibly grasp the truth of the fact that socialism as dreamed of by Karl Marx in all of its forms, including such government sponsored wealth redistribution as "social security," can only be 100% voluntary in our constitutionally limited Republic (and is). Many of our movement's most outspoken leaders and supporters, including those who speak of modeling themselves after such heroes as Paine, Adams, Jefferson et al, continue to make use of a social security number (not required by law of a citizen living and working within the States of the union), to file tax returns (not required by law of a citizen living and working with the States of the union), to fear the IRS (not becoming of a citizen living and working with the States of the union), to look forward to receiving federal benefits (not even contemplated by those who CREATED the States of the union), etc. Such (to us) odd and fundamentally un-American behaviors can only be imputed to ignorance of the principles of Liberty as evidenced by the intent of our nation's Founders as contained and embedded in our foundational documents, including the Constitution.

Exhibit 44

Concerning:
Wesley Sherwood
6331 W. Borax
Salt Lake City, UT 84118
IRS Reference Number: [REDACTED]

Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(c)(1)(iv):

John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

June 14, 2000

Certified Mail No. 7099 3220 0006 5186 9076

Re: "NOTICE OF DEFICIENCY" Dated May 19, 2000; and,
IR Code § 6404(a)(3), "ABATEMENTS".

Deborah S. Decker, Director
Internal Revenue Service Center
P. O. Box 9941, MS 1000 OSC
Ogden, UT 84409

RECEIVED

JUL 03 2000

Dear Ms. Decker:

FRP

Mr. Sherwood is in receipt of a document from your office (copy enclosed) that is deficient because it does not contain a "...declaration that it is made under the penalties of perjury" (Internal Revenue Code section 6065), and is void of any mention of appeal rights pursuant to Internal Revenue Code § 6404(a)(3). This document purports to be a "Notice of Deficiency," alleging various amounts of money due for the year 1998, but fails the statutory provisions of section 6211 and 6212. Therefore, it must be abated pursuant to § 6404(a)(3). The following is my response to this unquestionably wrongful assessment procedure:

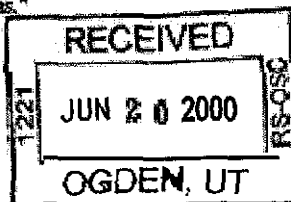
Mr. Sherwood denies any requirement to file a tax return under Subtitle A, Chapters 1 and/or 3, i.e., he does not have any "Foreign Earned Income" and is not a nonresident alien, officer of a foreign corporation, or involved in any way with a foreign tax exempt organization.

Further, according to 26 CFR § 1.861-1(a):

"Part I (section 861 and following), Subchapter N, Chapter 1 of the Code, and the regulations thereunder determine the sources of income for purposes of the income tax."

26 CFR § 1.861-8(a)(1) states, in part:

"The rules contained in this section apply in determining taxable income of the taxpayer from specific sources and activities under other sections of the Code, referred to in this section as operative sections. See paragraph (f)(1) of this section for a list and description of operative sections."



The items of income listed on the worksheets enclosed with the alleged "Notice of Deficiency" are not derived from the taxable "sources" listed in 26 CFR § 1.861-8(f)(1), and are therefore not "taxable income" as defined in the Internal Revenue Code.

Since the tax returns filed by Mr. Sherwood were not made pursuant to " subtitle A or or chapter 41, 42, 43, or 44 . . ." of the Internal Revenue Code for the years in question, would you please tell me what statutory procedure(s) you are proceeding under the authority of? Please respond pursuant to IR Manual 1218, "Policies of the Internal Revenue Service":

***P-1-156:**

"Keeping the taxpaying public informed by communicating provisions of the law in understandable terms..";

***P-1-179:**

"Since taxpayers must compute their taxes under a body of laws and regulations, some of the provisions of which are complex the Service has the responsibility of providing taxpayers with all possible information to assist them in the performance of their obligations." and;

***P-1-180:**

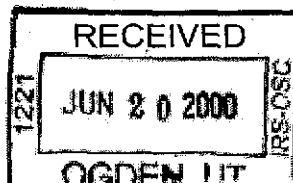
"The Service recognizes the people's right to know about their tax laws and the manner in which they are being administrated."

As stated above, the purpose of this letter is to put you on notice of the wrongful assessment procedures and the fact that the notice itself is deficient, by:

- (a) not stating therein all of Mr. Sherwood's appeal rights, i.e. § 6404(a)(3);
- (b) the notice was not signed pursuant to § 6065;
- (c) the proposed deficiency does not meet the definition of "deficiency," nor come within the statutory authority of §§ 6211 and 6212; and
- (d) the items of income listed within the notice were not derived from the taxable sources listed in 26 CFR § 1.861-8(f)(1), and are therefore not "taxable income".

Ms. Decker, it is quite obvious that this action taken by you, or on your behalf, is a fraudulent misuse of the Internal Revenue Code deficiency/assessment procedures. On behalf of Mr. Sherwood I am here and now giving you notice that we will tirelessly prosecute any effort to illegally seize any of Mr. Sherwood's property. I am also sending a copy of this letter to Charles O. Rossotti, Commissioner of Internal Revenue, so that he is properly notified of the wrongful use of the cited statutes and their deficiency/assessment procedures and can also be held accountable. If you or Mr. Rossotti continue to prosecute this Notice of Deficiency action, and insist that you have the authority to do so, then you should have no objection to executing the enclosed affidavits. If you decline to do so, then it will be presumed that you do not have any such authority and are proceeding wrongfully.

By reason of the above stated facts, I demand that you abate this "assessment" procedure pursuant to § 6404(a)(3), Title 26, U.S. Code.



I hereby declare that:

1. I am not currently under suspension or disbarment ~~from~~ practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in Title 26 Code of Federal Regulation Part 600, at 26 CFR § 601.502(a)(1) and (2), ~~§601.502(b)(5)(i)~~ and in Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

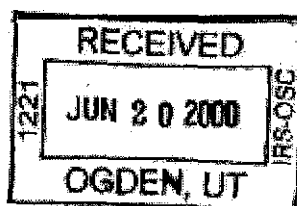
Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.


John B. Kotmair, Jr.

Enclosures: Original Power-of-Attorney; copy of "Notice of Deficiency" dated May 19, 2000; and affidavits for your and Mr. Rossotti's execution.

cc: Wesley Sherwood

Charles O. Rossotti, Commissioner
Internal Revenue Service
1111 Constitution Avenue, Rm. 3000
Washington, D.C. 20224



AFFIDAVIT

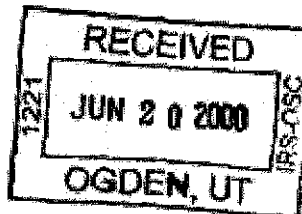
I, Deborah S. Decker, Director, of the Ogden Service Center, office of the Internal Revenue Service, do hereby declare under penalty of perjury that the tax liability of Wesley Sherwood was determined in accordance with Title 26, United States Code, Title 26, Code of Federal Regulations, the Administrative Procedures Act, the Federal Register Act, the Paperwork Reduction Act of 1980, and the policies, procedures, practices, rules, and regulations as incorporated in the various Internal Revenue Manuals.

Deborah S. Decker, Director

Subscribed and sworn to before me, a Notary Public, of the State of _____, County of _____, this ____ day of _____, 19____, that the above named person did appear before me and was identified to be the person executing this document.

Notary Public

My Commission Expires On: _____



AFFIDAVIT

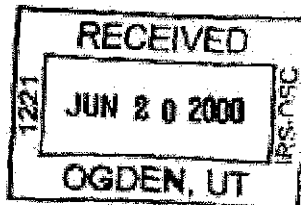
I, Charles O. Rossotti, Commissioner, of the Internal Revenue Service, do hereby declare under penalty of perjury that the tax liability of Wesley Sherwood was determined in accordance with Title 26, United States Code, Title 26, Code of Federal Regulations, the Administrative Procedures Act, the Federal Register Act, the Paperwork Reduction Act of 1980, and the policies, procedures, practices, rules, and regulations as incorporated in the various Internal Revenue Manuals.

Charles O. Rossotti, Commissioner

_____. Subscribed and sworn to before me, a Notary Public, of the State of _____, County of _____, this ____ day of _____, 19____, that the above named person did appear before me and was identified to be the person executing this document.

Notary Public

My Commission Expires On: _____



PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a)(1) and (2), 26 CFR § 601.502(b)(5)(ii) and Treasury Department Circular No 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, Wesley Sherwood, of 6331 W. Borax, Salt Lake City, UT 84118, Internal Revenue Reference Number [REDACTED] a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A, related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the following years: 1996 through and including 2000.

On this 30th day of May 2000, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.

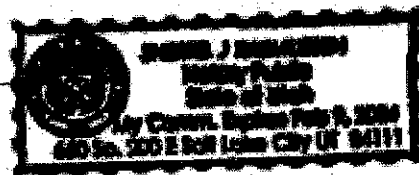
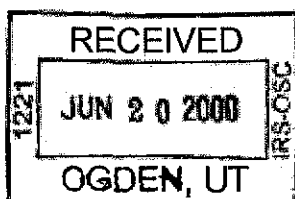
Wesley Sherwood
Wesley Sherwood

Subscribed and sworn to before me, a Notary Public, of the State of Utah, County of Salt Lake, on this 30th day of May, 2000.

Michael J. [Signature]
Notary Public

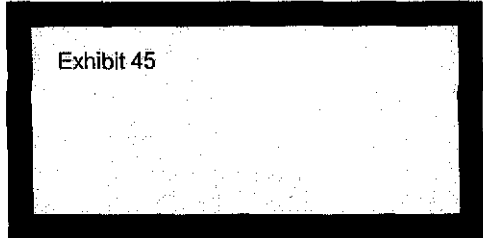
My Commission Expires On: Feb 9, 2004

Rev. 12/30/96



90 Cloud
019 5010

Concerning:
Wesley Sherwood
6331 W. Borax
Salt Lake City, UT 84118
IRS Reference Number: [REDACTED]



Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § ~~601.502(b)(5)(ii)~~ and Treasury Circular No. 230, at § ~~10.7(c)(1)(iv)~~:

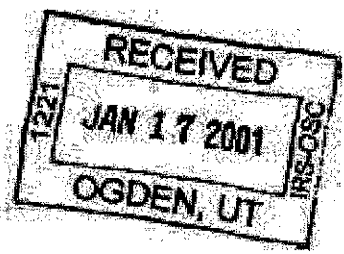
John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

January 10, 2001

Certified Mail No. 7000 0520 0021 1881 6175

Re: "NOTICE OF INTENT TO LEVY", dated December 18, 2000, concerning 1998.

Deborah S. Decker, Director
Internal Revenue Service Center
P.O. Box 9941, MS 1000 OSC
Ogden, UT 84409



Dear-Ms.-Desk% -

Mr. Sherwood has forwarded to me for response the enclosed "NOTICE OF INTENT TO LEVY" (Certified Mail No. P 904 375 300), dated December 18, 2000. In addition to the deficiencies of the Notice itself, it appears that it has also been sent to Mr. Sherwood in error. The requirement for this Notice is set out in Internal Revenue Code (IRC) § 6331(d)(1), which states:

"(d) Requirement of notice before levy.--

(1) In general.--Levy may *be made under subsection (a)* upon the *salary* or wages or other property of any person with respect to any unpaid tax *only after the Secretary has notified such person in writing of his intention to make such levy.*"
[Emphasis added]

It can be seen that this notice is a necessary step before levy can be made pursuant to subsection (a), which states:

"(a) Authority of Secretary.--If any person liable to pay any tax neglects or refuses to pay the same within 10 days *after notice and demand*, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in *this chapter for the payment of such tax.* Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment

of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section." [Emphasis added]

This subsection establishes ~~two~~ further requirements that must be met before a levy can lawfully proceed. The first requirement is that the person *must be liable* for the tax. This requirement has not been met in Mr. Sherwood's case. You are surely aware that there is no statute within Title 26 which makes Mr. Sherwood personally liable for (or subject to) the tax you are attempting to (unlawfully) collect. Therefore, he could not possibly be liable for the tax referenced on your Notice. This lack of statutory liability removes him from the class of persons who are subject to have their property levied upon.

If you contend that Mr. Sherwood has been made statutorily liable for the tax you are attempting to collect, then we demand that you cite such statute, and explain how such statute relates to him specifically. Unless and until you provide evidence of Mr. Sherwood's statutory liability, any further attempts to collect the amounts referenced in your Notice must be considered to be willful actions, known to have no lawful basis, and thus, outside the scope of your lawful authority. You should be aware that in the case of Bothke v. Fluor Engineers and Constructors, Inc., (713 F.2d 1405), the United States Court of Appeals for the Ninth Circuit held:

"Second, the taxpayer ~~must~~ be liable for the tax. Id. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability."

Another thing you may want to ~~consider is that this~~ Court also ruled that IRS employees, when acting outside their lawful authority, do not enjoy the immunity they are granted when acting within the scope of that authority. Therefore, actions taken outside of your limited lawful authority will expose you to liability in your personal capacity.

The second requirement to be met before a levy can be made is the sending of a Notice and Demand pursuant to IRC § 6303(a), which states:

§ 6303. Notice and demand for tax

(a) General rule.—Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and *within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof* Such notice shall ~~be~~ ~~sent~~ at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address." Emphasis added]

Mr. Sherwood has no record of ever receiving this required Notice and Demand for tax. If you contend that such Notice has been sent, then forward a copy of this Notice, so that he can verify that this requirement has been met. Please also take note that this subsection again clearly establishes that this notice must be sent to the "person liable for the unpaid tax", and as previously mentioned, you have yet to provide any evidence that Mr. Sherwood is statutorily liable for the tax at issue.

Furthermore, on June 14, 2000, I mailed to you a Petition for Abatement pursuant to IRC § 6404(a)(3) on behalf of Mr. Sherwood, received by your office, and as of this date that petition has not been addressed.

In addition to the defects in the process referenced above, the Notice itself is defective. The most glaring of these defects is that the Notice is not signed under penalty of perjury as required by Internal Revenue Code (IRC) § 6065. The words used by Congress in enacting this statute leave no doubt that that this requirement applies to ALL returns, declarations, statements, and documents. Otherwise, Congress would have qualified this requirement by making it apply to the documents "required to be made *by the taxpayer* under any provision of the internal revenue laws". Since they did not qualify it in this way, the statute must be construed to include those documents required to be made by the Internal Revenue Service.

Next, this Notice does not comply with the requirements of IRC § 6331(d)(4), which states:

"(d) Requirement of ~~notice before~~ levy.

... (4) Information included ~~with~~ notice.

The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms-

(A) the provisions of this title relating to levy and sale of property,

(B) the procedures applicable to the levy and sale of property under this title,

(C) the administrative appeals available to the taxpayer with respect to such ~~levy and sale~~ and the ~~procedures~~ relating to such appeals,

(D) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

(E) the provisions of this title relating to redemption of property and release of liens on property, and

(F) the procedures applicable to the redemption of property and the release of a lien on property under this title."

I could not find this information anywhere in your Notice, thus rendering it invalid. Further, the Notice is also deficient in that it doesn't contain the information required to be included by IRC § 6330(a)(3), relating to due process hearings, thus prohibiting the initiation of any levy actions.

Finally, if you intend to levy against property belonging to Mr. Sherwood, then be ~~aware~~ of IRC § 6502(b), which states:

"(b) Date when levy is considered made.

The *date on which a levy on property or rights to property is made shall be the date on which the notice of seizure* provided in section 6335(a) is given." [Emphasis added]

IRC § 6335(a) states:

"(a) Notice of seizure.—As soon as practicable *after seizure of property, notice in writing shall be given* by the Secretary to the owner of the property (or, in the case of

personal property, the possessor thereof), or shall be left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business ~~within~~ such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized." [Emphasis added]

It is clear from these two sections that a levy is not considered made until AFTER the seizure of property, as only then can a notice of seizure be given. Further, in the case of United States v. O'Dell, (160 F.2d 304), the Sixth Circuit Court of Appeals made the following statements:

"Levy is not effected by mere notice. Hollister v. Goodale, 8 Conn. 332, 21 Am.Dec. 674; Meyer v. Missouri Glass Co., 65 Ark. 286, 45 S.W.1062, 67 Am.St.Rep. 927; Jones v. Howard, 99 Ga. 451, 27 S.E.765, 59 Am.St.Rep. 231." [Emphasis added]

"The method for accomplishing a levy on a bank account is the issuing of warrants of ~~distrain~~, the making of the bank a party, and the serving with notice of levy, copy of the warrants of ~~distrain~~, and notice of lien. Cf. Commonwealth Bank v. United States, 6 Cir., 115 F.2d 327; United States v. Bank of United States, D.C., 5 F.Supp. 942,944." [Emphasis added]

Therefore, any Notices of Levy which are not accompanied by copies of the warrants of distraint, and the notices of liens, are fraudulent on their face. Any attempt to use such fraudulent levies to seize Mr. Sherwood's property is a violation of his rights and will be prosecuted to the fullest extent of the law.

In conclusion, the collection actions which you are taking against Mr. Sherwood are unlawful for the reasons set out herein, and your continuation of such collection actions will henceforth be considered willful actions on your part. This letter will serve as evidence that you have been made aware of the unlawfulness of these actions, so that you can be held personally responsible for any damages your actions cause to Mr. Sherwood. You should also be aware that IRC § 7214, shown in part below, prescribes criminal penalties for knowingly demanding greater sums than are authorized by law.

§ 7214. Offenses by officers and employees of the United States

"(a) Unlawful acts of revenue officers or agents.--Any officer or employee of the United States acting in connection with any revenue law of the United States--

... (2) who *knowingly demands other or greater sums than are authorized by law*, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or ...

shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution." [Emphasis added]

Ms. Decker, I believe the facts involving this matter are reason enough to put you on notice that this is a wrongful assessment procedure, and I am moving you to abate the same. If, at the time of your receipt of this letter, property belonging to Mr. Sherwood has been taken from third parties, or wrongfully from him, we demand it be returned immediately. If you do not stop this wrongful assessment procedure, or return property that may have been taken, you can be assured Mr. Sherwood will seek redress in the Federal District Court.

I hereby declare that:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in Title 26 Code of Federal Regulation Part 600, at 26 CFR § 601.502(a)(1) and (2), §601.502(b)(5)(ii) and in Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.



John B. Kotmair, Jr.

Enclosures: Original Power-of-Attorney; copy of the "NOTICE OF INTENT TO LEVY", dated December 18, 2000.

cc: Wesley Sherwood

PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR § 301.6103(e)-1, 26 CFR § 601.502(e)(1) and (2), 26 CFR § 601.502(b)(3)(ii) and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, Wesley Sherwood, of 6331 W. Borax, Salt Lake City, UT 84118, Internal Revenue Reference Number [REDACTED] a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A, related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the following years: 1996 through and including 2000.

On this 17 day of 12, 2000, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.

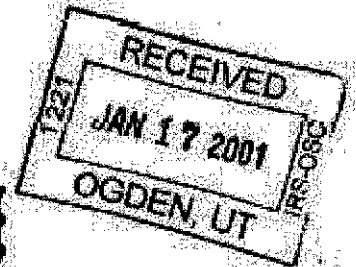
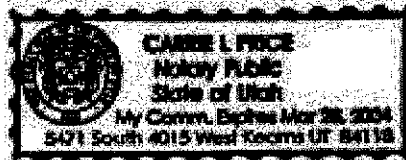

Wesley Sherwood

Subscribed and sworn to before me, a Notary Public, of the State of Utah, County of Salt Lake, on this 18th day of December, 2000.


Notary Public

My Commission Expires On: 3-28-04

Rev. 12/30/96



PRIVACY ACT REQUEST FOR NOTIFICATION AND ACCESS

RECEIVED

JUN 12 2000

FRP

Concerning:

Wesley Shenwood
6331 W. Borax
Salt Lake City, UT 84118
IRS Reference Number: [REDACTED]



Person making request via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(c)(1)(iv):

John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

June 23, 2000

Certified Mail No. 7099 3220 0006 5186 9670

Rodney J Strickland, Disclosure Officer
Internal Revenue Service Center
P.O. Box 9941, MS 7000 OSC
Ogden, UT 84409

RECEIVED IN CORRES
IRS - OSC / 819
JUN 28 2000
OGDEN, UTAH

Dear Mr. Strickland:

This is a request under the Privacy Act, 5 USC 552a.

This is my ~~firm~~ promise to pay costs up to \$17.00 for duplicating the documents requested below, as required by 5 USC 552a(0)(5). If costs are expected to exceed the stated amount, please send me an estimate of costs. Please reply within 10 days of your receipt of this request and provide me with instructions on perfecting any errors, pursuant to IRM, Handbook No. 1272, (18)22(5). Otherwise, please process it in a timely manner pursuant to IRM, Handbook No. 1272, (18)22(4), not later than 30 days of your receipt, pursuant to IR Manual 1272, (18)22(15).

If you find this request imperfect in any way please provide me with a copy of all the rules necessary for me to perfect this request. In addition please advise me of any and all procedures required to exhaust all administrative remedies before requesting judicial review.

Please be advised that I am requesting records pursuant to 5 USC 552a(d)(1). I am not requesting any amendment of records.

Please send me a copy of a "complete" transcript from the system of records known as Individual Master File (IMF); Data Services--Treasury/IRS 24.030, which pertains to Mr. Shenwood.

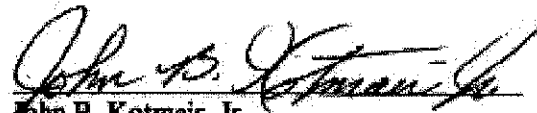
I hereby declare that:

DKT NO. 21913 01 "2"
I-J EX T


1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
3. I am authorized to represent the individual identified in the power of attorney;
4. I am an individual described in Title 26 Code of Federal Regulation Part 600, at 26 CFR § 601.502(a)(1) and (2), §601.502(b)(5)(ii) and in Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

The foregoing is true to the best of my knowledge and belief.

Sincerely,


John B. Kotmair, Jr.

Subscribed and sworn to before me, a Notary Public, of the State of Maryland, County of Carroll, this 23rd day of June, 2000, that the above named person did appear before me and was identified to be the person executing this document.


Dorothy M. Stein, Notary Public, Commission Expires On October 1, 2001.


Enclosure: Original Power-of-Attorney

cc: Wesley Sherwood

**PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY**

RECEIVED IN CORRES
IRS - OGC, 810
JUN 28 2000
OGDEN, UTAH

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a)(1) and (2), 26 CFR § 601.502(b)(5)(ii) and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, Wesley Sherwood of 6331 W. Borax, Salt Lake City, UT. 84118, Internal Revenue Reference Number [REDACTED] a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the Following years: 1996 through and including 2000.

On this 13th day of June, 2000, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.

Wesley Sherwood
Wesley Sherwood

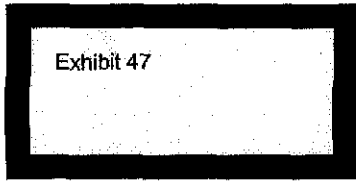
Subscribed and sworn to before me, a Notary Public, of the State of Utah, County of lake, on this 13 day of June, 2000.

Jeanette M. Binns
Notary Public

My commission Expires On: Jan 11, 2003



Concerning:
Wesley Sherwood
6331 W. Borax
Salt Lake City, UT 84118
IRS Reference Number: [REDACTED]



Person making response via attached Power-of-Attorney pursuant to 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a), 26 CFR § 601.502(b)(5)(ii) and Treasury Circular No. 230, at § 10.7(c)(1)(iv):

John B. Kotmair, Jr., Representative Number 2605-47815R
Post Office Box 91, Westminster, MD 21158

April 19, 2000

Certified Mail No. 7099 3220 0006 5185 5512

Re: CE22-L525 and Form 433, dated March 24, 2000 and June 1, 1999.

Deborah S. Decker, Director
Internal Revenue Service Center
P.O. Box 9941, MS 1000 OSC
Ogden, UT 84409

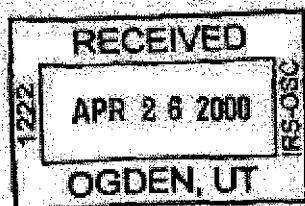


Dear Ms. Decker:

This letter is a written protest to the CE22-L525 and Form 433, dated March 24, 2000 and June 1, 2000. It is submitted pursuant to instructions in Internal Revenue Service Publication 5, "*Appeal Rights and Preparation of Protests and Unagreed Cases*." I want to appeal the examination to the appeals office and I hereby request a conference on behalf of Mr. Sherwood for all the years you have proposed an adjustment: 1997 and 1998. Since this appeal confines its subject matter to challenging the proposed assessment within the scope of the Internal Revenue Laws, as described in Publication 5, an appeals conference is an authorized and available appeal right to Mr. Sherwood. Pursuant to IRM 8615, this letter is to serve as the statement of facts and statement of law relied on by the appellant, and the attachment is to serve as the schedule of disputed issues.

Mr. Sherwood denies any requirement to file a tax return under Subtitle A, Chapters 1 and/or 3, i.e. he does not have any "Foreign Earned Income" and is not a nonresident alien, officer of a foreign corporation, or involved in any way with a foreign tax exempt organization. As you must be aware, the imposition of Subtitle C is not authorized in §§ 6012, 6211, and 6212.

Because you are basing this action on the provisions of Subtitle C, it is outside the authority of 26 U.S.C. § 6211, and subsequently § 6212; and in violation of §§ 6061 and 6065. Therefore, we insist that this notice be abated pursuant to 26 U.S.C. §§ 6213(b)(2) and 6404(a)(3).



If you are planning to continue pressing this claim of assessment, please cite the statutory authority that you claim to be acting in pursuance thereof.

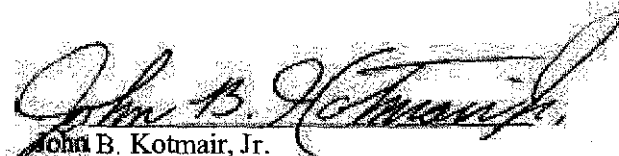
Ms. Decker, for the above reasons you can consider this letter as a challenge to your authority. I believe the circumstantial facts invoking this matter are reason enough to put you on notice that this is a wrongful assessment procedure. If you do not respond within 30 days of your receipt of this protest granting a conference, I demand that you forward Mr. Sherwood's appeal rights.

I declare that I have examined the statement of facts presented in this protest and in any accompanying schedules and, to the best of my knowledge and belief, it is true, correct, and complete.

I hereby declare that:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am aware of the regulations contained in Title 31 CFR part 10 concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
3. I am authorized to represent the individual identified in the power of attorney;
- ~~4. I am~~ an individual described in Title 26 Code of Federal Regulation Part 600, at 26 CFR § 601.502(a)(1) and (2), ~~§601.502(b)(5)(ii)~~ and in Circular 230 at §10.7(c)(1)(iv); and
5. the original attached Power-of-Attorney is valid under the laws of the State of Maryland.

Under penalty of perjury, I declare that the foregoing is true to the best of my knowledge and belief.


John B. Kotmair, Jr.

Enclosures: Original Power-of-Attorney; copy of CE22-L525 and Form 433 dated March 24, 2000 and June 1, 2000; Schedule of Disputed Issues.

cc: Wesley Sherwood

Schedule of Disputed Issues

- (1) The notice received by Mr. Sherwood was not authenticated pursuant to 26 USC §§ 6061 and 6065.

- (2) According to the notice, certain amounts supporting the assessment were includable under Gross Income under Subtitle A, Title 26, United States Code. The form submitted to the Office of Management and Budget by the National Office of the Internal Revenue Service, for payment of Income Taxes by individuals under Subtitle A, applies (and is limited) to "foreign-earned income." Mr. Sherwood has not engaged in any activity outside of a State of the union for the period of the notice. Due to the fact that Mr. Sherwood does not have an income tax liability under Subtitle A, there can be no "deficiency" assessment under 26 USC 6212. Title 26, United States Code, Section 6212 restricts the sending of a deficiency notice to cases of tax returns filed under "subtitle A or B or chapter 41, 42, 43 or 44 [subtitle D]" of the Code.

- (3) According to the notice, certain amounts alleged to support the assessment were wages, which are limited to the provisions of Subtitle C of the Internal Revenue Code. As such, they are outside of the "deficiency" assessment authority in 26 USC §§ 6211 and 6212.

PRIVACY ACT RELEASE FORM
AND POWER OF ATTORNEY

Because of the Privacy Act of 1974, written authorization is required by the individual before any information can be given to another individual or organization.

Pursuant to the authority in 26 CFR § 301.6103(c)-1, 26 CFR § 601.502(a)(1) and (2), 26 CFR § ~~601.502(b)(3)(ii)~~ and Treasury Department Circular No. 230, at § 10.7(c)(1)(iv), this form will give John B. Kotmair, Jr., (Representative Number: 2605-47815R), of Post Office Box 91, Westminster, Maryland 21158, permission to investigate this matter for me.

I, Wesley Sherwood, of 6331 W. Borax, Salt Lake City, UT 84118, Internal Revenue Reference Number [REDACTED] a member of the Save-A-Patriot Fellowship, do hereby give to John B. Kotmair, Jr., the Fiduciary of Save-A-Patriot Fellowship, permission to represent, inquire of and procure from the Internal Revenue Service any and all of the records, pertaining to income taxes, to include income tax returns (1040, 1040A, related forms and assessment records) maintained within any of the Internal Revenue Service Offices, regarding the following years: 1990 through and including 2000.

On this 4th day of April, 2000, I hereby certify that I am the individual making this Power of Attorney, to John B. Kotmair, Jr., and that I have a "material interest" in the information within the documents sought.

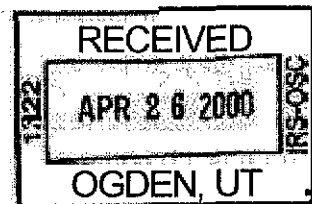
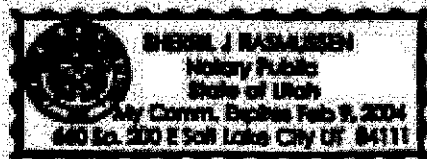
Wesley Sherwood
Wesley Sherwood

Subscribed and sworn to before me, a Notary Public, of the State of Utah, County of Salt Lake, on this 4th day of April, 2000.

[Signature]
Notary Public

My Commission Expires On: Feb 9, 2004

Rev. 12/30/96



For the year Jan. 1–Dec. 31, 1998, or other tax year beginning 1998, ending 19

Label

(See instructions on page 18.) Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See page 18.)

Your first name and initial Wesley A Last name Sherwood Your social security number [redacted] If a joint return, spouse's first name and initial Last name Spouse's social security number [redacted]

IMPORTANT! You must enter your SSN(s) above.

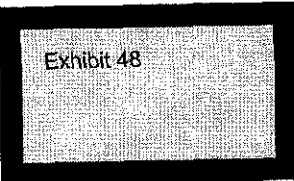
Table with Yes/No columns and a note: Note: Checking "Yes" will not change your tax or reduce your refund.

If a joint return, does your spouse want \$3 to go to this fund? [redacted]

Filing Status

Check only one box.

- 1 [X] Single
2 Married filing joint return (even if only one had income)
3 Married filing separate return. Enter spouse's social security no. above and full name here.
4 Head of household (with qualifying person). (See page 18.) If the qualifying person is a child but not your dependent, enter this child's name here.
Qualifying widow(er) with dependent child (year spouse died 19), (See page 18.)



If more than six dependents, see page 19.

6a Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.
6b Spouse
6c Dependents: (1) First name Last name (2) Dependent's social security number (3) Dependent's relationship to you (4) If qualifying child for child tax credit (see page 19)
6d Total number of exemptions claimed 1

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 20.

Enclose, but do not staple, any payment. Also please use Form 1040-EZ.

Table with 22 rows for income items: 7 Wages, salaries, tips, etc. Attach Form(s) W-2. 8a Taxable interest. Attach Schedule B if required. 9 Ordinary dividends. Attach Schedule B if required. 10 Taxable refunds, credits, or offsets of state and local income taxes (see page 21). 11 Alimony received. 12 Business income or (loss). Attach Schedule C or C-EZ. 13 Capital gain or (loss). Attach Schedule D. 14 Other gains or (losses). Attach Form 4797. 15a Total IRA distributions. 15b Taxable amount (see page 22). 16a Total pensions and annuities. 16b Taxable amount (see page 22). 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E. 18 Farm income or (loss). Attach Schedule F. 19 Unemployment compensation. 20a Social security benefits. 20b Taxable amount (see page 24). 21 Other income. List type and amount—see page 24. 22 Add the amounts in the far right column for lines 7 through 21. This is your total income.

RECEIVED MAY 07 1999 UNIT

Adjusted Gross Income

If line 33 is under \$30,095 (under \$10,030 if a child did not live with you), see EIC inst. on page 36.

Table with 10 rows for adjustments: 23 IRA deduction (see page 25). 24 Student loan interest deduction (see page 27). 25 Medical savings account deduction. Attach Form 8853. 26 Moving expenses. Attach Form 3903. 27 One-half of self-employment tax. Attach Schedule SE. 28 Self-employed health insurance deduction (see page 28). 29 Keogh and self-employed SEP and SIMPLE plans. 30 Penalty on early withdrawal of savings. 31a Alimony paid b Recipient's SSN. 32 Add lines 23 through 31a. 33 Subtract line 32 from line 22. This is your adjusted gross income.

1 of 5


* See nu 1 +

Form W-2 Wage and Tax Statement

1998

OMB No. 1545-0008

For Privacy Act and Paperwork Reduction Act Notices, see separate instructions.
Department of the Treasury-Internal Revenue Service

a Control number 1		Copy D For Employer OR Copy 1 For State, City, or Local Tax Department		1 Wages, tips, other compensation 50361.82	2 Federal income tax withheld
c Employer's name, address, and ZIP code 		b Employer identification number		3 Social security wages 50361.82	4 Social security tax withheld 3122.43
				5 Medicare wages and tips 50361.82	6 Medicare tax withheld 730.25
				8 Allocated tips	9 Advance EIC payment
				13 See instrs. for Form W-2 C .25	14 Other BX141 284.24
				Person <input type="checkbox"/> Legal rep. <input type="checkbox"/> Deceased compensation	
				20 Local wages, tips, etc.	21 Local income tax

I, Wesley Sherwood, am submitting this as part of my 1998 income tax return, even though I know that no section of the Internal Revenue Code:

- (1) Establishes an income tax "liability" as, for example, Code Sections 4401, 5005, and 5703 do with respect to wagering, alcohol, and tobacco taxes;
- (2) Provides that income taxes "have to be paid on the basis of a return" - as, for example, Code Sections 4374, 4401^o, 5061(a) and 5703(b) do with respect to other taxes; I am filing anyway because I know the government has prosecuted others for failing to file income tax returns by (erroneously) invoking Code Sections 7201 and 7203. Therefore, this return is not being filed voluntarily but is being filed out of fear that if I did not file this return I could also be (illegally) prosecuted for failing to file an income tax return for the year 1998.
- (3) In addition to the above, I am filing even though the "Privacy Act Notice" as contained in a 1040 booklet clearly informs me that I am not required to file. It does so in at least two places.
 - (a) In one place, it states that I need only file a return for "any tax" I may be "liable" for. Since no Code Section makes me "liable" for income taxes, this provision notifies me that I do not have to file an income tax return.
 - (b) In another place, it directs me to Code Section 6001. This section provides, in relevant part, that "Whenever in the judgment of the Secretary it is necessary, he may require any person by notice served on such person; or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for the tax under this title." Since the Secretary of the Treasury did not "serve" me with any such "notice" and since no legislative regulation exists requiring anyone to file an income tax return, I am again informed by the "privacy Act Notice" that I am not required to file an income tax return.
- (4) With respect to the information I included in my return, I wish to point out that the courts have ruled that: "A (1040) form with "zeros" inserted in the space provided...qualified as a return." See U.S. vs. Long, 618 F 2d 74 (9th Cir. 1980), U.S. vs. Kimball, 896 F. 2d 1218 (9th Cir. 1990) U.S. vs. Moore, 627 F. 2d 830 (7th Cir. 1980), and a Las Vegas bankruptcy court held that "Zeroes entered on a Form 1040 constitutes a return." Cross vs. U.S., 91-2 USTC p. 50,318, Banker. L. Rep p. 7404..
- (5) It should also e noted that I had "zero" income according to the Supreme Court's definition of income (See Note#1), since tin Merchant's Loan & Trust Co. vs. Smietanka, 255 U.S. 509, (at pages 518 & 519) that court held that "The word (income) must be given the same meaning in all of the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act of 1909." Therefore since I can only swear to having "zero" income in 1998. Obviously, since I know the legal definition of "income", if I were

to swear to having received any other amount of "income," I would be committing perjury under both 18 U.S.C. 1621 and U.S.C. 7206. Therefore, not wishing to commit perjury under either statute, I can only swear to having "zero" income for the year 1998.

- (6) I am also putting the IRS on notice that my 1998 tax return does not constitute a "frivolous" return pursuant to Code Section 6702. My return is based on 13 Supreme Court decisions, 9 Internal Revenue Code Sections, 3 Privacy Act Notice provisions, and numerous other references. As such, it can not be termed "frivolous" on any basis as the term is defined and understood. Additionally, my return is not designed to "delay or impede the administration of Federal income tax laws," since it is designed to be my **final statement** under those "laws." Furthermore, no IRS employee has any delegated authority to impose a "frivolous" penalty, nor is there any *legislative* regulation implementing Section 6702, therefore that Statute is benign.
- (7) Moreover, no assessment for 1998 income taxes (as provided for in Chapter 63) has ever been made against me.
- (8) In addition, don't notify me that the IRS is "changing" my return, since there is no statute that allows the IRS to do that. You might prepare a return (pursuant to Code Section 6020(b), where no return is filed, but as in this case, a return has been filed, no statute authorizes IRS personal to "change" that return.
- (9) Should the Service disagree with the figures and any amount shown on my tax return, then I demand an office or field audit to discuss these differences as required by the Administrative Procedure Act (APA), 5 USC 551 (1) as provided and specified for in Treasury Regulation 601.105 and as specified and provided for in IRS documents, Publication 5, **Appeal Rights and Preparation of Protests for Unagreed Cases** and Publication 1, **Your Rights As A Taxpayer** before any "changes" in my return are made and/or any penalties are proposed or imposed. In addition, if any "determination" is made that in my return are warranted, I demand to be notified as to where and when I may "inspect" the "text of any written determination and any background file documents relating to such a determination" as provided by 26 USC 6110.
- (10) In addition, I will hold IRS employees who disregard the statutes, court decisions, Privacy Act Notice provisions and other references contained in this document, accountable, pursuant to 26 USC 7214 and 18 USC 241. Section 7214 makes it a crime for IRS agents to seek to extract "other or greater sums than authorized by law" and to engage in "extortion and willful oppression under color of law." To the extent that any IRS employees capriciously, wantonly, and arbitrarily disregard the court decisions, statutes, and other references contained in the document, they will be in criminal violation of these statutes, and are accordingly being put on such notice.

***Note #1: The word "income is not defined in the Internal Revenue Code. U.S vs. =Ballard, 535 F.2d 400, 404. But, as stated above, it can only be a derivative of corporate activity. The Supreme Court has held this numerous times. "Whatever difficulty there may be about a precise and scientific definition of "income" it imports, as used here....the idea of gain or increase arising from corporate activities," Doyle vs. Mitchell, 247 U.S. 179. "certainly the term "income" has no other meaning in the 1913 Act than in that of 1909 (See; Stratton's Independence vs. Howbert, 231 U.S. 406, Pages 409-413), and... we assume that there is no difference in its meaning as used in the two acts." Southeern Pacific Co. vs. John Z. Lowe Jr., 247 U.S. 330,335; Bowers vs. Kerbaugh-Empire Company, 271 U.S. 170 (1926) page 174; Goodrich vs. Edwards, 255 U.S. 527; United States vs. Supplee-Biddle Hardware Co., 265 U.S. 189; United States vs. Phellis. 257 U.S. 156; Miles vs. Safe Deposit & T. Co., 259 U.S. 247; Irwin vs. Gavit, 268 U.S. 161; Edwards vs. Cuba R. Co., 268 U.S. 628; Burnett vs. Harmel, 287 U.S. 103, 108, (1932); Lucas vs. Earl, 281 U.S. 111.**

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil No. WMN 05 CV 1297
)
 JOHN BAPTIST KOTMAIR, JR., et al.,)
)
 Defendants.)

DECLARATION OF CAMILLE NAGY

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

1. I am resident of the state of California and was a member of the Save-a-Patriot Fellowship (SAPF) from 2001 through 2004.
2. Unless noted to the contrary, I have first hand knowledge of the facts stated in this declaration.
3. I purchased my membership from a Save-a-Patriot Fellowship Independent Representative who advertise SAPF on the taxfreedom101.com website. Attached as Exhibit 1 is a true and correct copy of the letter I received Tax Freedom 101.
4. I participated in the Patriot Defense Fellowship while I was a member of the Save-a-Patriot Fellowship.
5. Part of my participation in the Patriot Defense Fellowship included signing an agreement stating that I would reimburse other Save-a-Patriot Fellowship members who had income tax liabilities or were incarcerated for tax crimes.
6. I was regularly sent notices from Save-a-Patriot Fellowship stating that an individual

member had suffered a loss, and I sent payments to that member as required by the membership agreement.

7. Attached as Exhibit 2 is a true and correct copy of a notice sent from Save-a-Patriot Fellowship requesting that money be sent to the unidentified member described in the notice. I made the notation on the notice indicating that I sent \$20 to this Save-a-Patriot member.

8. Attached as Exhibit 3 is a copy of a notice sent from Save-a-Patriot Fellowship requesting that money be sent to the unidentified member described in the notice. I made the notation on the notice indicating that I sent \$10 to this Save-a-Patriot member.

9. Attached as Exhibit 4 is a copy of a notice sent from Save-a-Patriot Fellowship requesting that money be sent to the unidentified member described in the notice. I made the notation on the notice indicating that I sent \$10 to this Save-a-Patriot member.

10. I made these payments to individual Save-a-Patriot members because this was required in order to be a member in good standing. When I sent payments to members, I also sent verification to SAPF stating that I made payment.

11. As a participant in the Patriot Defense Fellowship, I named my husband Joseph Nagy as my beneficiary.

12. My husband, Joseph Nagy was also a participant in the Patriot Defense Fellowship. As part of his agreement, he named me as his beneficiary. According the agreement for the Patriot Defense Fellowship, if I was incarcerated for a tax crime my husband was expected to receive payments from other Save-a-Patriot members.

13. The information stated in this declaration, and the previous declaration I signed, is

made to the best of my knowledge.

I declare under penalty of perjury the foregoing is true and correct. Executed this 19 day
of July, 2006.

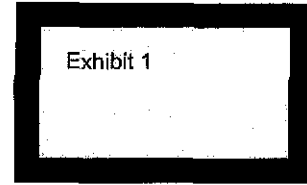

CAMILLE NAGY

Donnie
Application
Attached

Protection -- Education -- Fellowship

TAX FREEDOM 101

12 Carroll Street - Suite 149
Westminster Maryland 22157
Phone and Fax: 801-715-0950
<http://www.taxfreedom101.com>



Dear Citizen and Patriot:

Welcome! Your decision to join the growing number of citizens all across our great land has just moved us one step closer to reigning in an out-of-control government and restoring the rule of law! We thank you for your decision to join forces with us to protect and defend the rights of ALL Americans. Please find attached the two-page main program agreement to join the Save-A-Patriot Fellowship.

If you have additional members of your family joining, such as a spouse or child over the age of 18, who reside in the same household, and you wish to add them as co-members under your master membership simply make additional photocopies of the two page Save-A-Patriot Fellowship Program Agreement. You may then use those additional copies to execute the applications for the co-memberships. Please return both pages of the agreement for all memberships.

Also, you may decide to become an active member representative enrolling others into the Save-A-Patriot Fellowship earning substantial cash commissions as explained on the Tax Freedom 101 web site. If so you will want to purchase the video series: *Just The Facts*. You may include the purchase of the video series on page two of the SAPF program agreement, or you could purchase the complete educational TAX FREEDOM 101 Home Study Course and the additional home-business opportunity at www.taxfreedom101.com. *Just The Facts* is simply a must for furthering you and your family's education. It is also a brilliant defensive weapon!

If you have any questions about enrolling in or filing out the application(s) for membership in the Save-A-Patriot Fellowship feel free to call us at 801-715-0950 and we will be ready to assist you.

Once again, thank you for your decision to join the fellowship.

Liberty and justice for all -- who are willing to fight for it.
Bryan Rusch
Tax Freedom 101 Manager
Exam Certified Independent Representative for the Save-A-Patriot Fellowship

PLEASE RETURN THIS STATEMENT TO S.A.P.
EVEN WHEN NO BALANCE IS DUE
(see the reverse side for balance due)

Instructions For Processing Assistance Requests

Please don't confuse your *monthly statement* (reverse side) with the *requests for assistance*. The statement should be returned directly to S.A.P., along with any amounts due, in the appropriate envelope. The other envelopes (if there are any others enclosed) are addressed to the members who have qualified for and requested assistance.

The envelopes to members are pre-addressed to make it easy for you to forward the correct amounts to the correct location. Immediately to the right of the member's name you will find a number enclosed in parenthesis. This number represents the amount of your apportioned share of the member's loss. Please enclose the proper number of FRNs in the envelope, put a stamp on it and mail it within 10 days. Suggestion: it is much easier and cheaper (considering the cost of postal money orders) to enclose plain old FRNs. The amounts are usually small enough that this poses no problem. If you would feel more comfortable sending a U.S. Postal Money Order and retaining the receipt, you are certainly welcome to do so. It really is a matter of choice. Most of our veteran members send cash rather than making a special trip to the post office.

Above the return address in the upper left corner of the envelope there is a dotted line. You must write your S.A.P. membership number on this line to receive credit for rendering assistance to this member. The member who receives your assistance collects the envelopes and forwards them to S.A.P. We in turn keep track of all responses and keep a record of them in case any doubt arises whether a member has responded properly to the assessment requests. Please keep in mind what these members have been through and how much they are counting on you!

In the space provided below, please record the date(s) on which you mailed your envelopes to the member(s) requesting assistance before returning your statement to S.A.P.

If you have any questions about these instructions please call the Fellowship at (410) 857-4441.

On or about 10-2-2001 I/we enclosed the amounts listed and mailed the envelopes to the members who have requested assistance.

My membership number [REDACTED] Please make a record of this payment and notify me if it is not received by the member who has requested assistance.

(SENT 20 FRN'S)

PLEASE RETURN THIS STATEMENT TO S.A.P.
EVEN WHEN NO BALANCE IS DUE

MARLE (SEPTEMBER 17, 2001)
P.O. Box 620
SELMA, OR 97538

Exhibit 2

Save-A-Patriot Monthly Statement

2/08/02

Mail to:

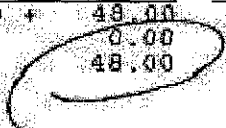


Monthly Statement for



Membership Renewal: 7/31/02

Reference	Documentation	Amount	Other	Date	Less
00039111	0	0.00	48.00	10/19/01	0.00
	Subtotals:	+ 0.00	+ 48.00		- 0.00
	Renewal :		0.00	7/31/02	
	Total Due:		48.00		



2-2502

Please Note: Additional envelopes may be enclosed for the purpose of rendering assistance to members who have lost property to the IRS. For instructions on how to fulfill your obligations under the assistance assessment part of your membership agreement, please see the reverse side of this statement. If the balance due (above) is 0.00 FRNs then you have been sent this statement for the sole purpose of helping specific members. If not, then the amounts shown represent your share of the Fellowships expenses up to approximately 1/29/02. Please remit payment within 30 days. If you have already forwarded payment for any given item then you should make an appropriate notation on this statement before returning it with the amount due. This will help to ensure that proper credit was applied.

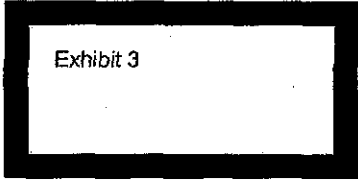


Exhibit 3

Save-A-Patriot Monthly Statement

10/01/03

Mail to:



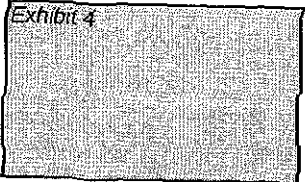
Monthly Statement for [Redacted]

Balance due as of :10/01/03
Membership Renewal: 7/31/04

Reference	Documentation	Amount	Other	Date	Less
00037555	0	0.00	64.00	9/23/03	0.00
	Subtotals:	+ 0.00 +	64.00	/ /	- 0.00
	Renewal :		0.00	7/31/04	
	Total Due:		64.00	/ /	

Please Note: Additional envelopes may be enclosed for the purpose of rendering assistance to members who have lost property to the IRS. For instructions on how to fulfill your obligations under the assistance assessment part of your membership agreement, please see the reverse side of this statement. If the balance due (above) is 0.00 FRNs then you have been sent this statement for the sole purpose of helping specific members. If not, then the amounts shown represent your share of the Fellowships expenses up to approximately 9/21/03. Please remit payment within 30 days. If you have already forwarded payment for any given item then you should make an appropriate notation on this statement before returning it with the amount due. This will help to ensure that proper credit was applied.

SSM
10-28-02
10.00



**PLEASE RETURN THIS STATEMENT TO S.A.P.
EVEN WHEN NO BALANCE IS DUE**
(see the reverse side for balance due)

Instructions For Processing Assistance Requests

Please don't confuse your *monthly statement* (reverse side) with the *requests for assistance*. The statement should be returned directly to S.A.P., along with any amounts due, in the appropriate envelope. The other envelopes (if there are any others enclosed) are addressed to the members who have qualified for and requested assistance.

The envelopes to members are pre-addressed to make it easy for you to forward the correct amounts to the correct location. Immediately to the right of the member's name you will find a number enclosed in parenthesis. This number represents the amount of your apportioned share of the member's loss. Please enclose the proper number of FRNs in the envelope, put a stamp on it and mail it within 10 days. Suggestion: it is much easier and cheaper (considering the cost of postal money orders) to enclose plain old FRNs. The amounts are usually small enough that this poses no problem. If you would feel more comfortable sending a U.S. Postal Money Order and retaining the receipt, you are certainly welcome to do so. It really is a matter of choice. Most of our veteran members send cash rather than making a special trip to the post office.

Above the return address in the upper left corner of the envelope there is a dotted line. You must write your S.A.P. membership number on this line to receive credit for rendering assistance to this member. The member who receives your assistance collects the envelopes and forwards them to S.A.P. We in turn keep track of all responses and keep a record of them in case any doubt arises whether a member has responded properly to the assessment requests. Please keep in mind what these members have been through and how much they are counting on you!

In the space provided below, please record the date(s) on which you mailed your envelopes to the member(s) requesting assistance before returning your statement to S.A.P.

If you have any questions about these instructions please call the Fellowship at (410) 857-4441.

On or about Oct-8, 2001 I/we enclosed the amounts listed and mailed the envelopes to the members who have requested assistance.



Please make a record of this who has requested assistance.

**PLEASE RETURN THIS STATEMENT TO S.A.P.
EVEN WHEN NO BALANCE IS DUE**

100e
10-8-01

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Civil No. WMN 05 CV 1297
)
JOHN BAPTIST KOTMAIR, JR., et al.,)
)
Defendants.)

DECLARATION OF JOSEPH NAGY

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

1. I am resident of the state of California and was a member of the Save-A-Patriot Fellowship (SAPF) from 2001 through 2004.
2. I signed an agreement to participate in the Patriot Defense Fellowship while I was a member of Save-a-Patriot.
3. As a participant of the Patriot Defense Fellowship, I regularly sent payments to other Save-a-Patriot Fellowship members who I was informed suffered losses as defined in the agreement.
4. I made these payments to individual Save-a-Patriot members because this was required in order to be a member in good standing. When I sent payments to members, I also sent verification to SAPF stating that I made payment.
5. As a participant in the Patriot Defense Fellowship, I named my wife, Camille Nagy, as my beneficiary.
6. My wife, Camille Nagy was also a participant in the Patriot Defense Fellowship. As

part of his agreement, she named me as her beneficiary. According the agreement for the Patriot Defense Fellowship, if I was incarcerated for a tax crime, my wife was expected to receive payments from other Save-a-Patriot members.

7. I also purchased several letters from SAPF contesting my requirement to pay state and federal taxes. Attached as Exhibit 1 is a true and correct copy of a bill from SAPF for \$64 and my money order payment. I purchased this protest letter for sending the California Franchise Tax Board which, to the best of my recollection, contested my requirement to pay taxes as a U.S. citizen.

8. Attached as Exhibit 2 is a true and correct copy of a bill from SAPF for response to a notice sent to me from the California Franchise Tax Board.

9. Attached as Exhibit 3 is a true and correct copy of a bill from SAPF for response to a notice sent to me from the California Franchise Tax Board.

10. Attached as Exhibit 4 is a true and correct copy of a bill from SAPF for response to a notice sent to me from the California Franchise Tax Board.

11. Attached as Exhibit 5 is a true and correct copy of a bill from SAPF for response to a notice sent to me from the California Franchise Tax Board, which included a request for information under FOIA. To the best of my recollection the FOIA request demanded information proving my requirement to pay taxes as a U.S. citizen.

12. Attached as Exhibit 6 is a true and correct copy of a notice from SAPF that I should purchase and send a notice responding to an inquiry regarding Mr. Kotmair's power-of-attorney submitted on my behalf.

13. Attached as Exhibit 7 is a true and correct copy of a notice from SAPF that I should purchase and send a FOIA request regarding a notice of deficiency sent to me from the IRS. To the best of my recollection, the FOIA request demanded that the IRS establish that I am required to pay taxes and file returns as a U.S. citizen.

14. Attached as Exhibit 8 is a true and correct copy of a bill for a letter respond to a request for my Social Security number on a Form W-9. To the best of my recollection, this letter stated that I am not required to provide my Social Security number on a Form W-9.

I declare under penalty of perjury the foregoing is true and correct. Executes this 9 day of July, 2006.


JOSEPH NAGY

Exhibit 1

Keep This Receipt For Your Records		Check For The Return For Refundable Tax	
Amount	Date	Amount	Date
058538173	2007-09-29	913/21	\$ 74.90

NOT NEGOTIABLE

Save-A-Patriot Fellowship

Paralegal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

September 23, 2003

Joseph Nagy
14544 Ryan St.
Sylmar, Ca. 91342-2817

St-CA_protest + 2CA_foia

\$64.00

Certified Mail costs

Total fee:

\$64.00

PLEASE RETURN INVOICE (OR COPY) WITH YOUR PAYMENT.

Please pay in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides).

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay in full or unable to make timely payment, please notify accounting promptly (Carie, (410)857-4441 ext. 103).

Please Note: This is not standard casework. This is paralegal work which is not supplemented by the fellowship in any way, by facilities or materials.

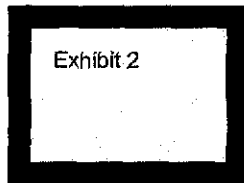
Invoice No.	37555	OCT 03 2003
#9183		

Save-A-Patriot Fellowship Paralegal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

August 6, 2003

Joseph R. Nagy
14544 Ryan St.
Sylmar, Ca. 91342-2817



ST-CA premature notice letter

PS 81893

\$44.00

Certified Mail costs

Total fee: \$44.00

PLEASE RETURN INVOICE (OR COPY) WITH YOUR PAYMENT.

Please pay in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides).

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay in full or unable to make timely payment, please notify accounting promptly (Carie, (410)857-4441 ext. 103).

Please Note: This is not standard casework. This is paralegal work which is not supplemented by the fellowship in any way, by facilities or materials.

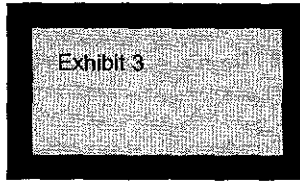
Invoice No.	
	37521
#9183	AUG 16 2003

Save-A-Patriot Fellowship Paralegal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

April 14, 2003

Joseph Nagy
14544 Ryan St.
Sylmar, Ca. 91342-2817



SENT 9 00
50
4-19-03

ST-Ca_protest_ethics

\$48.00

Certified Mail costs

Total fee: \$48.00

PLEASE RETURN INVOICE (OR COPY) WITH YOUR PAYMENT.

Please pay in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides).

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay in full or unable to make timely payment, please notify accounting promptly (Carie, (410)857-4441 ext. 103).

Please Note: This is not standard casework. This is paralegal work which is not supplemented by the fellowship in any way, by facilities or materials.

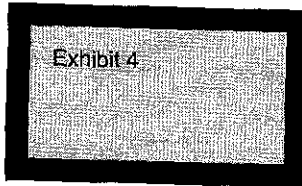
Invoice No. 37435 #9183	APR 24 2003
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Save-A-Patriot Fellowship Paralegal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

November 6, 2003

Joseph Nagy
14544 Ryan St.
Sylmar, Ca. 91342-2817



CA_protest_b

\$44.00

*sent
4/5/02
IF 2003*

Certified Mail costs

Total fee:

\$44.00

PLEASE RETURN INVOICE (OR COPY) WITH YOUR PAYMENT.

Please pay in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides).

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay in full or unable to make timely payment, please notify accounting promptly (Carie, (410)857-4441 ext. 103).

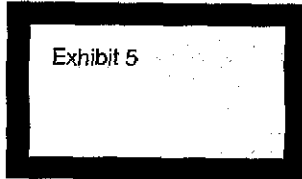
Please Note: This is not standard casework. This is paralegal work which is not supplemented by the fellowship in any way, by facilities or materials.

Invoice No.	37580	NOV 16 2003
#9183		

Save-A-Patriot Fellowship Paralegal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

June 1, 2004



Joseph Nagy
14544 Ryan St.
Sylmar, Ca. 91342-2817

SENT 2nd
6.4.05

F HALL 50th PREPAID

ST-CA.9 + 01CA_foi1

\$52.00

Certified mail costs:

Total fee:

\$52.00

PLEASE RETURN INVOICE (OR COPY) WITH YOUR PAYMENT.

Please pay in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides).

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay in full or unable to make timely payment, please notify accounting promptly (Carie, (410)857-4441 ext. 103).

Please Note: This is not standard casework. This is paralegal work which is not supplemented by the fellowship in any way, by facilities or materials.

Invoice No.

37726

JUN 10 2004

#9183

Save-A-Patriot Fellowship

Paralegal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

September 30, 2004

*This is for letter to Franchise Tax Board
Dated Oct. 5, 2004
Certified Mail # 7003-1010-002 5032 3423*

Camille Nagy
14544 Ryan St.
Sylmar, Ca. 91342-2817

ST-CA_protest_supp

\$52.00

Certified mail costs:

Total fee:

\$52.00

PLEASE RETURN INVOICE (OR COPY) WITH YOUR PAYMENT.

Please pay in cash or a **totally blank U.S. Postal money order** (leave blank both payor and payee sides). You should retain the receipt for your records.

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay in full or unable to make timely payment, please notify headquarters promptly (Bonnie, (410)857-4441 ext. 100).

Please Note: This is not standard casework. This is paralegal work which is not supplemented by the fellowship in any way, by facilities or materials.

Invoice No.	37828	OCT 10 2004
#9523		

Save-A-Patriot Fellowship

Paralegal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

August 9, 2004

Camille Nagy
14544 Ryan St.
Sylmar, Ca. 91342-2817

St-CA_protest + 01CA_foi2.doc \$52.00

Certified mail costs:

Total fee: \$52.00

SENT
CASH-
8-24-04

PLEASE RETURN INVOICE (OR COPY) WITH YOUR PAYMENT.

Please pay in cash or a **totally blank U.S. Postal money order** (leave blank both payor and payee sides). You should retain the receipt for your records.

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay in full or unable to make timely payment, please notify headquarters promptly (Bonnie, (410)857-4441 ext. 100).

Please Note: This is not standard casework. This is paralegal work which is not supplemented by the fellowship in any way, by facilities or materials.

Invoice No.	37790
#9183	AUG 19 2004



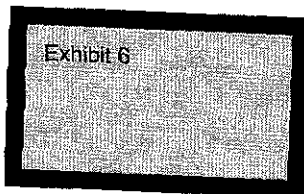
Save-A-Patriot Fellowship

Post Office Box 91

Westminster, Maryland 21158

Tel. (410)857-4441 FAX (410)857-5249

TO: Joseph R. Nagy
14544 Ryan Street
Sylmar, CA 91342



Date 12/15/03
Member # 9183

I received your recent request that case development work be done, and/or I recently reviewed your case file and found that the following items are needed to continue the development of your case:

[**Response to the letter from Diane Elm regarding the Power of Attorney**].

Please provide the checked items below at your earliest convenience.

➔ As you should hopefully be aware by now, the Fellowship had to revise its payment policy — all case development must now be PREPAID before the work can begin.

At this time, there are letters needed to keep your case current. Therefore, PLEASE SEND PAYMENT for that number (at 45 FRNs per letter).

Additionally, there are 1 letters which can be sent to the IRS requesting records pertaining to you. These Privacy Act Requests, at the present time, are generated for you to sign. Therefore, PLEASE SEND PAYMENT for that number (at 40 FRNs per letter.)

TOTAL: 40.00 . Please send Federal Reserve Notes (FRNs) or totally blank U.S. Postal money order (leave blank both payor and payee sides). Any excess funds will be credited towards future work only if you specifically request it. Otherwise, excess funds will be treated as a donation.

➔ At this time, I am in need of Power of Attorney forms in order to complete work.

Therefore, please forward at least 1 newly executed POA forms to me now (and new ones every time additional work is prepaid!)

Please keep in mind that an original POA form is necessary for each letter sent under Mr. Kotmair's Power of Attorney, and that the POA is only valid for 60 days (from the date you sign it to the date the IRS receives it).

➔ At this time, I need a complete copy of the IRS correspondence to include with a response.

Therefore, please forward a GOOD COPY of the IRS correspondence you received to include with the response (and each time an additional response is required!)

— Deborah

Make 109

Please return this letter with your payment, POAs, and/or IRS correspondence copy so we can route it properly.



Save-A-Patriot Fellowship

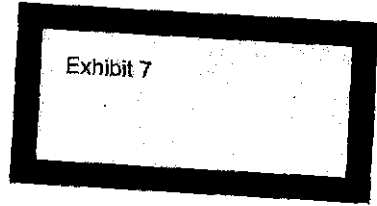
SENT
2/10/03

Post Office Box 91

Westminster, Maryland 21158

Tel. (410)857-4441 FAX (410)857-5249

TO: Joseph R. Nagy
14544 Ryan Street
Sylmar, CA 91342



Date 12/17/03
Member # 9183

I received your recent request that case development work be done, and/or I recently reviewed your case file and found that the following items are needed to continue the development of your case:
[**Response to Notice of Deficiency**]

Please provide the checked items below at your earliest convenience.

➔ As you should hopefully be aware by now, the Fellowship had to revise its payment policy — all case development must now be PREPAID before the work can begin.

At this time, there are 1 letters needed to keep your case current. Therefore, PLEASE SEND PAYMENT for that number (at 45 FRNs per letter).

Additionally, there are 1 letters which can be sent to the IRS requesting records pertaining to you. These Privacy Act Requests, at the present time, are generated for you to sign. Therefore, PLEASE SEND PAYMENT for that number (at 40 FRNs per letter.)

TOTAL: 45.00 or 85.00. Please send Federal Reserve Notes (FRNs) or totally blank U.S. Postal money order (leave blank both payor and payee sides). Any excess funds will be credited towards future work only if you specifically request it. Otherwise, excess funds will be treated as a donation.

➔ At this time, I am in need of Power of Attorney forms in order to complete work.

Therefore, please forward at least 1 newly executed POA forms to me now (and new ones every time additional work is prepaid!)

Please keep in mind that an original POA form is necessary for each letter sent under Mr. Kotmair's Power of Attorney, and that the POA is only valid for 60 days (from the date you sign it to the date the IRS receives it).

➔ At this time, I need a complete copy of the IRS correspondence to include with a response.

Therefore, please forward a GOOD COPY of the IRS correspondence you received to include with the response (and each time an additional response is required!)

TOTAL For Camille + Joseph. \$170.00 — Deborah

Please return this letter with your payment, POAs, and/or IRS correspondence copy so we can route it properly.

AUG 20 2004

Invoice No.
37792
9183

Save-A-Patriot Fellowship

Post Office Box 91
 Westminster, Maryland 21158
 Tel: 410-857-4441

August 10, 2004

Joseph Nagy
 14544 Ryan St.
 Sylmar, Ca. 91342-2817



Fee for the NWRC W-9/1099 generic request Letter:	\$50.00
Certified Mail costs: [Cert. Mail #]	0.00

Total fee:	\$50.00
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This is not standard casework.

SENT CASH
8-29-04

Please check one of the boxes below, if appropriate:

I am claiming a 10. FRN per-letter discount as I am sending payment within 10 days of the red-stamped postmark date above. With this discount, my total bill will be 45.00 FRN's

I am claiming a 5 FRN per-letter discount as I am sending payment within 30 days of the stamped postmark date above.

Please return this bill with your payment. If it is not returned, your payment cannot be credited, and will be considered a donation.

Please make your payment with cash (FRN's) or a totally blank U.S. Postal money order (leave blank both payor and payee sides).

Please keep your account current, as no further work will be done for accounts in arrears. If you find yourself unable to pay, please notify your caseworker *immediately*. Thank you.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN BAPTIST KOTMAIR, et al.,

Defendants.

Case No.: WMN 05 CV 1297

DECLARATION OF GARY METCALFE

1. I was a Revenue Agent with the Internal Revenue Service (IRS) for over twenty years, until I retired in 2005.

2. Except where noted to the contrary, I have personal knowledge of the matters set forth in this Declaration, and, if called upon to testify to such matters, could do so competently.

3. As part of my duties as a Revenue Agent, I was assigned to determine if civil penalties should be assessed against John B. Kotmair, Jr. (Kotmair), a Maryland resident, and Save-a-Patriot Fellowship (SAPF), under 26 U.S.C. §§ 6700 or 6701 for promoting a scheme, and whether Kotmair and SAPF should be enjoined from promoting this tax scheme under 26 U.S.C. §§ 7402 and 7408.

4. The investigation revealed that SAPF publishes statements regarding the income tax laws and advises SAPF customers not to report income earned while working in the United States.

5. The investigation further revealed that Kotmair and SAPF promote a tax-fraud scheme that involves preparing protest letters for submission to the IRS which claim that SAPF customers are not subject to federal income taxation. SAPF customers are charged \$45-48 for each protest letter mailed to the IRS advancing these arguments.

6. During the course of my investigation, the IRS service center in Ogden collected over 800 protest letters sent by SAPF, and signed by Mr. Kotmair. The protest letters were sent on behalf of numerous individuals throughout the country.

7. The contents of the SAPF/Kotmair protest letters that I reviewed were virtually identical. The only difference in the letters was the name of the individual SAPF customer. To the best of my recollection, each protest letter asserted that the SAPF customer was not required to file an income tax return or pay taxes on U.S.-source income.

8. I did not research the arguments stated in the protest letters sent by Mr. Kotmair and SAPF in the Internal Revenue Code because these arguments are frivolous.

9. During my investigation, I found numerous Tax Court cases stating these arguments were frivolous, including: Wadsworth v. Commissioner, T.C. Memo. 1997-238; Moore v. Commissioner, T.C. Memo. 2001-305; Tolotti v. Commissioner, T.C. Memo. 2002-86; and Sherwood v. Commissioner, T.C. Memo. 2005-268.

10. The protest letters also stated that Mr. Kotmair was authorized to represent the SAPF customers before the IRS.

11. I investigated Kotmair's status as a representative, and to the best of my knowledge, John B. Kotmair, Jr. is not authorized to represent individuals regarding their personal income tax liabilities before the IRS.

12. The investigation further revealed that SAPF and Kotmair prepare documents purporting to revoke an individual's application for their Social Security number, in order to discontinue the withholding of income and employment taxes.

13. As part of the scheme, SAPF sells to customers an "Affidavit of Revocation," and a "Statement of Citizenship," with instructions for filing these documents.

14. During my investigation, I identified these same arguments in a document published by the IRS titled "The Truth About Frivolous Arguments."

Under 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 8 day of July, 2006.



Gary Metcalfe

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil No. WMN 05 CV 1297
)
 JOHN BAPTIST KOTMAIR, JR., et al.,)
)
 Defendants.)

**SECOND DECLARATION OF THOMAS M. NEWMAN IN SUPPORT OF THE
UNITED STATES' MOTION FOR SUMMARY JUDGMENT**

1. This declaration and attached exhibits are submitted under 28 U.S.C. § 1746 in connection with the United States' Motion for Summary Judgment. I am a trial attorney with the Department of Justice's Tax Division in Washington, D.C. to whom this case is assigned.

2. In January 2006, I mailed defendants Kotmair and SAPF notices of depositions for Mr. Kotmair and an SAPF on February 13 and 14, 2006. Both depositions were to commence at 10:00 a.m.

3. I had informally scheduled these time with SAPF's counsel prior to sending the notices, and he agreed.

4. On February 1, 2006, I received a notice of deposition requesting the IRS employees who made the allegations giving rise to this complaint. The notice requested the appearance of these individuals on February 14, 2006, at 10:00 a.m.

5. I discussed this notice with SAPF counsel on several occasions for both scheduling issues and to clarify the necessity for deposing IRS employees because this is not a review of

there determination. There was a need to discuss scheduling of the deposition because the notice sent by SAPF was for the same time the United States requested the appearance of an SAPF employee.

6. I also explained that the IRS Revenue Agent who was assigned to this case prior to its referral retired. In addition, I explained that the current IRS Revenue Agent assigned to the case, to my knowledge, did not review the administrative file associate with this case or had not in the year that it has been at the Department of Justice. I did agree, however, to have IRS Revenue Agent Joan Rowe appear for the deposition on February 14, 2006, after the deposition for the SAPF employee concluded. I also explained to SAPF's counsel that her testimony should be limited to a discussion of the procedures for this type of investigation and what documents were reviewed to which he agreed. I did not provide Revenue Agent Rowe with copies of documents from the administrative file prior to the deposition because SAPF's stated he agreed to question her on the procedures for this type of investigation. During the deposition, defendants questioned Revenue Agent Rowe regarding false statements made in their handbook. Defendants' handbook was not part of the administrative file in this case and was supplied by them in discovery.

7. I also stated I would attempt to locate the retired Revenue Agent who was assigned to this case, Gary Metcalfe. I agreed to find Mr. Metcalfe because I did not believe Revenue Agent Rowe, or any other current IRS employee, had reviewed the administrative file in order to state what documents were reviewed as part of the investigation. In subsequent discussions, I agreed to have Mr. Metcalfe appear for a deposition at an agreed upon time with the need for SAPF to send him any formal requests to appear. The parties acknowledged the scheduling this

deposition in the joint status report filed with the Court and defendants did depose Mr. Metcalfe.

8. I provided copies of the administrative file to Revenue Agent Rowe in late February 2006 in anticipation of filing a dispositive motion in accordance with the Court's scheduling order in effect at that time. I also discussed Revenue Agent Rowe's review of the file in March 2006.

9. After defendants filed their respective motions for summary judgment, I contacted some of their customers in order to obtain additional information. I identified the individuals I contacted from letters sent on their behalf to the IRS from defendants. The letters identifying these individuals were supplied to defendants as part of the United States initial and subsequent disclosures.

10. I sent declarations, and requested documents from a number of defendants' customers. Only those declarations filed with the Court responded to my request.

11. I received the declarations from Joseph and Camille Nagy on June 15, 2006.

12. I received the declaration from Nicholas Taflan on June 19, 2006.

13. I received the declaration from Dr. Amzi Sherling on June 14, 2006. Dr. Sherling did not return the Affidavit of Revocation with his declaration, which was attached as an exhibit.

I declare under penalty of perjury the foregoing is true and correct. Executed this 21st day of July, 2006.

/s/ Thomas M. Newman
THOMAS M. NEWMAN
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Washington, D.C. 20044
Tel.: (202) 616-9926
Fax: (202) 514-6770
thomas.m.newman@usdoj.gov

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil No. WMN 05 CV 1297
)
 JOHN BAPTIST KOTMAIR, JR., et al.,)
)
 Defendants.)

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. Unless noted to the contrary, I have personal knowledge of the information set forth in this declaration.

3. *For the tax year 1996, I requested a due process hearing with an IRS Appeals Officer* after receiving a Notice of Federal Tax Lien for that year.

4. I purchased a letter requesting a due process hearing from the Save-a-Patriot Fellowship while I was a member. To the best of my recollection, the request for a due process hearing contested my requirement to pay income taxes and file a tax return for 1996.

5. After receiving my request, the IRS Appeals Officer did not allow me a face-to-face hearing. The letter I received from the Appeals Officer stated that the issues raised in the request for a due process hearing were frivolous.

6. On December 15, 2005, the Appeals Officer mailed me Notice of Determination

Concerning Collection Actions Under Section 6320. The Notice of Determination was signed by the IRS Appeals Officer, Ethel Simpson, and Dewayne Turk, the Team Manager.

7. The Notice of Determination also stated that I could not contest my 1996 income tax liability because I had previously been mailed a Notice of Deficiency for that year and stated the arguments raised in the due process hearing request were frivolous. The letter also directed me to appeal the Notice of Determination in Tax Court.

8. I did not petition the Tax Court because Save-a-Patriot directed me to file a complaint in District Court. On January 13, 2006, I filed a complaint in the United States District Court for the Southern District of Ohio, case number 2:06-cv-00032, which I purchased from the Save-a-Patriot Fellowship, and is attached as Exhibit 1.

9. Attached as Exhibit 2 is a copy of a bill dated January 11, 2006, from Save-a-Patriot for \$250 related to the complaint that I filed in the Southern District Court of Ohio.

10. The complaint, Exhibit 1, which I purchased from Save-a-Patriot lists the IRS Appeals Officer and the Team Manager as defendants. Exhibit 1 also states that the Tax Court "is not a Court," the liabilities that I contested for 1996 were allegedly "employment" taxes, and seeks to "restrain assessment" of my 1996 tax liabilities.

11. On January 13, 2006, I also filed a Memorandum of Law in Support of the Complaint, Exhibit 3. I purchased the memorandum in connection with the complaint. The memorandum has attached as Exhibits (A-F) letters verifying the statements in paragraphs 5-7 of this declaration.

12. The letters attached to the memorandum state that I did not file income tax returns for 1995-2001 or 2004. This statement is accurate and I did not file income tax returns for those

years because I relied on materials supplied by Save-a-Patriot which stated that income earned while working in the United States is not taxable.

13. I previously stated that the staff at SAPF assisted me in filing a bankruptcy motions in the case I filed in the United States Bankruptcy Court for the Northern District of West Virginia on June 16, 2003, in Case no. 5:03-bk-02170. I filed the bankruptcy petition after receiving the Notice of Federal Tax Lien from the IRS in May 2005, and be directed to do so by the Save-a-Patriot Fellowship in order to prevent collection.

14. As part of that case I filed a motion to reconsider on January 26, 2004, which was attached to my previous declaration (as Exhibit 9). Attached as Exhibit 4 is a true and correct copy of a bill for \$100 from Save-a-Patriot for the motion to reconsider I filed in that case.

15. In my previous declaration I also stated that I purchased an opposition to dismiss my bankruptcy case for improper venue from Save-a-Patriot, which was attached to that declaration as Exhibit 7. The opposition was filed on January 13, 2004 as noted on that exhibit.

16. Attached as Exhibit 5 is a true and correct copy of a bill dated January 15, 2004, from Save-a-Patriot for the opposition to dismiss I purchased for \$80.

17. 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.

18. Attached as Exhibit 6 is a true and correct copy of the "Statement of Citizenship" that was provided to me from the Save-a-Patriot Fellowship. Exhibit 6 states that "I incurred no liability for income tax under subtitle A for the preceding taxable year," "I anticipate I will incur no liability for income tax imposed under subtitle A for the current taxable year," and states that

it establishes “my ‘exempt’ status with respect to federal income taxes.” I signed this Affidavit believing these statement to be true because I relied on Save-a-Patriot’s materials, which state that wages earned within the United States is not taxable.

19. I received the “Statement of Citizenship” from Save-a-Patriot with instructions for providing the document to my employer in order to requested that they stop withholding taxes from my wages.

20. The materials provided with the “Statement of Citizenship,” Exhibit 6, included a letter for forwarding to the IRS Philadelphia Service Center by my employer, Rite-Aid. in order to request that my employer stop withholding taxes from my wages.

21. Save-a-Patriot also provided me with an “Affidavit of Revocation and Rescission,” a true and correct copy of which is attached as Exhibit 7. The materials supplied by Save-a-Patriot with the “Affidavit of Revocation and Rescission” states that it would allow me to revoke my Social Security number so that I was no longer obligated to pay, and my employer was not required to withhold, employment taxes.

22. The “Affidavit of Revocation and Rescission” supplied to me from Save-a-Patriot states, among other things, that:

a. “obtaining of the Social Security could defacto, by the general mindset within the workplace, subject an individual to the provisions of subtitle C of the Internal Revenue Code;”

b. “documents signed under penalties of perjury can become prima facie evidence sufficient to sustain a defacto legal conclusion by a judge that the signer has voluntarily become a taxpayer;”

c. “I was misled into believing I had a legal duty and obligation to file Internal Revenue

Service tax returns and other documents;”

d. “I, or any other free individual citizen within the States of the union, am actually and legally not subject to or liable for any income tax and have no legal duty or obligation whatsoever to complete and file an income tax return;”

e. “the 16th Amendment does not authorize a tax on individual citizens working within the States united;”

f. “there is no provision in the Code that imposes the tax on employees. . . or to pay the tax;”

g. “I do hereby exercise my rights as a free sovereign citizen of the State of Ohio, upheld by various court decisions to revoke, rescind, cancel and to render null and void, both currently and retroactively . . . all Internal Revenue Service forms, schedules, and documents ever signed and/or submitted by me, and all my signatures of the aforementioned items, to include the ‘SOCIAL SECURITY NUMBER’ application (Form SS-5);” and

h. “I do hereby declare that I am not subject personally to an Income Tax.”

23. I received instructions for filing the “Affidavit of Revocation and Rescission” with that document from the Save-a-Patriot Fellowship, a true and correct copy of which is attached as Exhibit 8.

24. The “Affidavit of Revocation and Rescission” instructions, Exhibit 8, paragraph 2, provides instructions for filing the document before sending it to the *Secretary of Treasury*. The Save-a-Patriot Fellowship provided a letter to use to forward the “Affidavit of Revocation and Rescission” to the *Secretary of Treasury*, a true and correct copy of which is attached as Exhibit 9.

25. The letter provided by the Save-a-Patriot Fellowship which I was to forward to the Secretary of Treasury states that “if I do not here from you, or any of your delegates, within ninety days (90), I will presume that my statements are correct and that you do not have any rebuttal.”

26. The instructions for using the “Affidavit of Revocation and Rescission” supplied by Save-a-Patriot Fellowship, Exhibit 8, states that all “future correspondence from either state or IRS plunderers should be answered with S.A.P. Vehicles.”

27. The instructions for using the “Affidavit of Revocation and Rescission” supplied by Save-a-Patriot Fellowship, Exhibit 8, also instructs that “You cannot file an IRS Form W-4 with an employer, or any other IRS or state income tax forms, once you execute and forward the affidavit to whomever.”

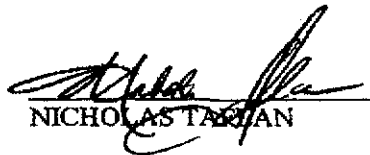
28. The instructions for using the “Affidavit of Revocation and Rescission” supplied by Save-a-Patriot Fellowship, Exhibit 8, all requested that I call if I have any questions regarding this document.

29. I relied on the materials attached to this declaration related to the “Statement of Citizenship” in believing that my employer should not withhold income taxes from my wages.

30. I relied on the materials attached to this declaration related to the Affidavit of Revocation and Rescission” in believing that my employer should not withhold employment taxes from my wages.

31. 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 ^{18th} ~~15~~ day
of July, 2006.


NICHOLAS TARIAN

JB
FILED
JAMES BONINI
CLERK

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

2006 JAN 13 10:33

NICHOLAS TAFLAN,
Plaintiff,
v.

DEWAYNE TURK, AND ETHYL SIMPSON
Defendants.

CASE NO. **C2 06**

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST BR. COLUMBUS

JUDGE HOLSCHUH

DENIAL OF DUE PROCESS

~~MAGISTRATE JUDGE KING~~

COMPLAINT FOR VIOLATION OF FEDERAL LAW

COMES NOW, Nicholas Taflan, plaintiff, pro se and files this Complaint for Denial of Due Process and for that provides the following:

JURISDICTION

1. That jurisdiction and venue of this Court is invoked pursuant to Public Law 105-206, section 1203, this being a complaint for denial of due process by the Internal Revenue Service Appeals Officers, violating plaintiff's Constitutional Right, under Amendment V, to a hearing, and pursuant to Title 26 U.S.C. 6330(b) &(c), this being a complaint for denial of a hearing by the Internal Revenue Service Office of Appeals, and is invoked pursuant to Title 28 United States Code § 1331, this action being a federal question. The venue is proper under Title 28 U.S.C. § 1391. Title 28 U.S.C. § 1331 reads as:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.



2. Defendants may be sued in their individual capacity because the United States may not claim sovereign immunity under the provisions of the Federal Tort Claims Act. Because

Plaintiff's Complaint alleges a violation of his Constitutional rights and a violation of his rights to Due Process, §2679(b)(2) provides for an exemption to the Defendant's immunity under the Federal Tort Claims Act. Section 2679(b)(2), (A) and (B) states:

(2)

Paragraph (1) does not extend or apply to a civil action against an employee of the Government -

(A)

which is brought for a violation of the Constitution of the United States, or

(B)

which is brought for a violation of a statute of the United States under which such action against an individual is otherwise authorized. (Emp added)

3. Jurisdiction is also proper pursuant to 28 U.S.C. § 1361 which states:

The district courts shall have original jurisdiction of an action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

4. The United States Tax Court does not have jurisdiction because it is an administrative court. The Tax Court does not have the authority and jurisdiction to decide the issue at hand. The supreme Court in Freytag v. Commissioner, 501 U.S. 868, 890-891 (1991) at 2656 stated that *The Tax Court... reviews determinations by Executive Branch officials (the Internal Revenue Service) that this much or that much tax is owed—a classic executive function. **This complaint is not for a review of an Internal Revenue Service determination, for taxes owed, but for denial of Plaintiff's right to a hearing.***

Administrative law is discussed in 2 Am Jur 2d § 29. It states:

Administrative agencies are not courts. They are not part of the judicial system, nor are they judicial bodies or tribunals. However, administrative bodies may be called courts, and this does not change their nature. Thus,

bodies which have been designated courts of industrial relations, workers compensation courts, and county courts, are nonetheless, administrative agencies. Similarly, the Tax Court of the United States is not a court, but an independent agency of the executive branch of government.

This is verified by the Court in Commissioner of Internal Revenue v. Gooch Milling & Elevator Co., 320 U.S. 418, 88 L.Ed 139, 64 S.Ct. 184, 43-2 USTC ¶ 9673, 31 AFTR 764., which stated *The Board[Tax Court] is but "an independent agency in the Executive Branch of the Government," and the legislative pattern of its jurisdiction is clear and unambiguous. The Board is confined to a determination of the amount of deficiency or overpayment for the particular tax year as to which the commissioner determines a deficiency and as to which the taxpayer seeks a review of the deficiency assessment.* (Emp added)

5. **The controversy involves the right to a hearing** for alleged employment taxes for tax year 1996. **The Denial of Due Process of Law, by the Defendant's, is the issue of this complaint.**

6. The Plaintiff is within the 30 day limitation imposed by Title 26 U.S.C. § 6330, which states in relevant part, *(d) Proceeding after hearing.— (1) Judicial review of determination.—The person may, within 30 days of a determination under this section, appeal such determination (B) * * * to a district court of the United States.* The adverse determination notice was dated December 16, 2005.

7. This action is not to contest unpaid liability, but to contest a wrongful verification that "All legal and procedural requirements were met prior to the issuance of the Lt 3172 and the filing of the NFTL, and the Settlement Officer concluded that the action was appropriate, namely his RIGHT to a hearing." 26 U.S.C. § 6330(c)(1) states:

(1) Requirements of investigation. The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

8. This action is filed to afford Plaintiff his due process rights pursuant to Amendment Five of the United States Constitution and Public Law 105-206, section 1203, and 26 U.S.C. § 6330(b) &(c), which have been denied by Defendant's here to date. Public Law 105-206, section 1203, Termination of Employment For Misconduct, states in pertinent part:

(a) IN GENERAL. Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) ACTS OR OMISSIONS. The acts or omissions referred to under subsection (a) are-

(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of -

(A) any right under the Constitution of the United States;

26 U.S.C. § 6330 states in pertinent part:

(b) Right to fair hearing

(1) In general

If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

26 U.S.C. § 6330 (c) (1) The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable laws or administrative procedure have been met.

PLAINTIFF

9. That Nicholas Taflan is a citizen of Belmont County, State of Ohio, so this case is properly venued in the State of Ohio United States District Court for the Southern District of Ohio. His address is 55951 Key Bellaire Road, Bellaire, Ohio 43906-9530.

DEFENDANTS

10. That Ethyl Simpson is an Internal Revenue Service Appeals Settlement Officer, Employee ID Number 31-07196, Internal Revenue Service, Cincinnati Appeals Office, 312 Elm Street, Suite 2330, Cincinnati, Ohio 45202-2763.

11. That Dewayne Turk, is Appeals Team Manager, Internal Revenue Service, Cincinnati Appeals Office, 312 Elm Street, Suite 2330, Cincinnati, Ohio 45202-2763.

STATEMENT OF CLAIM

12. This suit is not for the purpose of restraining the assessment or collection of any tax as prohibited by Title 26 U.S.C § 7421. This action is filed to afford plaintiff his due process rights pursuant to Amendment Five of the United States Constitution, and 26 U.S.C. § 6330(b) &(c), which have been denied by defendants here to date.

13. On or about March 31, 2004, the Internal Revenue Service, sent Plaintiff a letter that stated: "WE RECEIVED YOUR REQUEST FOR A COLLECTION DUE

PROCESS HEARING AND WE NEED TO ADVISE YOU ON PROCEDURES,” for year 1996. The letter stated that: *Appeals does not provide a face-to-face conference if the only items you wish to discuss are those mentioned above.* (Plaintiff’s Exhibit A)

14. On October 20, 2005, Plaintiff’s rebutted Defendant Simpson’s letter and stated that: *I notice that you claim that “Appeals does not provide a face-to-face conference if the only items you wish to discuss are those mentioned above.” However, you have failed to provide any authority to support your claim. On the other hand, in the regulations governing Collection Due Process hearings (26 CFR § 301.6330-1(d)(2)), I found the following information:*

Q-D7: If a taxpayer wants a face-to-face CDP hearing, where will it be held?

A-D7: The taxpayer must be offered an opportunity for a hearing at the Appeals office closest to taxpayer’s residence or, in the case of a business taxpayer, the taxpayer’s principal place of business. (Emp added)

Plaintiff also stated that: *As you can see, this provision shows that if I want a face-to-face hearing, then I must be offered the opportunity for one.* (Plaintiff’s Exhibit B).

15. On or about October 25, 2005 defendant Ethyl Simpson, Settlement Appeals Officer, Internal Revenue Service, issued a letter that denied Plaintiff a face-to-face hearing. In her letter she stated that: *You were advised in my appointment letter to you that unless you provide Appeals with documents describing legitimate issues or collection alternatives, your hearing will be via telephone.* (Plaintiff’s Exhibit C)

16. On or about October 26, 2005 defendant Ethyl Simpson, Settlement Appeals Officer, Internal Revenue Service, issued a letter that again denied Plaintiff a face-to-face hearing. In her letter she stated that: *Once again, if you are interested in receiving a face-to-face conference, you must be prepared to discuss issues relevant to paying your tax*

liability.... The Internal Revenue Manual determines whether Appeals can accept your proposal. (Plaintiff's Exhibit D)

17. On November 7, 2005 Plaintiff rebutted defendant's October 25th and 26th, 2005 letters and stated that: *Finally, you continue to deny me a face-to-face conference by alleging that I have "failed to provide Appeals with the legitimate issues [I] would like to discuss." However, you still have failed to provide any statutory or regulatory authority that supports your contention that I may be denied a face-to-face conference. Ms. Simpson, if you continue to deny me a face-to-face hearing, such action must be considered a willful violation of my right to due process.* (Plaintiff's Exhibit E)

18. On December 16, 2005 defendant Dewayne Turk, Appeals Team Manager, Internal Revenue Service Appeals, issued a fraudulent Notice of Determination that stated: *Based on the facts presented in the administrative file, the Settlement Officer has verified that all the requirements of various applicable law and administrative procedures have been met.* (see Discussion and Analysis) (Emp added) (Plaintiff's Exhibit F)

19. It should be clear that IRS Appeals officers Ethyl Simpson and Dewayne Turk clearly denied appellant a face-to-face hearing that he was entitled to. Clearly they denied plaintiff his Due Process of Law.

20 26 CFR § 301.6330-1(d)(2), states;

Q-D7: If a taxpayer wants a face-to-face CDP hearing, where will it be held?

A-D7: The taxpayer must be offered an opportunity for a hearing at the Appeals office closest to taxpayer's residence or, in the case of a business taxpayer, the taxpayer's principal place of business. (Emp added)

21. The IRS officers have clearly not followed the prescribed statutes as set forth in 26 U.S.C. §6330(b)(1) and (c)(1) and 26 CFR § 301.6330-1(d)(2). Plaintiff timely requested a hearing, but was denied his hearing by the Defendant's.

22. That actions of Ethyl Simpson and Dewayne Turk stated in paragraphs 13 through 21 to wit, deprived the Plaintiff of a portion of his right to due process as guaranteed by Article V of the United States Constitution and 26 U.S.C. § 6330(b)(1), (b)(4) and (c) and 26 CFR § 301.6330-1(d)(2).

23. A memorandum of law is incorporated in this complaint by reference thereto.

24. Plaintiff filed a timely request for a hearing. Pursuant to 26 U.S.C. § 6330(e) (1) ...if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing... shall be suspended for the period during which such hearing, and appeals therein, are pending ...

Relief Sought:

WHEREFORE, Plaintiff demands judgment against, Ethyl Simpson and Dewayne Turk as follows:

1) a judgment that Ethyl Simpson and Dewayne Turk violated the law depriving Plaintiff of his right to due process as guaranteed by Article V of the United States Constitution.

2) a judgment that Ethyl Simpson and Dewayne Turk violated the law and committed any act or omission described under subsection (b) of Public Law 105-206,

section 1203. Namely his Constitutional right to Due Process of Law pursuant to Amendment V of the United States Constitution.

3) an ORDER that Ethyl Simpson and Dewayne Turk provide a fair hearing pursuant to Title 26 U.S.C. 6330(b) &(c).

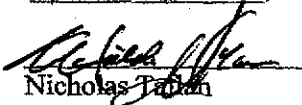
4) an ORDER that the defendants comply with the laws as stated in 21 and 22 above in all future matters relating to the plaintiff.

5) an Order that the defendants pay costs and reasonable attorney fees to the plaintiff for prosecuting this action; and

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

THE PLAINTIFF DEMANDS A TRIAL BY JURY.

Dated this 12th day of January, 2006, at Bellaire, Ohio.


Nicholas Taflan
55951 Key Bellaire Road
Bellaire, Ohio 43906-9530

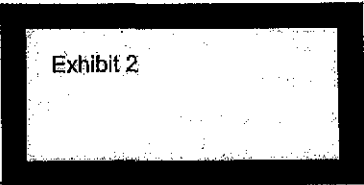
I, Nicholas Taflan of 55951 Key Bellaire Road, Bellaire, Ohio 43906-9530 hereby declare, under penalty of perjury, that the above is true, correct, and complete to the best of my knowledge.

Further Affiant saith not.


Nicholas Taflan

Save-A-Patriot Fellowship Para-legal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441



January 11, 2006

Nicholas M. Taflan
55951 Key Bellaire Rd.
Bellaire, Ohio 43906-9530

*PAID
IN*

Fee for the letter to:	Due Process Complaint	\$ 250.00
Certified Mail No --	Express Mail	15.00
Certified Mail No --		
Certified Mail No --		
Certified Mail No --		
Certified Mail No --		
Total fee:	NET UPON RECEIPT	\$265.00

*Full
1-24-06
ml*

Please promptly return this bill with your payment 'in full' in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides). A copy of your money order or FRN's can be used to verify your payment if the question arises.

Fees are Net Upon Receipt of the date of the invoice. Please keep your account current, as no further work will be done for accounts in arrears and payment in advance will be required..

If you find yourself unable to pay 'in full' or unable to make prompt payment, please notify the Para-legal immediately. Thank you.

Please Note: This is not standard casework. This is Para-legal work which is not supplemented by the fellowship in any way, but facilities and materials. The para-legal who prepared this document for you, is solely dependent upon your prompt and 'in full' handling of this matter so that he can continue to provide his knowledge and experience to the Membership.

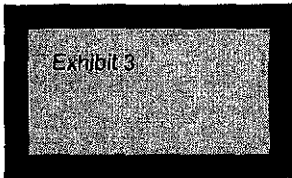
Invoice No. NL-2005-710

#????00

FILED
JAMES BONINI
CLERK

2006 JAN 13 A 10:33

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST DIV. COLUMBUS



UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

NICHOLAS TAFLAN,
Plaintiff,
v.

DEWAYNE TURK, AND ETHYL SIMPSON,
Defendants.

CASE NO: **C2 06 32**

JUDGE HOLSCHUH
DENIAL OF DUE PROCESS

MAGISTRATE JUDGE KING

**MEMORANDUM IN SUPPORT OF COMPLAINT FOR
VIOLATION OF FEDERAL LAW**

COMES NOW, Nicholas Taflan, plaintiff, pro se, and he submits this memorandum of law in support of his Complaint For Violation of Federal Law.

A. Defendant's denied Plaintiff his due process rights by denying him a fair hearing.

The law clearly states that Plaintiff has a Right to a fair hearing. 26 U.S.C. § 6330 provides for a hearing and states in pertinent part:

(b) (1) If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

and § 6330 states in pertinent part:

(c) (1) The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable laws or administrative procedure have been met.

Defendant's did not provide Plaintiff a fair hearing, they therefore could not verify that all applicable law or administrative procedure have been met, contrary to Mr. Turk's Determination.

Internal Revenue Service
Appeals Office
312 Elm Street
Suite 2330
Cincinnati, OH 45202-2763

PLAINTIFF A
ET AL

Department of the Treasury

Person to Contact:
Ethel Simpson
Employee ID Number: 31-07196
Tel: 513-263-4829
Fax: 513-263-4800

Date: October 6, 2005

Refer Reply to:
AP:FE:OH:CE:EMS

NICHOLAS TAFLAN
55951 KEY BELLAIRE ROAD
BELLAIRE OH 43906

In Re:
Collection Due Process - Levy
Social Security or Employer
Identification Number:

~~XXXXXXXXXX~~
Tax Period(s) Ended:
12/1996

WE RECEIVED YOUR REQUEST FOR A COLLECTION DUE PROCESS HEARING AND WE NEED TO ADVISE YOU ON PROCEDURES

I've received your request for a Collection Due Process (CDP) Hearing. The items that you mention in your CDP hearing request are items that:

- Courts have determined are frivolous or groundless, or
- Appeals does not consider. These are moral, religious, political, constitutional, conscientious, or similar grounds.

Examples of arguments that are considered frivolous or groundless are provided in "The Truth About Frivolous Tax Arguments" on the IRS Internet website at http://www.irs.gov/pub/irs-utl/fri_tax.pdf. It is not a complete list of frivolous and groundless arguments.

Appeals does not provide a face-to-face conference if the only items you wish to discuss are those mentioned above. You may, however, have a telephone conference or discuss with us by correspondence any relevant challenges to the proposed levy. I have scheduled a telephone conference for you on October 26, 2005 at 9:00a m. Please call me at the number indicated above on that date and at that time. This will be considered your Collection Due Process Hearing.

As of May 2, 2002 Appeals no longer allows audio or stenographic recordings of Appeals conferences and hearings.

If you are interested in receiving a face to face conference, you must be prepared to discuss issues relevant to paying your tax liability. These include, for example, offering other ways to pay the taxes you owe, such as an installment agreement or offer in

EXHIBIT B

Nicholas M. Taflan
55951 Key-Bellaire Road
Bellaire, OH 43906

October 20, 2005

Certified Mail No. 7003-2260-0002-7232-2497

Ethel Simpson, Appeals Settlement Officer
Internal Revenue Service Appeals Office
312 Elm Street, Suite 2330
Cincinnati, OH 45202-2763

Re: Your letter dated October 6, 2005.

Dear Ms. Simpson:

I am in receipt of your letter, dated October 6, 2005, which purports to schedule a telephone conference in lieu of a Collection Due Process hearing for the year 1996. I must say this letter came as a surprise, since I last requested such a hearing back on February 27, 2002. An "Equivalent Hearing" was held—at which time the Appeals Officer refused to address any of the issues I raised—and a Decision Letter, dated September 12, 2002, was issued.

The decision to give me only an equivalent hearing at that time was based on the IRS' erroneous determination that my request for the CDP hearing was not timely. It was erroneous because said determination ignored my original request for a hearing, dated September 4, 1999, in response to the first Letter 1058, dated August 8, 1999. I was never contacted about that CDP request. Instead the IRS claimed that I never requested a hearing until after the second Letter 1058 was issued on February 9, 2002. I again requested a CDP hearing—this one dated February 27, 2002—and that is when the equivalent hearing was held.

From the facts outlined above, I was clearly entitled to a CDP hearing, either back in 1999 or in 2002, rather than merely an equivalent hearing. The IRS has failed to provide any reason why the second offer of a hearing was given, since according to their assertions, I failed to request one for two and a half years after the first offer was given. And now, adding to this confusion, I have been notified that you have scheduled another hearing, even though I have no record of a third offer being made, nor any third request submitted. Therefore, please provide me with copies of the IRS' notice to me and my request for hearing, which are the basis of the hearing you scheduled for October 26, 2005. Obviously, the lack of prior notice about this hearing puts me at a disadvantage. Therefore, once you provide the information requested herein, I will need at least an additional 30 days to prepare for any such hearing.

In addition to the above, I notice that you claim that "Appeals does not provide a face-to-face conference if the only items you wish to discuss are those mentioned above." However, you have failed to provide any authority to support your claim. On the other hand, in the regulations governing Collection Due Process hearings (26 CFR § 301.6330-1(d)(2)), I found the following information:

Q-D7. If a taxpayer wants a face-to-face CDP hearing, where will it be held?

Page 1 of 3

Internal Revenue Service
Appeals Office
312 Elm Street
Suite 2330
Cincinnati, OH 45202-2763

*PLM/MSH
ET/MSH*

Department of the Treasury

Person to Contact:
Ethel Simpson
Employee ID Number: 31-07196

Tel: 513-263-4829
Fax: 513-263-4800

Refer Reply to:
AP:FE:OH:CI:EMS

In Re:
~~Collection Due Process - Lien~~
Tax Period(s) Ended:
12/1996

Date: October 25, 2005

NICHOLAS TAFLAN
55951 KEY BELLAIRE RD.
BELLAIRE OH 43906-9530

Dear Taxpayer:

I am in receipt of your letter dated October 20, 2005 in response to the hearing appointment letter sent to you scheduling your telephone Collection Due Process Hearing for October 26, 2005 at 9:00am.

The hearing appointment letter was sent to you in response to your Form 12153; Request for a Collection Due Process Hearing dated May 20, 2003. The reason your hearing was not scheduled in 2003 was because you filed bankruptcy on June 6, 2003 and your case was not discharged from bankruptcy until September 2005. A hearing could not be scheduled until after the bankruptcy case was closed. I have provided a copy of your request as well as a copy of the Lt 3172 Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320.

We have determined that all the proper administrative steps have been taken by the Service and have provided you with a transcript demonstrating the fact of assessment. This transcript shows the same essential information found on a Form 4340, Certificate of Assessments and Payments. The Tax Court has found that a Form 4340 satisfies the requirement under I.R.C. § 6330(c) (1) to verify "that the requirements of any applicable law or administrative procedure have been met." Davis v. Commissioner, 115 T.C. No. 4 (July 31, 2000).

You were advised in my appointment letter to you that unless you provide

Internal Revenue Service
Appeals Office
312 Elm Street
Suite 2330
Cincinnati, OH 45202-2763

Department of the Treasury

Person to Contact:
Ethel Simpson
Employee ID Number: 31-07196

Tel: 513-263-4829

Fax: 513-263-4800

Refer Reply to:
AP:FE:OH:CI:EMS

In Re:
Collection Due Process - Lien

Tax Period(s) Ended:
12/1996

Date: October 26, 2005

NICHOLAS TAFLAN
55951 KEY BELLAIRE RD.
BELLAIRE OH 43906-9530

Dear Taxpayer:

I sent you a letter dated October 6, 2005 offering you a telephonic Collection Due Process conference. The conference was scheduled for October 26, 2005 at 9:00am. You failed to call in for the scheduled hearing at the time indicated.

On October 25, 2005 I received a letter from you requesting an additional 30 days to have your hearing because you did not recall requesting this hearing. I responded to your letter on October 25, 2005. The original hearing appointment letter was sent to you on October 6, 2005 and it was requested that if you had a problem with the date and time indicated for the hearing you contact us with 7 days from the hearing date.

The conference letter also asked that prepare or verify that you have filed a tax return for 2004. I have not received that verification.

As a final attempt to resolve your relevant issues in a Collection Due Process Hearing, I have scheduled another hearing for November 9, 2005 at 9:00am via telephone. Please call me at (513) 263-4829 at the time indicated.

Once again, if you are interested in receiving a face-to-face conference, you must be prepared to discuss issues relevant to paying your tax liability. These include for example, offering other ways to pay the taxes

EXHIBIT E

Nicholas M. Taflan
55951 Key-Bellaire Road
Bellaire, OH 43906

November 7, 2005

Certified Mail No. 7003 2260 0002 7232 5016

Ethel Simpson, Appeals Settlement Officer
Internal Revenue Service Appeals Office
312 Elm Street, Suite 2330
Cincinnati, OH 45202-2763

Re: Your October 25, 2005 and October 26, 2005 response to my request for a Collection Due Process hearing.

Dear Ms. Simpson:

I am in receipt of your letters, dated October 25th and 26th, concerning the Collection Due Process hearing which I apparently requested regarding a lien filed for 1996. A copy of your letters is enclosed for your convenience.

In the letter dated October 25th, it appears you are addressing the issues raised in my letter of October 20, 2005, concerning the required verification of compliance with all laws and procedures. The first issue dealt with the actual making of the assessment. You make reference to a Tax Court case, Davis v. Commissioner, which held that a reliance on Forms 4340 is sufficient for such verification with respect to the assessment. That case also recognizes that there may be irregularities in the assessments that negate that general view. However, all of the documentation which would serve to show such irregularities are in the possession of the IRS, which refuses to provide copies of them to me. Obviously, this "catch-22" situation puts me at quite a disadvantage, and hence, your reliance on secondary evidence (that is, a transcript) exemplifies the inherent unfairness of the whole process.

This concept of secondary evidence—as distinguished from the best evidence—is pointed out in the Internal Revenue Manual in connection with examinations.

4.10.7.3.11 (05-14-1999)
Best Evidence

1. The best evidence rule requires that, when possible, original evidence be used. Therefore, examiners should always ask to see original documents when there is reason to believe such documents are available.

4.10.7.3.12 (05-14-1999)
Secondary Evidence

1. Secondary evidence is used when original evidence is unavailable. Examples of acceptable secondary evidence are copies of original documents made by an examiner. In the absence of original documents, copies made by the examiner become the best evidence available.

Internal Revenue Service
Appeals Office
312 Elm Street
Suite 2330
Cincinnati OH 45202-2763

AKA/INDEXED
EXHIBIT F

Department of the Treasury

Date: DEC 16 2005

NICHOLAS TAFLAN
55951 KEY BELLAIRE ROAD
BALLAIRE OH 43906-9530

Person to Contact:
Ethel Simpson
Employee ID Number: 31-07196
Tel: 513-263-4829
Fax: 513-263-4800
Contact Hours: 7:00am -3:00pm
Refer Reply to:
AP:FE:OH:CI:EMS
SSN/EIN Number:
Tax Type/Form Number:
1040
In Re:
Collection Due Process Hearing
(Tax Court)
Tax Period(s) Ended:
12/1996

Certified Mail

**NOTICE OF DETERMINATION
CONCERNING COLLECTION ACTIONS UNDER SECTION 6320**

Dear Taxpayer:

We have reviewed the taken or proposed collection action for the periods shown above. This letter is your Notice of Determination, as required by law. A summary of our determination is stated below. The attached statement shows, in detail, the matters we considered at your Appeals hearing and our conclusions about them.

If you want to dispute this determination in court, you must file a petition with the United States Tax Court for a redetermination within 30 days from the date of this letter.

Before you decide to petition this Notice of Determination, you should be advised that the U.S. Tax Court is empowered to impose monetary sanctions up to \$25,000.00 for instituting or maintaining an action before it primarily for delay or for taking a position that is frivolous or groundless. Pierson v. Commissioner, 115 T.C.No.39 (2000). It is our conclusion that the position you have taken has no merit and is groundless.

To get a petition form and the rules for filing a petition, write to: Clerk, United States Tax Court, 400 Second Street, NW, Washington, D.C. 20217, or access the Tax Court website at www.ustaxcourt.gov.

The Tax Court has a simplified procedure for an appeal under section 6330(d) (1) (A) of a determination in which the unpaid tax does not exceed \$50,000. You also can get information about this procedure by writing to the Tax Court, or accessing the Tax Court website at www.ustaxcourt.gov.

The time limit for filing your petition is fixed by law. The courts cannot consider your case if you file late. If the court determines that you filed your petition with the wrong court, you will have 30 days after such determination to file with the correct court.

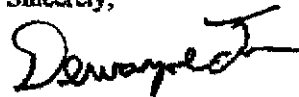
If you do not petition the court within the time frame provided by law, your case will be returned to the originating IRS office for action consistent with the determination summarized below and described on the attached pages.

If you have any questions, please contact the person whose name and telephone number are shown above.

Summary of Determination

It is the Determination of Appeals that the filing of the Federal Tax Lien was appropriate and should not be withdrawn. Please find further details contained in the attachment to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dewayne Turk". The signature is stylized and written in a cursive-like font.

Dewayne Turk
Team Manager

**ATTACHMENT TO LETTER 3193, NOTICE OF DETERMINATION
COLLECTION DUE PROCESS HEARING - IRC 6320**

Taxpayer: Nicholas Taffan
Address: 55951 Key Bellaire Road
Bellaire, OH 43906-9530

~~CONFIDENTIAL~~

Type of Tax	Tax Periods	Lt 3172 Notice Date	F-12153 Received Date
1040	12/1996	05/12/2003	05/27/2003

SUMMARY AND DETERMINATION

You requested a Collection Due Process (CDP) hearing under the provisions of Internal Revenue Code (IRC) Sec. 6320 as to the appropriateness of the filing of a Notice of Federal Tax Lien (NFTL) for the period listed above.

Appeals' determination is that filing of the NFTL by the Internal Revenue Service was necessary and appropriate in order to protect the government's interest and to establish its priority in relation to other creditors.

You failed to appear for the Collection Due Process Hearing, you failed to raise any relevant challenges to the underlying tax liability. You did not raise collection alternatives and would not have qualified for them because you are not in compliance with filing requirements.

BRIEF BACKGROUND

You failed to voluntarily file a tax return for income tax period ending December 31, 1996. The Internal Revenue Service (IRS) issued Letter 3219, Statutory Notice of Deficiency concerning this year and sent it to you by certified mail. The letter notified you of the proposed tax, penalties and interest and gave you the opportunity to contest the proposed assessments by petitioning the United States Tax Court. There is no record that you filed such a petition.

The Statutory Notice of Deficiency is your one time opportunity to contest or dispute the liability. The Collection Due Process (CDP) hearing is not a second opportunity to dispute the underlying tax liability. IRC § 6330 (c) (2)(B) states that you "...may also raise at the hearing challenges to the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability."

The liability remained unpaid and your account was then assigned to collection. Collection requested the filing of the NFTL on May 7, 2003 and sent you a notice of this filing on May 12, 2003. This notice also informed you of your right to request a hearing concerning the NFTL.

Nicholas Taffan
IRC 6320-Lien
30-12/1996

The letter explained that your request needed to be made by June 13, 2003 in order to be considered timely. As explained above, your request was made prior to this date and you have the right to request judicial review of this Notice of Determination.

In reviewing your account in Appeals the Settlement Officer determined that you have not filed a tax return for the 1995, 1997, 1998, 1999, 2000, 2001 or 2004 tax periods.

DISCUSSION AND ANALYSIS

Legal and Procedural Requirements

Based on the facts presented in the administrative file, the Settlement Officer has verified that all the requirements of various applicable law and administrative procedures have been met.

- Assessment was made on the applicable CDP period per IRC Sec. 6201.
- IRC 6321 provides a statutory lien when a taxpayer neglects or refuses to pay a tax notice and demand. To be valid against 3rd parties, a notice of lien must be filed in the proper place, per IRC 6232 (a) and (b). The transcripts show that the notice and demand as required by the code was issued to the taxpayer for the tax period involved in this Appeal.
- IRC 6320 requires that the IRS give notice in writing within 6 days after the filing of a Notice of Federal Tax Lien, of the taxpayer's right to request a hearing before the Office of Appeals if the request is made within 30 days following the end of the 5-day notification period.
- I verify that Letter 3172 was sent via certified mail to your last known address for the requested lien. This letter was sent no later than 5 business days after the NFTL was mailed for recordation per IRC 6320 (a).
- The proper computer codes were input to suspend the collection statute while the case is being considered under IRC Sec. 6320.
- This Appeals Settlement Officer has had no prior involvement in Appeals or collection activity with respect to the liabilities covered by this hearing.

As noted above, the Letter 3172 was issued on May 12, 2003 and your hearing request was received on May 27, 2003.

Relevant Issues Raised by the Taxpayer

Nicholas Taffan
IRC 6320-Lien
30-12/1996

You included a number of disputed issues in your request for a hearing. All of the issues mentioned were items that the courts have determined are frivolous. There was no mention of collection alternatives.

Appeals Analysis:

You failed to appear for your hearing that was scheduled via telephone.

You did not raise any relevant challenges to the underlying tax liability or the appropriateness of the filing of the Notice of Federal Tax Lien. You did not establish grounds for withdrawal of the lien. You failed to submit documents to support collection alternatives.

IRC 6323(j) provides a filed NFTL may be withdrawn:

- If the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary;
- If the taxpayer has entered into an installment agreement under § 6159 to satisfy the liability for which the lien was imposed by means of installment payments, unless such agreement otherwise provides;
- If the withdrawal of such notice will facilitate the collection of the tax liability, or
- With the consent of the taxpayer or the National Taxpayer Advocate, if the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States.

A review of the history does not reveal that the lien was filed prematurely nor is this a Taxpayer Advocate case with a hardship issue. You have not indicated that a withdrawal would facilitate collection of the taxes. At this time, grounds for withdrawal have not been established.

No other valid issues were raised.

Before you decide to petition this Notice of Determination, you should be advised that the U.S. Tax Court is empowered to impose monetary sanctions up to \$25,000.00 for instituting or maintaining an action before it primarily for delay or for taking a position that is frivolous or groundless. Pierson v. Commissioner, 115 T.C.No.39 (2000). It is our conclusion that the position you have taken has no merit and is groundless.

Due to your failure to comply with the income tax filing requirements, no collection alternatives could be considered.

Balancing Efficient Collection and Intrusiveness

IRC § 6330 requires that the Appeals Office consider whether a proposed collection action balances the need for efficient collection of the taxes with the legitimate concern that any collection action be no more intrusive than necessary.

Nicholas Taflan
IRC 6320-Lien
30-12/1996

IRC 6330 requires that the Appeals Office consider whether a proposed collection action balances the need for efficient collection of taxes with the legitimate concern that any collection action be no more intrusive than necessary. Due to your failure to establish grounds for withdrawal of the Notice of Federal Tax Lien and failure to pay the liability, the action taken by the IRS was appropriate. The most efficient means of protecting the public interest regarding this delinquent liability is through the filing of the Notice of Federal Tax Lien. In that the liability was appropriately assessed and is due and owing and you have made no arrangements to repay, the filing of the NFTL balances the need for efficient collection with your concern over the intrusiveness of the action

DETERMINATION

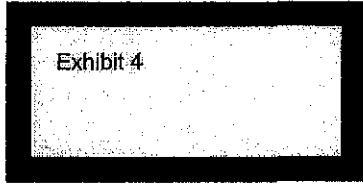
All legal and procedural requirements were met prior to the issuance of the Lt 3172 and the filing of the NFTL, and the Settlement Officer concluded that the action was appropriate. The filing of the NFTL was necessary in order to protect the government's interest and to establish its priority in relation to other creditors. Additionally, the filing of the NFTL is in balance with whatever concerns you may have over intrusiveness of the action.

**Nicholas Taflan
IRC 6320-Lien
30-12/1996**

Save-A-Patriot Fellowship Para-legal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

January 27, 2004



Nicholas Tafian
55951 Key-Bellaire Rd.
Bellaire, Ohio 43906-9530

Fee for the letter to : Motion To Reconsider letter

\$ 100.00

Certified Mail No --- self file

Total fee: **NET UPON RECEIPT**

\$100.00

Please promptly return this bill with your payment 'in full' in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides). A copy of your money order or FRN's can be used to verify your payment if the question arises.

Fees are Net Upon Receipt of the date of the invoice. Please keep your account current, as no further work will be done for accounts in arrears and payment in advance will be required. If you find yourself unable to pay 'in full' or unable to make prompt payment, please notify the Para-legal immediately you.

Please Note: This is not standard casework. This is Para-legal work which is not supplemented by the fellowship in any way, but facilities and materials. The para-legal who prepared this document for you, is solely dependent upon your prompt and 'in full' handling of this matter so that he can continue to provide his knowledge and experience to the Membership.

Invoice No. 2004-NL-555
#???

PAID - 2/2/04 3/8/04

Save-A-Patriot Fellowship Para-legal Services

Post Office Box 91
Westminster, Maryland 21158
Tel: 410-857-4441

PAID
1-21-04
M/O

January 15, 2004

Nicholas Taflan
55951 Key Bellaire Rd.
Bellaire, Ohio 43906-9530

Fee for the letter to : **Opposition to Dismiss-Venue**
Certified Mail No --- self file

\$ 80.00

Total fee: **NET UPON RECEIPT**

\$ 80.00



Please promptly return this bill with your payment 'in full' in cash or a totally blank U.S. Postal money order (leave blank both payor and payee sides). A copy of your money order or FRN's can be used to verify your payment if the question arises.

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If you find yourself unable to pay 'in full' or unable to make prompt payment, please notify the Para-legal immediately. Thank you.

Please Note: This is not standard casework. This is Para-legal work which is not supplemented by the fellowship in any way, but facilities and materials. The para-legal who prepared this document for you, is solely dependent upon your prompt and 'in full' handling of this matter so that he can continue to provide his knowledge and experience to the Membership.

Invoice No. NL-2002-550

#???

AFFIDAVIT

(Establishing my "exempt" status with respect to federal income taxes pursuant to 26 USC 3402(n))

To: Rite Aid Corporation Date: 01/06/03

This is my sworn affidavit, submitted pursuant to Section 3402(n) of the Internal Revenue Code (reproduced below) certifying that:

1. I incurred no liability for income tax imposed under subtitle A for the preceding taxable year.
2. I anticipate I will incur no liability for income tax imposed under subtitle A for the current taxable year.
3. I had a right to a full refund of any and all amounts withheld for both years.

You can see by checking my statement against the tax law itself that I have fulfilled all the requirements contained in the law. The law makes it perfectly clear that "notwithstanding any other provision of this section..." (i.e. Section 3402(n) that you "...shall not be required to deduct and withhold any tax..." from my wages if I provide you with the certified statement contained in this affidavit. Let me further point out that under law (Section 3402(n)) I am not required to provide you or the IRS with any other document or statement because this affidavit fulfills all the requirements contained in the law.

Let me further remind you that no mimeographed letter or alleged regulation can abrogate or supersede my sworn statement and the clear language and intent of the law as shown below.

INTERNAL REVENUE CODE SECTION 3402(n)

"(n) Employees incurring no income tax liability,

Notwithstanding any other provision of this section, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages if there is in effect with respect to such payment a withholding exemption certificate (in such form and containing such other information as the Secretary may prescribe) furnished the employer by the employee certifying that the employee:

- (1) incurred no liability for income tax imposed under subtitle A for his preceding taxable year, and
- (2) anticipates that he will incur no liability for income tax imposed under subtitle A for his current taxable year.

The Secretary shall by regulations provide for the coordination of the provisions of this subsection with the provisions of subsection (f).

NAME Nicholas M. Tallon
SIGNATURE [Signature]

NOTARY [Signature]
MY COMMISSION EXPIRES SEPTEMBER 27, 2006

My Commission Expires SEP 27 2006

Exhibit 6

This
STATEMENT OF CITIZENSHIP
for

Nicholas Matthew Taffan
55951 Key-Bellaire Rd
Bellaire, Ohio 43906

01/23/04
Rite Aid Corp.
Harrisburg, Pa.

This statement is provided in duplicate to conform to the provisions of internal revenue regulations which will relieve a withholding agent of the duty to withhold money from payments to a United States citizen and/or resident. The withholding agent is also relieved of any liability, pursuant to the regulations, because money is not withheld. The Code of Federal Regulations (26 CFR) says in pertinent part:

"Section 1.1441-5 Claiming to be a person not subject to withholding.

"(a) Individuals. For purpose of Chapter 3 of the code, an individual's written statement that he or she is a citizen or resident of the United States may be relied upon by the payor of the income as proof that such individual is a citizen or resident of the United States. This statement shall be furnished to the withholding agent in duplicate."

The duplicate copy of this Statement of Citizenship, along with a letter of transmittal, must be sent only to Internal Revenue Service Center, Philadelphia, PA 19255, by the withholding agent, pursuant to 26 Code of Federal Regulations section 1.1441-5.

Thank you,

(Signature)

Subscribed and sworn to before me, a Notary Public, for the State of _____, County of _____,
this _____ day of _____, 20____.

Notary Public

My Commission Expires On: _____

Suggested "letter of transmittal" per 26 CFR section 1.1441-5:

Your company letterhead

Date Mailed

Certified Mail No. _____

Internal Revenue Service Center
Philadelphia, PA 19255

Dear Sir/Madam:

I am enclosing herein the duplicate copy of the "Statement of Citizenship" received from *Name of person submitting the statement*, as directed by Code of Federal regulation 26 CFR 1.1441-5.

If I do not receive a written detailed determination from your office within thirty(30) days of your receipt of this letter, I will continue to obey the above-referenced law as it is written.

Sincerely,

(responsible corporate officer)

Enclosure: Copy of duplicate "statement of citizenship"
cc: (person who submitted the "statement of citizenship")

AFFIDAVIT OF REQUEST AND TRANSMITTAL

I, _____ of _____ do hereby declare that on the _____ day of _____, _____ was requested to disclose a Social Security account number and he declined to disclose one. This action on our part meets all known requirements specifically those described in § 301.6109-1:

...When the person filing the return, statement, or other document does not know the number of the other person, and has complied with the request provision of this paragraph he shall sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating...

Therefore, please also accept this affidavit as a letter of transmittal to accompany the forms/schedules regarding Mr. Taffan. Any further requests in this regard, as well as any potential penalties for the non-disclosure of the social security number should be directed to Mr. Taffan pursuant to § 301.6676-1.

(employer/paymaster)

Subscribed and sworn to before me, a Notary Public, of the State of _____,
County of _____, this _____ day of _____, 1999, that
the above named person did appear before me and was identified to be the person executing this document.

Notary Public

My Commission Expires On: _____

AFFIDAVIT OF REVOCATION AND RESCISSION

I, Nicholas M. Taflan, of 55951 Key-Bellaire Road, Bellaire, Ohio 43906, by my signature affixed to this document, do hereby make the following statement of fact, and affirm:

1. That I was unaware that completed, signed, and submitted Internal Revenue Service "tax forms" could be used as prima facie evidence against me in criminal trials. That I had in the past executed and submitted Internal Revenue Service tax forms voluntarily not realizing the ramifications that every material fact was being subscribed to. That by doing so I had voluntarily waived my constitutionally secured rights ". . . to be a witness against. . ." myself and my right ". . . to be secure in my person, house, papers, and effects, against unreasonable searches and seizures. . .";

2. That I was unaware that the signing and filing of an income tax form is an act imposed by law, (Title 26 United States Code § 1), for a individual citizen and/or resident of the United States living and working within a foreign country having a tax treaty with the United States;

3. That I was also unaware that "Income Taxes," imposed by Title 26 United States Code within subtitle A, "Income Tax," § 1, "Tax Imposed," as verified by the Paperwork Reduction Act's OMB Control Number assigned to Internal Revenue Service regulation § 1.1-1, (the underlying regulation for § 1), are computed on Internal Revenue Service information request form, Form 2555, "Foreign Earned Income,";

4. That I was also unaware that an application for a Social Security Number (Form SS-5) is also a voluntary act, that a Social Security Number is not needed to be employed, and that the obtaining of the Social Security number could defacto, by the general practice and mindset within the workplace, subject an individual to the provisions of subtitle C of the Internal Revenue Code, "Employment Taxes." That I was a minor when making this application, and as a matter of law I am not bound by any act that I committed when of a minor age.

5. That I was unaware that in a court of law completed Internal Revenue Service documents signed under penalties of perjury can become prima facie evidence sufficient to sustain a defacto legal conclusion by a judge that the signer has voluntarily become a "taxpayer" (any individual, trust, estate, partnership, association, company or corporation subject to a federal excise tax), a "person" who is subject to a federal taxation and is therefore subject to the authority, jurisdiction and control of the federal government under Title 26 of the United States Code, the statutes governing federal taxation and to the regulations of the Internal Revenue Service, thereby imposing the tax on himself and waiving his God-given Constitutionally secured rights in respect to the federal taxation statutes and their administration by the Internal Revenue Service and establishing himself as one who has no

Constitutionally secured rights in dealings with the Internal Revenue Service as exemplified in paragraph 3 above.

6. That I am a natural born free sovereign United States citizen, a citizen of the State of Ohio, a freeman endowed by my Creator with numerous unalienable rights including my rights to "life, liberty, and the pursuit of happiness," which rights are specifically identified in the Declaration of Independence and secured by the United States Constitution; That my birthright to "the pursuit of happiness" has been interpreted by both the framers of the Constitution and the U.S. Supreme Court as including my unalienable right to contract, to acquire, to deal in, to sell, rent, and exchange properties of various kinds, real and personal, without requesting or exercising any privilege or franchise from government; That I have learned that these unalienable property rights also include my right to contract for the exchange of my labor for other properties such as wages, salaries, and other earnings; And that I have never knowingly or intentionally waived any of these unalienable rights.

7. That I understand that if the exercise of rights were subjected to taxation, the rights could be destroyed by increasing the tax rates to unaffordable levels; therefore courts have repeatedly ruled that government has no power to tax the exercise of any rights of citizens, as shown by the U.S. Supreme Court in the case of *Murdock v. Penna.*, 319 U.S. 105 (1943) which stated: "A state may not impose a charge for the enjoyment of a right granted [secured] by the Federal Constitution."

8. That for years past I was influenced by numerous and repeated public warnings made by the Internal Revenue Service via radio, television, the printed press and other public communication media warning of the "deadline" for filing a "Form 1040 Income Tax Return and/or other Internal Revenue Service forms and documents.

9. That in addition to the aforesaid warnings, I was also influenced by misleading and deceptive wording of Internal Revenue Service publications, Internal Revenue Service generated news articles, the pressure of widespread rumors and misinformed public opinion, and the general practice of lawyers, C.P.A.'s and income tax preparers misled me to incorrectly believe that the 16th Amendment to the United States Constitution authorized Congress to impose a direct tax on me, my property, my exchanges of property and/or property received as a result of exercising my constitutionally secured right to contract; That I was further misled into believing I had a legal duty and obligation to file Internal Revenue Service tax returns and other documents.

10. That I have also been further influenced, misled and alarmed by rumors, misinformed public opinion and the electronic and print news and entertainment media to the effect that "the IRS will get you," and that it would be a crime punishable by fine and/or imprisonment if I did not fill out, sign and file with the Internal Revenue Service forms and

documents; That in actuality the only person named within the Internal Revenue Code required to collect, file a return, and pay an income tax is a "Withholding Agent" acting in behalf of "nonresident aliens, foreign corporations, and foreign tax exempt organizations.";

11. That in addition to all of the reasons stated in paragraphs 8, 9, and 10 above, I was influenced by the common and widespread practice of employers who either knowingly or unknowingly mislead their employees to believe that they are all subject to withholding of "income taxes" from their earnings, either with or without their permission, based upon the employers' possible mistaken assumption that they, as employers, are required by law to withhold "income taxes" from the paychecks of their employees, which is contrary to Internal Revenue Code Section 7701(a)(16), absent a voluntary execution of Form W4, "Employee's Withholding Allowance Certificate," used in association with the Social Security Number discussed in paragraph 4 above.

12. That I have also been influenced and impressed by the Internal Revenue Service's annual public display and indiscriminate offering of large quantities of the tax forms in banks, post offices, and through the United States mail.

13. That said tax forms contained no reference to any law or laws which would explain just exactly who is or is not subject to or liable for the income tax, nor do they contain any notice or warning to anyone that merely sending said completed forms to the IRS would be a waiver of my right to privacy secured by the 4th Amendment and the right to not having to be a witness against oneself secured by the 5th Amendment to the United States Constitution, and that the forms would in themselves constitute presumptive legal evidence admissible in a court of law; that the filer is subject to and liable for the income/excise tax even though and regardless of the fact that I, or any other free individual citizen within the States of the union, am actually and legally not subject to or liable for any income tax and have no legal duty or obligation whatsoever to complete and file an income tax form.

14. That at no time was I ever notified or informed by the Internal Revenue Service, by any of its agents or employees, nor by any lawyer, C.P.A., or tax preparer of the fact that the 16th Amendment to the United States Constitution, as correctly interpreted by the U.S. Supreme Court in such cases as Brushaber v. Union Pacific R.R. Co., 240 U.S. 1 (1916) and Stanton v. Baltic Mining Co., 240 U.S. 103 (1916), identified the income tax as an indirect excise tax in accordance with Article 1, Section 8, Clause 1 of the United States Constitution, and that the 16th Amendment does not authorize a tax on individual citizens living and working within the States united, but is applicable to nonresident aliens as stated by the Commissioner of the Bureau of Internal Revenue in T.D. (Treasury Decision) 2313, March 21, 1916.

15. That my attention has been called to Report No. 79-131 A, titled "Some Constitutional Questions Regarding the Federal Income Tax Laws" published by the American Law Division of the Congressional Research Service of the Library of Congress, May 25, 1979; That this publication described the tax on "income" identified in the 16th Amendment of the United States Constitution as an indirect excise tax; That this report stated: "The Supreme Court, in a decision written by Chief Justice White, first noted that the 16th Amendment did not authorize any new type of tax, nor did it repeal or revoke the tax clauses of Article I of the United States Constitution..." and further stated: "Therefore, it can clearly be determined from the decisions of the United States Supreme Court that the income tax is an indirect tax, generally in the nature of an excise tax," thus proving in my mind that the "income tax" is not a tax on me as an individual citizen.

16. That I was unaware of the truth of the Internal Revenue Service's rarely publicized statement that the "income" tax system is based upon "voluntary compliance with the law and self-assessment of tax"; That it has never been my intention or desire to voluntarily self-assess an excise tax upon myself; That I always thought that compliance was required by law.

17. That I have examined sections 6001, 6011, 6012(a), 1441, 1442, 1443, 7203, and 7205 of the Internal Revenue Code (Title 26 U.S.C.) and I am convinced and satisfied that I am not now and never was any such "person" or individual referred to by these sections.

18. That after careful study of the Internal Revenue Code and consultations with others on the provisions of the Code, I have never found or been shown any section of the Internal Revenue Code that imposed any requirement on me, as an individual citizen, living within a State of the Union, to file a personal "Income Tax Return," or that imposed a personal liability upon me to pay a tax on "income," or that would classify me personally as a "person liable."

19. That after study and consultations mentioned in paragraph 17 and 18, the only mention of any possible liability and/or requirement upon me, as an individual citizen, to complete and file a tax form and pay a tax on "income" that I could find or was shown in Title 26 United States Code was subtitle A, Chapter 1, Subchapter A Section 1, "Tax on Individuals" and Subtitle F, Chapter 61A, Part II, Subpart B, Section 6012(a); That a careful study and examination of these parts of the Code revealed that the "Individuals" referred to were taxed according to a tax treaty, because of living and working within a foreign country.

20. That after study and consultations mentioned in paragraph 17 and 18, my attention was called to Internal Revenue Code Subtitle C, "Employment Taxes," Chapter 21 titled "Federal Insurance Contributions Act" (social security), to Subchapter A of Chapter 21 titled "Tax on Employees," which includes Section 3101 wherein the (social security) tax is identified as a tax on "income," not as an "Insurance Contribution," and not as a "Tax on

Employees," or on wages or earnings;

21. That my attention was further called to these facts: there is no provision in the Code that imposes the tax on employees or requires them to make an application for a Social Security Number, (needed to participate in the Social Security Welfare Program), or to pay the tax; that a voluntarily signed completed Form W-4, "Employee's Withholding Allowance Certificate," containing the Social Security Number, allows an employer to withhold money from a worker's pay for (social security) "income" tax, only if the "employee" has voluntarily made an application on Form SS-5 for a Social Security Number for the purpose of "obtaining or retaining a benefit" within the Social Security Welfare Program.

22. That after the study and consultations described in paragraph 17 and 18, my attention was called to § 61(a) of the Internal Revenue Code which lists items that are sources of "income" and to these facts: that Internal Revenue Service Collection Summons Form 6638 confirms that these items are sources, not "income," by stating that the following items are "sources": "wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, pensions, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money)," that sources are not income, but sources become "income," defacto, if they are entered as "income" on a signed "Form 1040" because the signer affirms under penalty of perjury that the items entered in the "income" section of the "Form 1040" are "income" to the signer; That § 61(b) clearly indicates which Sections of the Code identify and list items that are included in "income" by stating: "For items specifically included in gross income, see Part II (sec. 71 and following)."

23. That my attention was then called to Part II, titled: "Items Specifically Included in Gross Income;" that I studied §§ 71 through 87 and noticed that wages, salaries, commissions, tips, interest, dividends, pensions, rents, royalties, etc., are not listed as being included in "income" in those sections of the code; that, in fact, those items are not mentioned anywhere in any of these sections of the Internal Revenue Code.

24. That Shirley D. Peterson, former Commissioner of the Internal Revenue Service, and former head of the Criminal Tax Division of the United States Attorney General's Office, expressed her concerns about the Internal Revenue Code on April 4, 1993, at Southern Methodist University thusly: "Eight decades of amendments and accretions to the [Internal Revenue] Code have produced a virtually impenetrable maze. The rules are unintelligible to most citizens — including those holding advanced degrees and including many who specialize in tax law." She complained: "We have seen many attempts at tax reform and simplification but none of these efforts has confronted the basic problem: that is, the [Internal Revenue] Code itself. The key question is: can we define 'income' in a fair and reasonably straightforward manner. Unfortunately, we have not yet succeeded in doing so."

25. That after further study it appears clear to me that the only way that property received by me, as an individual citizen, living and working within the States of the Union, in the form of wages, salaries, commissions, tips, interest, dividends, rents, royalties, and/or pensions could be, or could have been legally considered to be "income" is if I voluntarily completed and signed an income tax return, thereby affirming under penalty of perjury that information on the tax form was true and correct as to every material matter, and that any amounts listed on the tax form in the "income" block are "income," thereby acknowledging under oath that I am, or was subject to the tax and have, or had a duty to file an income tax return and/or other Internal Revenue Service forms, documents, and schedules, none of which instruments I have ever signed with the understanding that they were voluntarily signed.

26. That with reliance upon the aforementioned U.S. Supreme Court rulings and upon my constitutionally protected rights described within the 5th and 9th Amendments of the United States Constitution to lawfully contract, to work, and to lawfully acquire and possess property, I am convinced and satisfied that I am not now, nor was I ever subject to, personally liable for, or personally required to pay any income/excise tax, that I am not now and never was a "taxpayer" personally liable, and that I have never been notified by the Internal Revenue Service, according to Delegation Order 24, of any legal duty or obligation whatsoever to file or make any "income tax return," or sign any other Internal Revenue forms, submit documents or schedules, pay any income tax, keep any records, or supply any information to the Internal Revenue Service.

27. That both the United States Congress and the Internal Revenue Service, by deceptive and misleading words and statements in the Internal Revenue Code, as well as Internal Revenue Service publications and Internal Revenue Service generated news articles committed constructive fraud by misleading and deceiving me, as well as the general public, into believing that I was required to file Internal Revenue Service forms, and also to keep records, supply information, and to pay income taxes.

28. That by reason of the aforesaid facts, I do hereby exercise my rights as a free sovereign citizen of the State of Ohio, upheld by various court decisions to revoke, rescind, cancel and to render null and void, both currently and retroactively to the time of signing, based upon the constructive fraud perpetrated upon me by the United States Congress and the Internal Revenue Service, all Internal Revenue Service forms, schedules, and documents ever signed and/or submitted by me, and all my signatures on any of the aforementioned items, to include the "SOCIAL SECURITY NUMBER" application (Form SS-5), made by my parents when I was of minor age, which caused a file bearing the identifying number ██████████ to be established for myself, that this revocation and rescission is based upon my rights in respect to constructive fraud as established in, but not limited to the cases of Tyler v. Secretary of State, 184 A.2d 101 (1962), and also El Paso Natural Gas Co. v. Kysar Insurance Co., 605 Pacific 2d. 240 (1979) which stated: "Constructive fraud as well as actual fraud may be the basis of cancellation of an instrument."

29. That further, I do hereby declare that I am not subject personally to an Income Tax, and never was a "taxpayer" in that sense of the word, as that term is defined in the Internal Revenue Code, regarding personal liability, a "person liable" for any Internal Revenue tax, or a "person" subject to the provisions of that Code, and declare that I am, and have always been, a "nontaxpayer"; that courts have recognized and acknowledged that individuals can be nontaxpayers, "... for with them Congress does not assume to deal and they are neither of the subject nor of the object of revenue laws...", as stated by the Court in Long v. Rasmtussen, 281 F. 236 (1922), and also Delima v. Bidwell, 182 U.S. 176, 179 and Gerth v. United States, 132 F. Supp. 894 (1955).

30. Because of the before mentioned misrepresentations and omissions of the Law, and in order to protect my Right to Life, Liberty and the Pursuit of Happiness secured by the United States Constitution and the Constitution of the State of Ohio, it may from time to time become necessary to amend this affidavit. Wherefore, I do hereby declare that right herein.

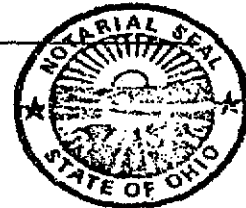
I now affix my signature to these affirmations:


Nicholas M. Taffan (Seal)

The foregoing was subscribed and sworn to before me, a Notary Public, of the State of
Ohio _____ County of Belmont _____, this 22nd day of
March _____, 1996.


Notary Public

My Commission Expires On: _____
SHERREL J. WILSON, NOTARY PUBLIC
My Commission Expires On: _____, 1999
Registered in Belmont County



Affidavit of Revocation and Rescission Instructions

Exhibit 8

Read the following very carefully before using this affidavit.

1. Be aware that once you file this *affidavit* you will no longer be eligible for Social InSecurity Benefits. As we all know, if you are 40 years of age or younger it is very questionable whether you will receive any "benefits" anyway.

2. **THE FOLLOWING IS OPTIONAL:** Before sending this *affidavit* to the Secretary of the Treasure, **IF** you want to make it part of the public record, take it to your county courthouse and have it recorded among the books that contain miscellaneous documents, (note: some states do not have such books), and ask the clerk for a "true test copy" of it. When you receive the true test copy, take a lead pencil and lightly blacken the raised seal of the court, then make copies of this to send with the enclosed *cover letter* and the *affidavit*. (Use the *cover letter* supplied with the *affidavit* only.) You may send copies of the *affidavit* and *cover letter* to others as the case may require, but simply state that it is for their information only. Never quote law, court cases, or anything else. The less you say the better, let the *affidavit* talk for you.

3. Any future correspondence from either the state or IRS plunderers should be answered with S.A.P. Vehicles. All initial correspondence from the Internal Revenue Service has to contain a Privacy Act notice (Notice 609) and/or the applicable state requirement stating the authority the state agency has to accost you. Any absence of such a statement of authority should be, before doing anything else, challenged.

4. You cannot file an IRS Form W-4 with an employer, or any other IRS or state income tax forms, once you execute and forward the *affidavit* to whomever. In fact, the filing of any IRS or state income tax form(s) with anybody will invalidate the *affidavit*. In lieu of the Form W-4 you would use a Statement of Citizenship pursuant to 26 CFR 1.1441-5.

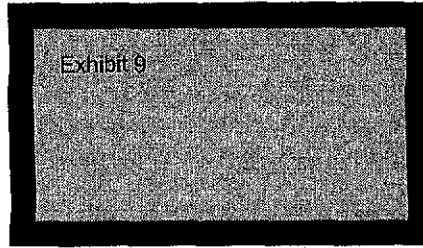
5. This *affidavit* must be sent U.S. Postal Service Certified Mail Receipt Requested (to the Secretary only). If not you will not be able to use Vehicles #1(a) and #1(b).

If you have any questions about the above, or any other situation or condition that might come to mind or arise out of the use of this *affidavit*, please telephone S.A.P. headquarters (410) 857-4441. Do not write as our time to answer mail is becoming more limited as time goes on.

NOTICE: Along the line of this *affidavit*, we also issue an affidavit to establish the date you purchased our video presentation "Evidence That Demands Action." If you rely on the facts contained within this video presentation, and if the Internal Revenue Service charges you criminally for the year the purchase was made in, or any year thereafter, the video presentation becomes a material fact relating to your intent and cannot be kept from the jury.

Nicholas M. Taflan
55951 Key-Bellaire Road
Bellaire, Ohio 43906

Mr. Robert E. Rubin, Secretary
Department of the Treasury
1500 Pennsylvania Ave. N.W.
Washington, D.C. 20220



Dear Mr. Secretary:

Would you please be so kind as to forward the enclosed asseveration to the appropriate governmental office(s) so that proper notice can be taken thereof its content, and suitable action to comply with its mandate therewith.

If I do not hear from you, or any of your delegates, within ninety days (90), I will presume that my statements are correct and that you do not have any rebuttal.

Thank you.

Sincerely,


Nicholas M. Taflan

cc:
copy retained.