

**FILED**  
MAR 20 2006  
By William B. Guthrie  
Clerk, U.S. District Court  
Deputy Clerk

**United States District Court  
Eastern District of Oklahoma**

<b>United States of America</b>	)	<b>Judge White</b>
<b>Plaintiff</b>	)	
<b>v.</b>	)	<b>CASE NO. CR 05-43 WH</b>
	)	
<b>Jimmy C Chisum sui juris</b>	)	<b>Notice and Demand for</b>
<b>Accused Pro Per</b>	)	<b>Best Proof in Pre-Sentencing</b>
	)	<b>Report and Sentencing</b>
	)	<b>Hearing by AFFIDAVIT</b>
	)	

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**NOTICE AND DEMAND FOR DUE PROCESS AND BEST PROOF  
IN SENTENCING PROCESS AND PROCEDURES**

**AFFIDAVIT**

I, Jimmy C. Chisum, am a follower of the way; Jesus Christ is my higher Power (Romans 13) only King and Almighty God my only sovereign. I am allegiant and loyal to God's law and the commands of King Jesus and adhere to man's law whenever there is no conflict (Leviticus 18:3,4); (We ought to obey God rather than man; Acts 5); (all law is a blessing to those who do good). Pursuant to Matthew 5:33-37, and James 1:12 my yeas are yeas, my nays are nays, I lie not as confirmed by Federal Public Law 97-280, aka 96 Stat 1211. I have personal knowledge of the matters stated herein, and acknowledge the liabilities presented in **Briscoe v LaHue, 460 US 325.**

**NOTICE**

1. Throughout the pre-sentencing or post-conviction period Nancy Perryman has repeatedly assured defendant that the court would insist on accurate numbers for sentencing. Notice is given that defendant has a right to truth in every detail of the legal process and procedures forced upon him by the malicious prosecution from unregistered foreign agents of the love of money empire known as International Monetary Fund.

2. On March 9, 2006 Jeffrey Gallant gave his verbal guarantee to defendant and Nancy Perryman of the duty he holds for making sure the numbers are true and correct.
3. The 1996 General Accounting Office Audit Report to Congress stated that the Internal Revenue Service can not prove it has ever properly or accurately assessed anyone; and each subsequent audit has re-stated that deficit in accuracy.
4. The 1997 Senate investigation report stated that IRS numbers in accounting, advice given to public, or actions taken by agents could not be trusted; and the Senate investigation resulted in Restructuring and Reform Act of 1998 which states at least five times that the rights of the people are more important than the revenue.
5. Defendant has properly challenged the accuracy of the proposed numbers both orally and in writing to the best of his ability and retains the due process right to truth, notwithstanding the court's rejection of the motion in limine to prevent plaintiff from lying to the court or jury. Nothing other than a certified assessment, properly signed and registered on the assessment roll fulfills the law for truth and accuracy; and even that is suspect according to GAO. A certifying assessment officer with proper credential and delegations of authority testifying as a competent fact witness under oath and subject to cross examination is the minimum standard of proof as to each and every number alleged to be income tax.

#### **STATEMENT OF THE LAW and FACTS**

6. None of the trusts or people named in the list for the pre-sentencing report was engaged in federal corporate privilege of a federally chartered corporation.
7. None of the trusts or people named in the list for the pre-sentencing report was engaged in any excise taxable activity listed in act of Congress or 26 USC to make them subject to excise tax measured by income. Brushaber, Stanton, Peck; Supreme Court
8. None of the people or trusts listed for the pre-sentencing report is employees or employers as defined in 26 USC 3401; and none are a part of government at any level

or conducting any government activity within or wit the United States. There is no other legal definition in the Internal Revenue Code for employer or employee that could pretend to make any of these listed subject to and liable for the income tax.

**Elrod v. Burns, 427 U.S. 347; 6 S. Ct. 2673; 49 L. Ed. 2d (1976)**  
**"Loss of First Amendment Freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."**

**Miller v. U.S., 230 F. 2d. 486, 490; 42**  
**"There can be no sanction or penalty imposed upon one, because of his exercise of constitutional rights."**

**Murdock v. Pennsylvania, 319 U.S. 105**  
**"No state shall convert a liberty into a license, and charge a fee therefore."**

**Shuttlesworth v. City of Birmingham, Alabama, 373 U.S. 262**  
**"If the State converts a right (liberty) into a privilege, the citizen can ignore the license and fee and engage in the right (liberty) with impunity."**

**United States Constitution, First Amendment**  
**Right to Petition; Freedom of Association, free exercise of religion, free speech.**

9. None of the people or trusts listed in the pre-sentencing report is engaged in any corporate excise activity under ATF made liable for the income tax by congressionally enacted Statute or regulation.

10. None of the testimony in trial had anything to do with accuracy of the numbers guaranteed "accurate" and "correct" by Gallant on March 11, 2006. There is no presumption of regularity that the court can grant the plaintiff without demonstrating prejudicial denial of due process.

11. None of the witnesses at trial were qualified as competent fact witnesses, under oath and available for cross examination to verify the accuracy of the numbers in the pre-sentencing report.

12. All of the prosecution witnesses at trial, except Mrs. Pearce, confessed to criminal activity under color of authority, color of law, and want of jurisdiction.

13. Granting of presumption of accuracy to numbers that the GAO and Congress have said can not be trusted, or verified, denies defendant due process right to best evidence.

## **DEMAND**

14. Defendant hereby demands full proof, by best evidence, of each and every number in the pre-sentencing report, concerning enforcement authority for every agent who gives testimony to accuracy, related activity for consideration, and alleged tax loss: and

15. Proof of authority for each and every "hand" that participated in the generation of numbers, with fully verified knowledge of liability laws, statutes, codes and regulations to verify their activity by being called to testify, and submitted to cross examination: and

16. Law and facts to establish full chain of authority and jurisdiction of each and every alleged agent or official "hand" that participated in the generation or calculation of every alleged "tax loss" number to be placed in the record by a competent fact witness testifying under oath and subject to cross examination; and

17. Defendant must be given full disclosure of all related evidence, and witness statements in time to be able to call rebuttal witnesses, issue subpoenas, or acquire any needed assistance of council.

## **LAW OF THE CASE**

18. The defendant has relied upon the word and law of God In the Bible, as cited by Blackstone and Storey; PL 97-280, 96 Stat 1211; Declaration of independence, United States Constitution, Statutes at large, United States Code, Code of federal regulations, Revenue Manuals, Supreme Court precedent form the foundation of the law of this case.

19. The total liability for tax in the statutes passed by congress and codified in 26 U.S.C. at 4001, 4003, 4041, 4042, 4051, 4064, 4071, 4081, 4091, 4121, 4131, 4161, 4181, 4251, 4261, 4271, 4371, 4461, 4481, 4611, 4661, 4671, 4682, 4701, 4911, 4912, 4940, 4942, 4943, 4944, 4945, 4948, 4951, 4952, 4953, 4955, 4958, 4971, 4972, 4974, 49975, 4976, 4977, 4978, 4979, 4979A, 4980, 4980B, 4980C, 4980D, 4980E, 4981, 4982,

4999, 5000, 5001, 5041, 5051, 5701, and 5881; does not reach this case, nor any of the people or trusts named in the preliminary pre-sentencing report.

20. No lawful liability for tax imposed by congress within its limited first amendment authority means that none of the numbers can be trusted and all must be substantiated by competent fact witnesses, testifying under oath and subject to cross examination.

21. Jurisdiction, without a liability statute, is absent. No agent can testify without proven authority to act. The lack of the "essential element" of deficiency and assessment is an incurable jurisdictional defect and denies due process. (US v Collins 920 F 2d 619, 631)

***"...jurisdiction of the Courts of the United States means a law providing in terms of revenue; that is to say, a law which is directly traceable to the power granted to Congress by '8, Article I, of the Constitution, 'to lay and collect taxes, duties, imposts, and excises.'" US v Hill, 123 US 681, 686 (1887).***

***"Where jurisdiction is challenged, it must be proven... The law requires proof of jurisdiction to appear on the proceedings... Jurisdiction may never be assumed, it must be proven." Hagen v. Lavine, 415 US 528, at 533, 39 L.ed. 577, 94 S Ct, 1372 (N.Y. March 28, 1974).***

***"The question of Jurisdiction in the court either over the person, the subject matter or the place where the crime was committed can be raised at any stage of a criminal proceedings; it is never presumed but must be proved; and it is never waived by the defendant." United States v. Roger, 23 F. 658 (W.D. Ark. 1885).***

***"Jurisdiction once challenged cannot be assumed and must be decided." State of Maine v. Thiboutot, 448 US 1, 100 S. Ct. 2502 (1980).***

22. The defect in due process caused by or for lack of Subject matter jurisdiction to proceed, absent the essential element of "deficiency", is fatal to the prosecution; and to the jurisdiction of the court; a competent fact witness testifying under oath and subject to cross examination is demanded for each number, and each element of jurisdiction...

UNITED STATES v. MERSKY, 361 U.S. 431 (1960).

***"The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other... When the statute and regulations are so inextricably intertwined, the dismissal must be held to involve the construction of the statute."***

CALIFORNIA BANKERS ASSN. v. SHULTZ, 416 U.S. 21 (1974).

**“...we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone.”**

24. There are no regulations published by the secretary to make any of the listed people or trusts subject to the Excise tax measured by the income, interest or penalties; and no proof of law has been provided at any time by prosecutor. Presumption is rebutted and must now require proof by law, regulation, and best evidence from a competent fact witness testifying under oath and subjected to cross-examination by defendant.

25. All of the occupations of the people listed in the report are common occupations not subjected to the tax as defined by US Supreme Court. Butchers Union, Pollack, Evans

MERCHANTS' LOAN & TRUST CO. v SMIETANKA, 255 US 509, 519 (1921):

**“The Corporation Excise Tax Act of August 5, 1909, was not an Income tax law, but a definition of the word ‘income’ was so necessary in its administration...”**

**“It is obvious that these decisions in principle rule the case at bar if the word ‘income’ has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning as in effect decided in Southern Pacific v Lowe..., where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber...the definition of ‘income’ which was applied was adopted from Stratton’s Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909... there would seem to be no room to doubt that the word must be given the same meaning in all the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by decisions of this Court.”**

Helvering v. Edison Brothers' Stores 8 Cir. 133 F2d 575 (1943):

**“The Treasury cannot by interpretive regulation make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax that which is not income within the meaning of the 16th Amendment.”**

GOULD v. GOULD , 245 U.S. 151 (1917):

**“In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly**

***against the government, and in favor of the citizen. United States v. Wigglesworth, 2 Story, 369, Fed. Cas. No. 16,690; American Net & Twine Co. v. Worthington, 141 U.S. 468, 474, 12 S. Sup. Ct. 55; Benziger v. United States, 192 U.S. 38, 55, 24 S. Sup. Ct. 189.***

Dwight E. Avis, Head of the Alcohol, Tobacco, and Firearms Bureau of Internal Revenue testified under oath before Congress (2/3/53 – 2/13/53).

***“Let me point this out now. This is where the structure differs. Your income tax is a 100% voluntary tax and your liquor tax (A.T.F.) is a 100% enforced tax. Now the situation is as different as night and day. Consequently, your same rules simply will not apply.”***

26. The Supreme Court was correct when it ruled:

***“(A) statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.” Connally v General Construction Co., 269 US 385, 391 (1926).***

BRUSHABER v UNION PACIFIC R. CO., 240 US 1 (1916):

***“...the confusion is not inherent, but rather arises from the conclusion that the 16<sup>th</sup> Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it...”***

EVANS v GORE, 253 US 245 (1920):

***“Does the Sixteenth Amendment authorize and support this tax and the attendant diminution; that is to say, does it bring within the taxing powers subjects theretofore excepted? The court below answered in the negative; and counsel for the government say: ‘It is not, in view of recent decisions, contended that this amendment rendered anything taxable as income that was not so taxable before.’”***

In TAFT v. BOWERS, 278 U.S. 470, 481 (1929):

***“Under former decisions here the settled doctrine is that the Sixteenth Amendment confers no power upon Congress to define and tax as income without apportionment something which theretofore could not have been properly regarded as income.”***

In MERCHANTS’ LOAN & TRUST CO. v SMIETANKA, 255 US 509, 519 (1921):

***“There would seem to be no room to doubt 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, and what that meaning is has now become definitely settled by decisions of this Court.”***

STRATTON'S INDEPENDENCE, LTD. v HOWBERT, 231 US 399, 414-415, (1913):

***"... the annual gains of such corporations are certainly to be taken as income for the purpose of measuring the amount of the tax."***

DOYLE v. MITCHELL BROS. CO. , 247 U.S. 179, 185 (1918):

***"Whatever difficulty there may be about a precise and scientific definition of 'income,' it imports, as used here, something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax; conveying rather the idea of gain or increase arising from corporate activities."***

STRATTON'S INDEPENDENCE, LTD. v. HOWBERT, 231 U.S. 399, 417 (1913):

***"Evidently Congress adopted the income as the measure of the tax to be imposed with respect to the doing of business in corporate form because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the government. In Flint v. Stone Tracy Co. 220 U.S. 107, 165 , 55 S. L. ed. 107, 419, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B. 1312, it was held that Congress, in exercising the right to tax a legitimate subject of taxation as a franchise or privilege, was not debarred by the Constitution from measuring the taxation by the total income, although derived in part from property which, considered by itself, was not taxable."***

Here is what STRATTON'S 231 US 399, 414-415 says:

***"As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an excise tax upon the conduct of business in a corporate capacity, measuring, however, the amount of tax by the income of the corporation."***

FLINT v STONE TRACY, 220 US 107, 151-152, (1911):

***"Excises are 'taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges.' Cooley, Const. Lim. 7<sup>th</sup> ed. 680."***

The 1954 House Discussion on Code section 61(a) of the 1954 Internal Revenue Code states:

***"This definition is based upon the 16<sup>th</sup> Amendment and the word 'income' is used in its constitutional sense." "This section corresponds to section 22 (a) of the 1939 Code."***



27. 26 USC 7608 identifies all enforcement agents of the IRS. Paragraph (b) of 7608 identifies “**criminal investigators of the Intelligence Division**” as having enforcement authority to enforce subtitle A (income taxes) and subtitle C (withholding taxes), and all other subtitles in Title 26 of the USC. No contact or issues with “criminal investigators of the Intelligence Division” occurred in establishing any of the numbers proposed by plaintiff; only Paragraph (a) agents, identified as “**Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax”.... the collection or enforcement of “subtitle E or of any other law of the United States pertaining to the commodities subject to tax”.**

28. None of the numbers presented in the pre-sentencing report were established in accordance with paragraph 25 delegated authorities; and none are for subtitle E taxation of excises under Alcohol, Tobacco, Firearms, Explosives or Sulfur Matches as cited in the Statutes at large presented in Judicial Notices 1,2, and 3 as law of the case.

29. No delegated authority for generating these numbers has been established before the court by a competent witness testifying under oath and subject to cross-examination. Quite the contrary is true, the court heard the testimony of 7 IRS witness confessing lack of authority and lack of knowledge of law but chose the prejudice as a government man.

30. All of the people named in the report have a God given right to labor to feed and provide for self and family. A right can not be taken away by the U.S. government by imposing conditions upon the man’s labors that may prevent him from providing for self and family. 26 USC 7701 defined Washington DC as a State for tax law purposes.

***“A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution.” MURDOCK v. COMMONWEALTH OF PENNSYLVANIA, 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943).***

31. No "let" or hindrance can be placed on a person's right to labor. The Supreme Court for more than 140 years has been exceedingly clear that occupations of common right are free from income taxation. A man's labor is his most sacred property and taxes on property are direct taxes requiring apportionment. The Supreme Court has correctly interpreted Constitution and law in language simple to understand. Connolly, Lanier Butcher's Union Co. v. Crescent City Co., 111 US 746, 757 (1884).

***"The right to pursue them, without let or hinderance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright. It has been well said that 'the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him."***

TRUAX v. CORRIGAN, 257 U.S. 312, 348 (1921).

***"That the right to conduct a lawful business, and thereby acquire pecuniary profits, is property, is indisputable."***

33. In Sims v. Ahrens, 167 Ark. 557, 271 S.W. 720, 733 (1925), the Court ruled:

***"The Legislature has no power to declare as a privilege and tax for revenue purposes occupations that are of common right, but it does have the power to declare as privileges and tax as such for state revenue purposes those pursuits and occupations that are not matters of common right..."***

34. All of the people, and trusts listed are in occupations of common right. (property)

MEYER v. STATE OF NEBRASKA, 262 U.S. 390, 399 (1923):

***"While this court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. Slaughter-House Cases, 16 Wall. 36; Butchers' Union Co. v. Crescent City Co., 111 U.S. 746, 4 Sup. Ct. 652; Yick Wo v. Hopkins, 118 U.S. 356, 6 Sup. Ct. 1064; Minnesota v. Barber, 136 U.S. 313, 10 Sup. Ct. 862; Allegeyer v. Louisiana, 165 U.S. 578, 17 Sup. Ct. 427; Lochner v. New York, 198 U.S. 45, 25 Sup. Ct. 539, 3 Ann.***

*Cas. 1133; Twining v. New Jersey* 211 U.S. 78, 29 Sup. Ct. 14; *Chicago, B. & Q. R. R. v. McGuire*, 219 U.S. 549, 31 Sup. Ct. 259; *Truax v. Raich*, 239 U.S. 33, 36 Sup. Ct. 7, L. R. A. 1916D, 545, Ann. Cas. 1917B, 283; *Adams v. Tanner*, 224 U.S. 590, 37 Sup. Ct. 662, L. R. A. 1917F, 1163, Ann. Cas. 1917D, 973; *New York Life Ins. Co. v. Dodge*, 246 U.S. 357, 38 Sup. Ct. 337, Ann. Cas. 1918E, 593; *Truax v. Corrigan*, 257 U.S. 312, 42 Sup. Ct. 124; *Adkins v. Children's Hospital (April 9, 1923)*, 261 U.S. 525, 43 Sup. Ct. 394, 67 L. Ed. --; *Wyeth v. Cambridge Board of Health*, 200 Mass. 474, 86 N. E. 925, 128 Am. St. Rep. 439, 23 L. R. A. (N. S.) 147."

35. Trustee is an occupation of common right that predated the constitution.

36. Trust is one of the forms of contract used by the founding fathers and directly protected by the provisions of Article 1; Section 10; Clause 1.

37. There is no constitutional delegation of authority for inferior federal Court Judges to interfere with the obligations of contracts. *New York v US*; 505 US 124

***"District Court has no jurisdiction under 28 USCS § 1340 of action by taxpayers seeking injunctive and mandamus relief against Internal Revenue Service on basis of taxpayers' interpretation of IRS regulation since § 1340 provides that District Court shall have jurisdiction of action arising under any Act of Congress and not actions arising under agency regulations which are without force of law." Einhorn v De Witt (1980, CA5 Fla) 618 F2d 347, 80-2 USTC P 9486, 46 AFTR 2d 5093.***

STATE OF RHODE ISLAND v. COM. OF MASSACHUSETTS, 37 U.S. 657 (1838):

***"The government of the United States may, therefore, exercise all, but no more than all the judicial power provided for it by the constitution." 37 US 657, 672.***

38. There is no state judicial power delegated to the Tax Court in its creation or empowerment from Congress as an Administrative Court to impair the obligations of contracts. An administrative court has no judicial authority to impair the obligations of contracts; and only by fraud, trespass, and deceit can this legislative tribunal pretend to have the Judicial Power reserved to the states.

STATE OF RHODE ISLAND v. COM. OF MASSACHUSETTS, 37 U.S. 657 (1838):

***"However late this objection has been made, or may be made in any cause, in an inferior or appellate court of the United States, it must be considered and decided, before any court can move one further step in the cause; as any movement is necessarily the exercise of jurisdiction. Jurisdiction is the power to hear and determine the subject matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them; the question is, whether on the case before a court, their action is judicial or extra-judicial; with or without the authority of law, to render a judgment or decree upon the rights of the litigant parties." 37 US 657, 718.***

39. There is no constitutional grant of authority for administrative agents in IRS to interfere with the obligations of contracts. **New York v US; 505 US 124**

**The Trustees of a Trust have all the power necessary to carry out their obligations which they assume and their books and records are not subject to review or subpoena.**

**(Boyd vs. U.S., 116 US 618 / Silver Thorne Lumber Co. vs. U.S. 1251 US 385)**

**A Pure Trust is not subject to legislative control. The United States Supreme Court holds that Trust relationships comes under the realm of equity, based upon the Common Law, and is not subject to legislative restrictions as are corporations and other organizations by legislative authority.**

**(Elliot vs. Freeman, 220 US 178)**

**An equity Pure Trust is a lawful, irrevocable, separate legal entity. . . . it is established by legal precedent that Pure Trusts are lawful, valid business organizations.**

**(Baker vs. Stern, 58 A.L.R. 462)**

**Pure Trusts are not illegal if formed for the express purpose of avoiding taxation.**

**(Weeks vs. Sibley, (D.C.) 269 F, 135)**

40. There is no statutory grant of authority granted by Congress to administrative agents at IRS to impair the obligations of contracts. By NY v US Congress is prohibited from delegating Legislative Authority to Executive department agents; and can not delegate unconstitutional acts.

***"It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions." Bailey v. Alabama, 219 U.S. 219, 239. [357 U.S. 513, 527].***

41. The right to contract is broad and unlimited. **Coppage v Kansas; Meyers v State of Nebraska supra**

***That Contractual Right having been guaranteed by the Constitution of the United States of America, in Article I, Section 10 and in the Constitutions of the several states, does not owe its existence to the state or any of the several states, or any of the several legislators. It finds its basis in the law of contracts wherein parties***

**may contract to do anything that is not illegal, immoral or against public policy and Pure Business Trusts have been adjudicated as not being against public policy.**  
**(See AmJur 2nd, Volume 13 on Business Trusts)**

**"It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions." Bailey v. Alabama, 219 U.S. 219, 239. [357 U.S. 513, 527].**

### **CONCLUSION: IGNORANCE OF THE LAW IS NO EXCUSE**

The LAW of the case must affirmatively appear in record, which in the instance of a tax controversy necessarily includes taxing and liability statutes with attending regulations. **(See UNITED STATES OF AMERICA v. MENK, 260 F.Supp. 784, 787 and UNITED STATES OF AMERICA v. COMMUNITY TV INC., 327 F.2d 79 (10<sup>th</sup> Circuit 1964).**

42. The only law appearing affirmatively in the record is the law put there by the defendant; the plaintiff has failed or neglected at every step to put the law of the case on the record, opposed the Judicial Notices that did put the law on the record; and failed to affirmatively prove the jurisdiction by a competent fact witness testifying under oath and subject to cross examination. Judicial Notices 1,2,3,4

43. An unconstitutional statute does nothing and imposes no duty. Connolly supra

44. An unconstitutional decision, by Tax Court, or years of unconstitutional decisions by the tax court do not overturn or overrule the Supreme Court decisional Precedent, constitutional prohibitions, statutory limitations, or natural rights in the "liberties granted by Almighty God" (state constitution preamble).

**"Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of three elements of jurisdiction was absent: (1) jurisdiction over parties, (2) jurisdiction over subject matter, or (3) jurisdictional power to pronounce particular judgment that was rendered", B & C Investments, Inc. v. F & M Nat. Bank & Trust, 903 P.2d 339 (Okla. App. Div. 3, 1995).**

42. An unconstitutional regulation, notice or policy, no matter how long used, by who authorizes, or how frequently applied, does not overturn and overrule Congress and Supreme Court Decisional precedent or amend the United States Constitution.

***“Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . We cannot condone this shocking behavior by the IRS. Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same from the government in its enforcement and collection activities.”*** U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.

***Fraud: Deceit, deception, artifice, or trickery operating prejudicially on the rights of another, and so intended, by inducing him to part with property or surrender some legal right. 23 Am J2d Fraud § 2. Anything calculated to deceive another to his prejudice and accomplishing the purpose, whether it be an act, a word, silence, the suppression of the truth, or other device contrary to the plain rules of common honesty. 23 Am J2d Fraud § 2. An affirmation of a fact rather than a promise or statement of intent to do something in the future. Miller v Sutliff, 241 111 521, 89 NE 651.***

43. The jurisdiction for taxation is not a general jurisdiction, but a specific Congressional authority expressly limited in Article 1 and verified in the fact that 26 USC has not been ratified, by Congress, as positive law, to give it general application to the public within the States; and further due to the fact that 26 USC, as passed by Congress requires regulations for general public application of any provision; and then only within “revenue districts” as created by the President as provided in 26 USC section 7621. There is no Executive record of a “revenue district” called Eastern District of Oklahoma.

44. The only Revenue districts were created by the Secretary under delegation of the President through Executive Order 10289 section 1(g) and Treasury Order 150-01; both of which have expired or been cancelled; and which related only to customs duties. Both were for interstate or international commerce only; not the income tax.

45. Neither 10289 or 150-01 had any general application for Internal Revenue or Income Taxation within the separate states; and involve only Customs duties and Customs enforcement found at 19 CFR 101. There is no 26 USC application listed.

"Parallel Table of Authority and Rules". Here is the entry for EO 10289:

E.O. 10289 .....19 Part 101

**Scope. This part sets forth general regulations governing the authority of Customs officers, and the location of Customs ports of entry, service ports and of Customs stations. It further sets forth regulations concerning the entry and clearance of vessels at Customs stations and a listing of Customs pre-clearance offices in foreign countries. In addition, this part contains provisions concerning the hours of business of Customs offices, the Customs seal, and the identification cards issued to Customs officers and employees. As you can see, the Secretary has not chosen to create internal revenue districts for general tax purposes, but has created said districts only for certain matters pertaining to the customs laws of the United States - including the collection of customs duties (taxes).**

19 USC PART 101 dovetails perfectly with the CFR, Parallel Table of Authority and Rules, entries for "canvassing" and "examinations". According to the National Archive and Records Administration (the nice folks who compile and publish the CFR and the Federal Register) the only "implementing regulations" for 26 USC 7601 and 7602 are for issues pertaining to alcohol importation:

7601-7606 .....27 Part 70  
7602.....27 Parts 170, 296

46. 26 USC 7201 Has no implementing regulations published in CFR, Federal Register, or listed in the parallel tables; and therefore is deprived of general application to the public. 7201 has been restricted, by Congress' limited Constitutional taxing authority, only to the Specific Corporate privileges and excise taxable activities under ATF, shown in the Statutes at Large and USC Annotated. No Statute at large applies to this case.

47. Agents and attorneys participating in this fraud upon the court are willful conspirators under 18 USC 241, 242; perpetrating fraud prohibited by law, regulation, and Supreme Court history; and at least appear to be acting as unregistered foreign agents for the International Monetary fund of which the Secretary of Treasury is the Governor. Confusion must be resolved in favor of the tax payer, defendant and Citizen.

**SUMMARY**

Defendant has throughout this mixed war with the plaintiff relied on the words written in the law by Congress that are only very cautiously interpreted by the Supreme

Court; and the precedent decisions of the Supreme Court that are written in simple language (US v Lanier, 1997). The inferior Court and Prosecution are officers of the court with particular obligations to follow the law as interpreted by the Supreme Court by both their Official oath of office and Judicial or professional ethics.

None of the numbers presented in the pre-sentencing report are valid or enforceable by law published by the Congress, regulations by the Secretary or by the precedent decision history of the Supreme Court; and the continued attempt by the prosecutor is unethical, criminal and fraud upon the court in rebellion against the constitution and Rule of Law doing violence to the integrity of the court.

Sufficient law is furnished in this Notice and Demand by affidavit to rebut any and all presumptions of pride and prejudice by the court and the prosecutor. Law and facts must be presented by competent fact witnesses testifying under oath to the law, delegations of authority, accuracy of numbers, and facts subject to cross-examination.

None of the numbers presented pass the smell test of law, regulation, and supreme court and only through personal pride and prejudice by the lawyers union monopoly can such fraud and corruption by lying (woe unto ye) lawyer be considered factual; reliable; or anything other than criminal activity in defiance of all ethical standards, codes of conduct and the law bringing ill repute upon the court and judiciary.

In the law of frauds, this fraud upon the court vitiates all that it touches. One fraudulent number destroys that whole list; but there are many fraudulent numbers.

I am not an expert in the law however I do know right from wrong. If there is any human being damaged by any statements herein; if he will inform me by facts I will sincerely make every effort to amend my ways. I hereby and herewith reserve the right to amend and amendments to this document as necessary in order that the truth may be ascertained and proceedings justly determined. If the parties given notice by means of this document have information that would contravene or overcome this Affidavit, please



advise me IN WRITTEN AFFIDAVIT FORM within thirty (30) days from receipt hereof provide me with your counter-affidavit, proving with particularity by stating all requisite actual evidentiary facts or conclusions of law, and not merely the ultimate facts or conclusions of law, that this Affidavit Statement is substantially and materially false sufficient to change materially my status and factual declarations. Your silence stands as consent to, and tacit approval of the factual declarations herein being established as fact as a matter of law. May the will of our Heavenly Father YHWH, through the power and authority of the Holy Spirit sent by His son Jesus the Christ be done in earth as in Heaven. AMEN!

**Reserving ALL Natural GOD-Given Unalienable Birthrights and Waiving  
None of the Liberties granted by Almighty God**

**28 USC 1746**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed on this 14<sup>th</sup> day of March in the year of our Lord and savior Jesus Christ  
Two thousand and six AD.



Jimmy C. Chisum, sui juris  
48412 N. Black Canyon Hwy. #356  
New River, Arizona, 85087

**CERTIFICATE OF SERVICE:**

I, Jimmy C. Chisum hereby certify that a true and correct copy of the foregoing document was mailed, by US Mail, Postage Paid and addressed to Jeffrey Gallant, AUSA, 1200 W. Okmulgee St., Muskogee, Oklahoma 74401.

