

Affidavit of Truth

I, Charles F. Conces, living at 9523 Pine Hill Dr., Battle Creek, Michigan, in the county of Calhoun, do hereby attest to the following facts:

1. I mailed a document called, "**CONSTRUCTIVE NOTICE OF FRAUD TO THE SECRETARY OF THE TREASURY, THE ATTORNEY GENERAL, THE COURTS, TO THE DEPARTMENT OF JUSTICE, AND TO THE PUBLIC**" to Treasury Secretary, Henry M. Paulson Jr., to the Acting Replacement of Attorney General, Alberto Gonzales, and to the Office of the Inspector General, U.S. Department of Justice, on or about October 3, 2007 by certified mail.

2. I received three green cards returned from the Offices of the Treasury Secretary, the Inspector General's Office, and from the Attorney General, that said document in paragraph 1 had been received.

3. No government agent responded to this document called, "**CONSTRUCTIVE NOTICE OF FRAUD TO THE SECRETARY OF THE TREASURY, THE ATTORNEY GENERAL, THE COURTS, TO THE DEPARTMENT OF JUSTICE, AND TO THE PUBLIC**" and its questions, as of October 30, 2007. A default has occurred, and all questions in Part 1, 2, and 3, are deemed to be admitted.

4. On or about November 13, 2007, I mailed a 39 page document called, "**CONSTRUCTIVE NOTICE OF FRAUD TO THE SECRETARY OF THE TREASURY, THE ATTORNEY GENERAL, THE COURTS, TO THE DEPARTMENT OF JUSTICE, AND TO THE PUBLIC**", containing additional information that proved that the Internal Revenue Service and other government agents were perpetrating fraud on the American public. To this present date, no rebuttals or responses have been made by the U.S. Secretary of the Treasury, the U.S. Attorney General, or the Inspector General's office. I have notified these entities or persons that they have the duty to respond, and their failure to respond shall be construed as admissions.

5. I received three Post Office green cards returned from the Offices of the Treasury Secretary, the Inspector General's Office, and from the Attorney General, that said document in paragraph 4 had been received.

The above five statements are true and correct to the best of my belief and knowledge. I will make any necessary corrections to any statements that are shown to be incorrect. I am willing to testify on any matter contained in the document, "**CONSTRUCTIVE NOTICE OF FRAUD TO THE SECRETARY OF THE TREASURY, THE ATTORNEY GENERAL, THE COURTS, TO THE DEPARTMENT OF JUSTICE, AND TO THE PUBLIC**", in any court or administrative body, on behalf of any person who relies on the information contained in the above mentioned **CONSTRUCTIVE NOTICE OF FRAUD**.

Signed: Charles F. Conces

Printed Name: Charles F. Conces

Date: December 6, 2007.

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18. Does the Dept. of Justice admit that enforcement for 26 USC 6331 in subtitle F, is limited to Criminal Investigators of the Intelligence Division?

19. Does the Dept. of Justice admit that **"physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees"** under 26 USC 3401-3405?

20. Does the Dept. of Justice admit that, **"The terms defined in the provisions of law contained in the regulations (26 CFR 3401-3405) in this part shall have the meanings so assigned to them."**

21. Does the Dept. of Justice admit that a levy on private industry workers' wages would be a levy of a direct tax and constitutionally subject to apportionment?

If the Department of Justice does not respond to or rebut the questions within 14 days, Charles F. Conces will place this Notice Of Fraud on the public record. All citizens may then rely on the information contained herein, and should be construed as acting in "good faith".

Signature: Charles F. Conces

Printed Name: Charles F. Conces

Dated: November 13, 2007

Witness to signature:

Emily A. Phelps

EMILY A. PHELPS
Notary Public, Jackson County, Michigan
Acting in Calhoun County
My Commission Expires September 10, 2008



**NOTICE OF FRAUD TO ALL STATE AND FEDERAL
GOVERNMENT OFFICIALS AND TO THE PUBLIC**

McNALLY v. UNITED STATES, 483 U.S. 350, 372 (1987), "Fraud in its elementary common law sense of deceit - and this is one of the meanings that fraud bears in the statute, see *United States v. Dial*, 757 F.2d 163, 168 (7th Cir. 1985) - includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud. When a judge is busily soliciting loans from counsel to one party, and not telling the opposing counsel (let alone the public), he is concealing material information in violation of his fiduciary obligations."

*At 358, "This is the approach that has been taken by each of the Courts of Appeals that has addressed the issue: schemes to defraud include those designed to deprive individuals, the people, or the government of intangible rights, such as the right to have public officials perform their duties honestly. See, e. g., *United States v. Clapps*, 732 F.2d 1148, 1152 (CA3 1984); *United States v. States*, 488 F.2d 761, 764 (CA8 1973)."*

NOTICE: All rights are reserved to enter this demand and all evidence attached within, to be preserved as evidence under Rule 902 (4) of the Federal Rules of Evidence, upon the records of such public recorder's office at such place or places as may be determined, which as a matter of public record shall be subject to submission and use in any legal proceeding thereafter as utilized by any person having cause to rely thereupon for evidence purpose, under the aforesaid Federal Rules of Evidence, and as for any other reasons that a public record of debt may be used, accordingly.

Record Notice Act: When an instrument of **CONVEYANCE** or a mortgage is recorded in the appropriate public office, it is constructive notice of its contents to the whole world. Black's Law, Sixth Edition, Page 1275.

Secretary Henry M. Paulson Jr.
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220
Fax: (202) 622-6415

November 13, 2007 Certified mail
certified mail 7007 1490 0001 7597 4357

Acting Replacement for:
Alberto Gonzales, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

November 13, 2007 Certified mail
certified mail 7007 1490 0001 7597 4364

Office of the Inspector General
U.S. Department of Justice
Investigations Division
950 Pennsylvania Avenue, N.W.
Room 4706
Washington, DC 20530

November 13, 2007 Certified mail
certified mail 7007 1490 0001 7593 6744

**Urgent: Response required from Mr. Paulson and
Acting Attorney General.**

Copies may be sent to:

President George W. Bush, President of the United States,
Court of Appeals, 6th Circuit, Cincinnati, Ohio

Kevin M. Brown, Acting Commissioner Internal Revenue Service,
1111 Constitution Ave. N.W.
Washington, D.C. 20224

Congressman Tim Walberg, Seventh District of Michigan,
U.S. House of Representatives,
325 Cannon Build.
Washington, D.C. 20515

From:
Charles F. Conces
9523 Pine Hill Dr.,
Battle Creek, Mich. 49017

**CONSTRUCTIVE NOTICE OF FRAUD TO THE SECRETARY OF THE
TREASURY, THE ATTORNEY GENERAL, THE COURTS, TO THE
DEPARTMENT OF JUSTICE, AND TO THE PUBLIC**

Part One

Written by Charles F. Conces

Notice: The Secretary of the Treasury and the Attorney General have previously defaulted on Parts 1, 2, and 3, and as pertains to those Parts, all questions are deemed to be admitted.

This report is the most comprehensive report on the research of Charles F. Conces, which is the result of approximately 9 years of intensive research. The report is broken into parts in order to address each issue in an understandable format without being unduly long in any one part.

The Secretary of the Treasury is primarily responsible for fraudulent activities in the Internal Revenue Service and the Attorney General is primarily responsible for the fraudulent activities of persons in the Department of Justice. The United States Sixth Circuit Court is primarily responsible for fraud acceded to by District Court judges.

This is also a Constructive Notice to George W. Bush, President of the United States, the 6th Circuit Appeals Court in Cincinnati, the U.S. District Court of the Western District of Michigan, the Department of Justice, the Secretary of the Treasury, Mark Everson, Commissioner of the Internal Revenue Service and to the public that the laws are being deliberately misapplied by certain persons in the government and such fraud is being deliberately concealed from the public.

As shall be shown, the Constitutional prohibition against any direct un-apportioned tax is still in full force and effect and the government can exercise only those powers delegated to it by the Constitution. Affidavits are supplied to establish the circumstances of the various documents and to verify authenticity as far as practicable.

Constructive Notice: Notice arising by presumption of law from the existence of facts and circumstances that a party had a duty to take notice of... notice presumed by law to have been acquired by a person and thus imputed to that person. (Black's Law Dictionary, Seventh Edition)

Legal Evidence Of Law In Courts

Title 1, Section 204 (a) United States Code. - Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

“In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States -

“The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law, the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.”

Title 26 of the USC has not been enacted into positive law and most likely never will be made into positive law because of the constitutional prohibition against direct un-apportioned taxes. Consequently, the legal evidence of laws in question reside in the Statutes At Large, and necessarily includes the implementing regulation, and must be produced for the record. The Department of Justice refused to provided any evidence of law to Charles F. Conces by citing Statutes At Large or the implementing regulation, as legal evidence of law.

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. UNITED STATES v. MERSKY, 361 U.S. 431 (1960). Also see U.S. Attorneys Manual, section 607, below.

The burden of proof rested on the DOJ if they claim that laws in 26 USC had been violated and they did not meet such burden. As such is the case, the DOJ attorneys committed fraud in USA vs. Charles Conces, case no. 1: 05 CV 0739.

TITLE 1--GENERAL PROVISIONS

**CHAPTER 2--ACTS AND RESOLUTIONS; FORMALITIES OF ENACTMENT; REPEALS;
SEALING OF INSTRUMENTS**

Sec. 112. Statutes at Large; contents; admissibility in evidence

The United States Statutes at Large shall be legal evidence of laws, concurrent resolutions, treaties, international agreements other than treaties, proclamations by the President, and proposed or ratified amendments to the Constitution of the United States therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

All parties in litigation are entitled to know the findings and conclusions of the Court, and when the Court and/or the DOJ acts to conceal or suppress the information detrimental to the government's case, as was the case in USA vs. Charles Conces, case no. 1: 05 CV 0739, the judge commits an act of fraud and violates his Oaths of Office.

McNALLY v. UNITED STATES, 483 U.S. 350, 372 (1987), "A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud. When a judge is busily soliciting loans from counsel to one party, and not telling the opposing counsel (let alone the public), he is concealing material information in violation of his fiduciary obligations."

McNally At 358, "This is the approach that has been taken by each of the Courts of Appeals that has addressed the issue: schemes to defraud include those designed to deprive individuals, the people, or the government of intangible rights, such as the right to have public officials perform their duties honestly. See, e. g., United States v. Clapps, 732 F.2d 1148, 1152 (CA3 1984); United States v. States, 488 F.2d 761, 764 (CA8 1973)."

U.S. v. Prudden, 424 F.2d. 1021; U.S. v. Tweel, 550 F. 2d. 297, 299, 300 (1977):

Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading. We cannot condone this

shocking conduct... If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately.

5 USC 552 also requires full disclosure by the government. The DOJ lawyers not only lied repeatedly throughout the case, but also refused to disclose material facts in this case that would have caused dismissal. They had the duty of full disclosure under the laws of the United States. Certain officials of the Department of Justice were complicit in concealing certain facts, namely, Margaret Chiara, Michael Raum, Thomas Curteman, jr., Michael Shiparski, Donald Davis, and possibly other unknown employees of the Department of Justice

The District Court and the DOJ attorneys had the duty to notice the case precedence cited by Charles Conces, but instead ignored all case rulings that favored Conces and that damaged the government's case. This was a violation of the judges' oath to be fair and impartial. (**Beaty v. United States, 937 F.2d 288 (6th Cir. 1991)**). The District Court denied every motion of Charles Conces, even though such motions were supported by the Constitution, laws, regulations, and precedence decisions. Judge Quist also refused to provide the findings and conclusions on issues of fact and law, in violation of the Supreme Court decision below, and in violation of his Oath to be fair and impartial.

FEDERAL MARITIME COMMISSION v. SOUTH CAROLINA STATE PORTS AUTHORITY et al. certiorari to the united states court of appeals for the fourth circuit No. 01-46. Argued February 25, 2002--Decided May 28, 2002: *The parties are entitled to know the findings and conclusions on all of the issues of fact, law, or discretion presented on the record.* (Underline emphasis)

"A central tenet of our republic—a characteristic that separates us from totalitarian regimes throughout the world—is that the government and private citizens resolve disputes on an equal playing field in the courts. When citizens face the government in the federal courts, the job of the judge is to apply the law, not bolster the government's case." Beaty v. United States, 1991.CO6.42163 <<http://www.versuslaw.com>> 32; 937 F.2d 288 (6th Cir. 1991).

Judge Gordon Quist refused to apply the law, i.e., *Title 1, Section 204 (a) United States Code. - Codes and Supplements as evidence of the laws of United States*. Judge Quist also refused to apply 5 USC 552, full disclosure by the Department of Justice attorneys, i.e., that would show that Michael Raum had falsified documents by falsely stating that he had gotten authorizations for the civil suit, required under 26 USC 7401 through 7408. The DOJ attorney for Appeals, Gretchen Wolfinger, admitted that Conces had correctly stated that the DOJ had claimed to have gotten authorizations in the complaint and amended complaint, but incredibly states that Conces has no proof! Courts have ruled that the defendant does not have to prove a negative; but can merely make a negative averment and the plaintiff must bring forth his proofs for his claim.

Proposed Default

Charles F. Conces, hereby proposes that the Attorney General and Secretary of the Treasury order that the Department of Justice answer the following questions, in order to avoid a Notice of Default being placed on the public record concerning the following issues. Full disclosure is required by 5 USC 552. The public record can be used as evidence in any court under the rules of federal evidence under Rule 803 (8).

1. Does the Dept. of Justice admit that Title 26 of the U.S.C. has not been enacted into positive law?
2. Does the Dept. of Justice admit that the code sections of Title 26 cannot be used as legal evidence of law unless said sections are first passed into positive law by Congress?
3. Does the Dept. of Justice admit that the Statutes at Large are the only legal evidence of law for Title 26?
4. Does the Dept. of Justice admit that the Department of Justice attorneys presented no Statutes at Large as legal evidence of law in the case of USA v. Charles Conces, case no. 1: 05 CV 0739?

5. Does the Dept. of Justice admit that it is illegal to cite code sections of Title 26 as legal evidence of law in a court of law, without providing the equivalent Statute at Large?

6. Does the Dept. of Justice admit that the only delegate of the Secretary of the Treasury and/or the Attorney General, who can authorize the commencement of a civil suit, is the "appropriate ATF agent"? If there are any other such delegates, please list them.

7. Does the Dept. of Justice admit that Michael Raum, the lead attorney for the Department of Justice in the case of USA v. Charles Conces, case no. 1: 05 CV 0739, falsified documents, i.e., the Complaint and Amended Complaint, in stating that authorizations for a civil suit against Charles Conces had been obtained by the Department of Justice from the Secretary of the Treasury and from the Attorney General as required by 26 USC 7401 through 7408?

8. Does the Dept. of Justice admit that Thomas Curteman, jr., Michael Shiparsky, Margaret Chiara, and/or Donald Davis, all agents of the Department of Justice, did cover up the wrongdoing and falsification of documents by Michael Raum in the matter of 26 USC 7401 through 7408 in the case of USA v. Charles Conces, case no. 1: 05 CV 0739?

9. Does the Dept. of Justice admit that they did not present any implementing regulation or any Statutes At Large in the case of USA v. Charles Conces, case no. 1: 05 CV 0739?

Charles F. Conces, had demanded that the Department of Justice answer the questions under full disclosure within a period of 20 days of receipt of these questions to prevent the filing of this Notice on the public record. No response was received within that time period and Charles F. Conces has posted this Notice as public information, along with an affidavit that the D.O.J. has not responded and thus defaulted. It will be construed as legal evidence of fraud since the Secretary of the Treasury and the Attorney General have not responded.

Exhibit 1

<http://uscode.house.gov/codification/legislation.shtml>

What Is Positive
Law Codification?

Positive law codification is the process of preparing and enacting, one title at a time, a revision and restatement of the general and permanent laws of the United States.

Because many of the general and permanent laws that are required to be incorporated into the United States Code are inconsistent, redundant, and obsolete, the Office of the Law Revision Counsel of the House of Representatives has been engaged in a continuing comprehensive project authorized by law to revise and codify, for enactment into positive law, each title of the Code. When this project is completed, all the titles of the Code will be legal evidence of the general and permanent laws and recourse to the numerous volumes of the United States Statutes at Large for this purpose will no longer be necessary.

Positive law codification bills prepared by the Office do not change the meaning or legal effect of a statute being revised and restated. Rather, the purpose is to remove ambiguities, contradictions, and other imperfections from the law.

About the Office and the United States Code

The Office of the Law Revision Counsel of the U.S. House of Representatives prepares and publishes the United States Code pursuant to section 285b of title 2 of the Code. The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States.

The Code does not include regulations issued by executive branch agencies, decisions of the Federal courts, treaties, or laws enacted by State or local governments. Regulations issued by executive branch agencies are available in the Code of Federal Regulations. Proposed and recently adopted regulations may be found in the Federal Register.

Certain titles of the Code have been enacted into positive law, and pursuant to section 204 of title 1 of the Code, the text of those titles is legal evidence of the law contained in those titles. The following titles of the Code have been enacted into positive law: 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 40, 44, 46, and 49.

Positive law. "Law actually and specifically enacted or adopted by proper authority for the government of an organized jural society. Black's Law Dictionary 5th Edition

Prima facie. "At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary." Black's Law Dictionary 5th Edition

U.S. Attorney's Manual – Section 607 - Statutes

"The text of all statutes alleged to have been violated, including the penalty provision, and the pertinent statute of limitations should be typed out in full either in the body of the

prosecutor's affidavit or as exhibits to the prosecutor's affidavit. If attached as an exhibit, each statute should be typed on a separate page. If the text of the pertinent statute is unusually long or convoluted, contact the Office of International Affairs regarding the possibility of reduction. It is usually *not* necessary to also include the applicable provisions of the Sentencing Guidelines."

End Of Part 1

Part 2 - The Constitution

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. (Underline emphasis);

Murdock vs. Com. of Penn., 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943):

"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution.";

"Nothing can be clearer than that what the constitution intended to guard against was the exercise by the general government of the power of directly taxing persons and property within any state through a majority made up from the other states." Pollock vs. Farmers' Loan and Trust Co. on original intent, 157 US 429, 582 (1895).

The Constitution of the United States prohibits a direct un-apportioned tax in two places: Article 1, section 2, clause 3 and Article 1, section 9, clause 4. The following cases prove that this prohibition remains in full force and effect. The Internal Revenue Service falsely

states that the Constitution and the 16th Amendment authorize a tax on every individual. The following rulings show that such claim is false and fraudulent.

Direct and Indirect Taxes

Knowlton vs. Moore, 178 US 41, 47 (1900): "*Direct Taxes bear upon persons, upon possession and the enjoyment of rights*";

FLINT v STONE TRACY, 220 US 107, 151 - 152 (1911): "*Duties and imposts are terms commonly applied to levies made by governments on the importation or exportation of commodities. 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. 7th ed. 680.*";

The Code of Federal Regulations cites direct and indirect taxes in 19 CFR 351.102 Definitions:

Direct tax. ``Direct tax'' means a tax on wages, profits, interests, rents, royalties, and all other forms of income, a tax on the ownership of real property, or a social welfare charge.

Indirect tax. ``Indirect tax'' means a sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, a border tax, or any other tax other than a direct tax or an import charge.

Brushaber vs. Union Pacific, 240 US 1, 12 (1916), on *original intent*, "*... the all embracing character of the two great classifications, including, on the one hand, Direct Taxes subject to apportionment, and on the other, excises, duties, and imposts subject to uniformity, held the law to be unconstitutional in substance for these reasons: concluding that the classification of Direct was adopted for the purpose of rendering it impossible to burden by taxation accumulations of property, real or personal, except subject to the regulation of apportionment, ...*" (Underline emphasis);

Corporation Excise Tax of 1909 was constitutionally an Indirect Tax

U.S. vs. Whitridge, 231 US 144, 147 (1913): "*As repeatedly pointed out by this court, the corporation tax law of 1909... imposed an excise or privilege tax, and not in any sense a tax upon property or upon income merely as income.*";

MERCHANTS' LOAN & TRUST CO. v SMIETANKA, 255 US 509, 518 - 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 was 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.
(Underline emphasis);

EISNER v MACOMBER, 252 US 189, 205 - 206 (1920):

"The 16th Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."

"As repeatedly held, this did not extend the taxing power to new subjects..."

"...it becomes essential to distinguish between what is and is not 'income', as the term is there used.."

"...we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909...(Stratton's and Doyle)"

SOUTHERN PACIFIC CO. v. LOWE, 247 U.S. 330, 335 (1918): *"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909, the broad contention submitted on behalf of the government that all receipts, everything that comes in, are income within the proper definition of the term 'gross income'. Certainly the term 'income' has no broader meaning in the Income Tax Act*

of 1913 than in that of 1909, and for the present purpose we assume there is no difference in its meaning as used in the two acts.'";

FLINT v. STONE TRACY CO., 220 U.S. 107, 162 (1911): *“In the case at bar we have already discussed the limitations which the Constitution imposes upon the right to levy excise taxes, and it could not be said, even if the principles of the 14th Amendment were applicable to the present case, that there is no substantial difference between the carrying on of business by the corporations taxed, and the same business when conducted by a private firm or individual. The thing taxed is not the mere dealing in merchandise, in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, and which are not enjoyed by private firms or individuals.” (Underline emphasis);*

Stratton's Independence, 231 US 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 [231 U.S. 399, 417] 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.” (Underline emphasis);

Sims v. Ahrens et al., 271 SW Reporter at 730: “Income is necessarily the product of the joint efforts of the state and the recipient of the income, the state furnishing the protection necessary to enable the recipient to produce, receive, and enjoy it, and a tax thereon in the last analysis is simply a portion cut from the income and appropriated by the state as its share...” (Underline emphasis);

Redfield v. Fisher, 135 Or. 180, 292 P. 813, 819 (Ore. 1930): “*The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed.*” (Underline emphasis);

Doyle v. Mitchell Bros., 247 U.S. 179, 183 (1918): “*An examination of these and other provisions of the Act (Corporation Excise Tax Act of August 5, 1909) make it plain that the legislative purpose was not to tax property as such, or the mere conversion of property, but to tax the conduct of the business of corporations organized for profit upon the gainful returns from their business operations.*” (Underline emphasis);

“*Thus, in the matter of taxation, the constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be*

governed, namely, the rule of apportionment as to direct taxes, and the rule of uniformity as to duties, imposts, and excises.” Pollock, 157 US 429, 556 (1895);

STANTON v BALTIC MINING CO., 240 US 103, 112 -114 (1916): “*Not being within the authority of the 16th Amendment, the tax is therefore, within the ruling of Pollack... a direct tax and void for want of compliance with the regulation of apportionment.*” (Underline emphasis);

STANTON v BALTIC MINING CO., 240 US 103, 112 -114 (1916): “*...it was settled in Stratton’s Independence... that such tax is not a tax upon property... but a true excise levied on the result of the business...*” (Underline emphasis);

Jerome H. Sheip Co. v. Amos, 100 Fla. 863, 130 So. 699, 705 (1930): “*A man is free to lay hand upon his own property. To acquire and possess property is a right, not a privilege ... The right to acquire and possess property cannot alone be made the subject of an excise nor, generally speaking, can an excise be laid upon the mere right to possess the fruits thereof, as that right is the chief attribute of ownership.*” (Underline emphasis);

U.S. v. BALLARD, 535 F2d 400 (1976): “*Gross income and not ‘gross receipts’ is the foundation of income tax liability...*” At 404, “*The general term ‘income’ is not defined in the Internal Revenue Code.*” At 404, “*... ‘gross income’ means the total*

sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources.”;

Doyle vs. Mitchell, 247 US 179, at 183, at 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.”* (Underline emphasis);

16th Amendment

Evans vs. Gore, 253 US 245, 263 (1920); *“... It manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation.”* (Underline emphasis);

Brushaber vs. Union Pacific, 240 US 1, 12 (1916), *“... the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source...”* and *“...on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation.”* (Underline emphasis);

Peck vs. Lowe, 247 US 165, 173 (1918); *“The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in*

recent decisions, it does not extend the taxing power to new or excepted subjects...

(Underline emphasis);

Eisner vs. Macomber, 252 US 189, 205-207 (1920); *"The 16th Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."*

"As repeatedly held, this did not extend the taxing power to new subjects..."

"...it becomes essential to distinguish between what is and is not 'income', as the term is there used..";

Bowers vs. Kerbaugh-Empire, 271 US 170, 174 (1926), *"It was not the purpose or effect of that Amendment to bring any new subject within the taxing power."* *(Underline emphasis);*

Helvering vs. Edison Brothers, 8th 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."* *(Underline emphasis);*

Southern Pacific vs. Lowe, 247 US 330, 335 (1918), *"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 (Doyle, Collector, v. Mitchell Brothers Co., [247 U.S. 179](#), 38 Sup. Ct. 467, 62 L. Ed. --, and Hays, Collector, v. Gauley Mountain Coal Co., [247 U.S. 189](#), 38 Sup. Ct. 470, 62 L.*

*Ed. --, decided May 20, 1918), the broad contention submitted in behalf of the government that all receipts-everything that comes in-are income within the proper definition of the term 'gross income,' and that the entire proceeds of a conversion of capital assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term 'income' has no broader meaning in the 1913 act than in that of 1909 (see *Stratton's Independence v. Howbert*, [231 U.S. 399, 416](#), 417 S., 34 Sup. Ct. 136), and for the present purpose we assume there is no difference in its meaning as used in the two acts."(Underline emphasis);*

Butcher's Union vs. Crescent City, 111 US 746, 756 (1884);

Pollack, 157 US 429, 556, 573, 582, and 436-441 (1895), "No capitation, or other direct, tax shall be laid, unless in proportion to the census...." And,
"As to the states and their municipalities, this (contributions to expense of government) is reached largely through the imposition of direct taxes. As to the federal government, it is attained in part through excises and indirect taxes upon luxuries and consumption generally, to which direct taxation may be added to the extent the rule of apportionment allows.";

Flint vs. Stone Tracy, 220 US 107, 161, 165 (1911);

Coppage vs. State of Kansas, 236 US 1, 23-24 (1915), "The court held it unconstitutional, saying: 'The right to follow any lawful vocation and to make contracts is as completely within the protection of the Constitution as the right to hold

property free from unwarranted seizure, or the liberty to go when and where one will. One of the ways of obtaining property is by contract. The right, therefore, to contract cannot be infringed by the legislature without violating the letter and spirit of the Constitution. Every citizen is protected in his right to work where and for whom he will. He may select not only his employer, but also his associates.” (Underline emphasis);

Truax vs. Corrigan, 257 US 312, 348 (1921), "That the right to conduct a lawful business, and thereby acquire pecuniary profits, is property, is indisputable.";

Meyer vs. State of Nebraska, 262 US 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."(Underline emphasis);

Sims vs. Ahrens, 167 Ark. 557; 271 S.W. 720, 730-733 (1925), "**The legislature has no power to declare as a privilege and tax for revenue purposes, occupations that are of common right...**" (Underline emphasis);

Taft vs. Bowers, 278 US 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.";

Jack Cole vs. MacFarland, 337 S.W. 2d 453, 455-56 (Tenn. 1960), "**Realizing and receiving income or earnings is not a privilege that can be taxed.**" ... "**Since the right to receive income or earnings is a right belonging to every person. This right cannot be taxed as a privilege.**" (Underline emphasis);

The above cases have never been overturned and remain under "stare decisis" doctrine.

Taxation Key, West 53 – "The legislature cannot name something to be a taxable privilege unless it is first a privilege."

Taxation Key, West 933 – “The Right to receive income or earnings is a right belonging to every person and realization and receipts of income is therefore not a "privilege that can be taxed".

Proposed Default

Charles F. Conces, has proposed that the Attorney General and Secretary of the Treasury order that the Department of Justice answer the following questions, in order to avoid a Notice of Default being placed on the public record concerning the following issues. Full disclosure is required by 5 USC 552. The public record can be used as evidence in any court under the rules of federal evidence under Rule 803 (8).

1. Does the Dept. of Justice admit that the government may only exercise such powers that are provided by the U.S. Constitution?
2. Does the Dept. of Justice admit that the U.S. Constitution prohibited a direct un-apportioned tax before the passage of the 16th Amendment?
3. Does the Dept. of Justice admit that the Supreme Court rulings, listed above, have never been overturned?
4. Does the Dept. of Justice admit that the 16th Amendment did not provide any new taxing powers, as ruled "... *It manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation.*"?
5. Does the Dept. of Justice admit that the 16th Amendment did not bring any new subjects under the taxing powers of the federal government, as ruled "*It was not the purpose or effect of that Amendment to bring any new subject within the taxing power.*"?

6. Does the Dept. of Justice admit that the word "income" in the 16th Amendment is limited to the definition provided by the U.S. Supreme Court, i.e., "conveying rather the idea of gain or increase arising from corporate activities."?

7. Does the Dept. of Justice admit that there was no change in the taxing powers by the passage of the 16th Amendment except for a consideration of the source, as the Supreme Court ruled; "... the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source..." and "...on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation."?

8. Does the Dept. of Justice admit that the word "income" is not defined in the Internal Revenue Code and that Congress cannot define the word "income"?

9. Does the Dept. of Justice admit that when agents of the government refuse to answer questions by citizens, that such refusal constitutes fraud?

Charles F. Conces demanded that the Department of Justice answer the Part 2 questions under full disclosure within a period of 20 days of receipt of these questions to prevent the filing of this Notice on the public record. No response was received within that time period and Charles F. Conces has placed this Notice in public information, along with an affidavit that the D.O.J. has not responded and thus defaulted. It will be construed as legal evidence of fraud since the Secretary of the Treasury and the Attorney General have not responded.

END OF PART 2

PART 3

Authority of IRS agents

The Internal Revenue Code is divided into Subtitles as listed below.

- SUBTITLE A--INCOME TAXES
- SUBTITLE B--ESTATE AND GIFT TAXES
- SUBTITLE C--EMPLOYMENT TAXES
- SUBTITLE D--MISCELLANEOUS EXCISE TAXES
- SUBTITLE E--ALCOHOL, TOBACCO, AND CERTAIN OTHER EXCISE TAXES
- SUBTITLE F--PROCEDURE AND ADMINISTRATION
- SUBTITLE G--THE JOINT COMMITTEE ON TAXATION
- SUBTITLE H--FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS
- SUBTITLE I--TRUST FUND CODE
- SUBTITLE J--COAL INDUSTRY HEALTH BENEFITS
- SUBTITLE K--GROUP HEALTH PLAN REQUIREMENTS

26 USC 7608, paragraph (a) and paragraph (b) show that all Internal Revenue enforcement officers are limited to enforcement of subtitle E, except for Criminal Investigators of the Intelligence Division. This code section is in conformance with the Supreme Court rulings in Part 2 of this Constructive Notice of Fraud, and shows that all of those enforcement agents listed in paragraph (a), are not authorized to enforce the other subtitles, thus conforming to the prohibition in the Constitution against a direct un-apportioned tax.

TITLE 26--INTERNAL REVENUE CODE

Subtitle F--Procedure and Administration

CHAPTER 78--DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

Subchapter A--Examination and Inspection

Sec. 7608. Authority of internal revenue enforcement officers

(a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms

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 under such subtitle for the enforcement of which the Secretary is responsible may--

- (1) carry firearms;
- (2) execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;
- (3) in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and
- (4) in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

(b) Enforcement of laws relating to internal revenue other than subtitle E

(1) Any criminal investigator of the Intelligence Division of the Internal Revenue Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the internal revenue laws, any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service, is, in the performance of his duties, authorized to perform the functions described in paragraph (2).

(2) The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are--

- (A) to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;
- (B) to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and
- (C) to make seizures of property subject to forfeiture under the internal revenue laws.

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.” Also see SPRECKELS SUGAR REFINING CO. v. MCCLAIN, 192 U.S. 397, 417 (1904).

"We have stated time and again that courts must presume that a [503 U.S. 249, 254] legislature says in a statute what it means and means in a statute what it says there. See, e.g., United States v. Ron Pair Enterprises, Inc., 489 U.S. 235, 241 -242 (1989); United States v. Goldenberg, 168 U.S. 95, 102 -103 (1897); Oneale v. Thornton, 6 Cranch 53, 68. When the words of a statute are unambiguous, then this first canon is also the last: "judicial inquiry is complete." Rubin v. United States, 449 U.S. 424, 430 (1981); see also Ron Pair Enterprises, supra, at 241." Connecticut National Bank v. Germain, 503 US 249, 254, L. Ed 2nd 391[1992]

Additionally, Charles Conces called the Secretary of the Treasury's office and the Librarian of the IRS, and received confirmation that the only delegate appointed to authorize the commencement of a civil suit under 26 USC 7401 through 7408, is the "appropriate ATF agent". This is confirmed in 27 CFR Part 70 and 26 CFR regulations. This is in conformance to the Constitutional prohibition of direct un-apportioned taxes. ATF agents enforce excise taxes, which are indirect taxes. This is also confirmed by the Parallel Table of Authorities and Rules:

26 USC Section	CFR Part
7401.....	27 Part 70
7403.....	27 Part 70
7406.....	27 Part 70

Michael Raum, the lead attorney in the case of USA vs. Charles Conces, falsified the documents presented as the Complaint and the Amended Complaint, by falsely stating that he had received authorization from the Secretary or the Secretary's delegate to commence the civil suit. Judge Quist acceded to that fraud by not allowing Conces to argue that point of jurisdiction.

Additionally, the "Parallel Table of Authorities and Rules" shows that the implementing regulations for 26 USC 7608, reside in Title 27 of the Code of Federal Regulations. The Table reads as follows:

"The following table lists rulemaking authority (except 5 U.S.C. 301) for regulations codified in the Code of Federal Regulations. Also included are statutory citations which are noted as being interpreted or applied by those regulations."

"7608.....27 Parts 70, 170, 296", which gives 7608 the force and effect of law in Title 27 of the CFR.

If 26 USC 7608 permitted domestic enforcement of subtitles A through F (excepting subtitle E), it would be an unconstitutional enactment. It is, however, in perfect conformity to the U.S. Constitution and the prohibitions of direct un-apportioned taxes.

Proposed Default

Charles F. Conces, hereby proposes that the Attorney General and Secretary of the Treasury order that the Department of Justice answer the following questions, in order to avoid a Notice of Default being placed on the public record concerning the following issues. Full disclosure is required by 5 USC 552. The public record can be used as evidence in any court under the rules of federal evidence under Rule 803 (8).

1. Does the Dept. of Justice admit that 26 USC 7608 specifies all enforcement authority for all agents to enforce subtitles A through F?
2. Does the Dept. of Justice admit that 26 USC 7608 does not provide any enforcement authority to IRS agents to enforce anything but subtitle E?
3. Does the Dept. of Justice admit that 26 USC 7608 only provides enforcement authority to criminal investigators of the Intelligence Division for subtitles A, B, C, D, F, G, H, I, J, and K, and that such enforcement authority is given to criminal investigators of the Intelligence Division, but not to the agents listed in paragraph (a) of 26 USC 7608?
4. Does the Dept. of Justice admit that 26 USC 7608 is the only enforcement code section for Title 26, which specifies agents by title and which subtitles may be enforced by them?

5. Does the Dept. of Justice admit that any investigator, agent, or other internal revenue officer by whatever term designated, may enforce subtitle E as stated by 26 USC 7608, but does not authorize enforcement by such agents, for the other subtitles of Title 26?
6. Does the Dept. of Justice admit that any investigator, agent, or other internal revenue officer by whatever term designated mentioned in paragraph (a), do not work for the Intelligence Division?
7. Does the Dept. of Justice admit that so-named CID agents of the IRS do not belong to the Intelligence Division?
8. Does the Dept. of Justice admit that the Secretary of the Treasury has not delegated authority to authorize the commencement of civil suits to any IRS agent?
9. Does the Dept. of Justice admit that the Secretary of the Treasury and the Attorney General have only delegated the "appropriate ATF agent" to authorize the commencement of civil suits in 27 CFR Part 70?
10. Does the Dept. of Justice admit that 26 USC 7608 is in conformance to the Constitution's prohibition against direct un-apportioned taxes?
11. Does the Dept. of Justice admit that when agents of the government refuse to answer questions by citizens or that when a public official conceals information from the public, that such refusal constitutes fraud? See **McNALLY v. UNITED STATES, 483 U.S. 350, 372 (1987)**.

END OF PART 3

DEFAULT

Charles F. Conces, had demanded that the Department of Justice answer the Part 1, 2, and 3 questions under full disclosure within a period of 20 days of receipt of the above questions to prevent the filing of this Notice on the public record. No response was received within that time period and Charles F. Conces has filed the above Notice on the public record, along with an affidavit that the D.O.J. has not responded and thus defaulted. Consequently, it is construed as legal evidence of fraud that the Secretary of the Treasury and the Attorney General did not respond. The Secretary of the Treasury and the Attorney General have refused to carry out their legal fiduciary obligations to notify the public and their agencies of the fraud committed by the Internal Revenue Service.

PART 4

The U.S. Supreme Court On Willfulness and Knowing

*“The only criminal punishment specified is the application of 35 (A) of the Criminal Code, 18 U.S.C. 1001, which covers only those false statements made "knowingly and willfully." The question in any criminal prosecution ... must therefore be whether the affiant acted in good faith or knowingly lied concerning his affiliations, beliefs, support of organizations, etc. And since the constitutional vice in a vague or indefinite statute is the injustice to the accused in placing him on trial for an offense, the nature of which he is given no fair warning, the fact that punishment is restricted to acts done with knowledge that they contravene the statute makes this objection untenable. As this Court pointed out in *United States v. Ragen*, [314 U.S. 513, 524](#) (1942), "A mind intent upon willful evasion is inconsistent with surprised innocence." Cf. *Omaechevarria v. Idaho*, [246 U.S. 343](#) (1918); *Hygrade Provision Co. v. Sherman*, [266 U.S. 497](#) (1925); *Screws v. United States*, [325 U.S. 91](#) (1945).” COMMUNICATIONS ASSN. v. DOUDS, 339 U.S. 382 (1950).*

The Secretary of the Treasury and the Attorney General of the United States have refused to give any statements or warnings as to 1) Part 1 on whether there is a Statute At Large

and an implementing regulation that imposes an individual "income tax" or "1040 tax" on every individual who is a private citizen and lives and works within the 50 States of the Union, 2) whether the Supreme Court rulings in Part 2 have ever been overturned or reversed, and 3) whether the domestic IRS agents, including but not limited to R.A. Mitchell, Debra K. Hurst, Jeffrey Eppler, and Regina Owens, are authorized to take collection actions for any subtitles other than subtitle E of the Internal Revenue Code, and have failed to warn the citizens that only Criminal Investigators of the Intelligence Division are authorized to take collection actions in regard to Subtitles A, B, C, D, F, H, I, and J. The Dept. of Justice has refused to carry out its fiduciary duty to inform the Public, R.A. Mitchell, Debra K. Hurst, Jeffrey Eppler, Regina Owens, and other IRS agents of the limitations on their enforcement authority, and consequently Michael Raum, Thomas Curteman, jr., Michael Shiparsky, Donald Davis, Margaret Chiara and possibly other DOJ attorneys are deeply involved in massive fraud and the cover up of massive fraud and an apparent racketeering operation. It is also apparent that all those officials who refuse to uphold their Oaths of Office, are barred from holding Office in the United States pursuant to Amendment 14, section 3.

Without a rebuttal or clarification on these issues, there is no basis for subject matter jurisdiction to prosecute any private citizen living and working in the United States, for willful and knowing failure to pay any unidentified "tax". The government cannot prosecute while operating in "bad faith" and under fraud in these matters.

The government agents, including the Attorney General and the Secretary of the Treasury are acting in "bad faith" and fraud by not responding to the questions posed.

*"As we have noted in a slightly different context, however, although prosecutorial discretion is broad, it is not "unfettered." Selectivity in the enforcement of criminal laws is . . . subject to constitutional constraints." *United States v. Batchelder*, [442 U.S. 114, 125](#) (1979) (footnote omitted). In particular, the decision to prosecute may not be "deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification," *Bordenkircher v. Hayes*, *supra*, at 364, quoting *Oyler v. Boles*, [368 U.S. 448, 456](#) (1962), including the exercise of protected statutory and*

constitutional rights, see United States v. Goodwin, supra, at 372”; **WAYTE v. UNITED STATES, 470 U.S. 598 (1985).** (*Underline emphasis*)

The Constitutional prohibition of a direct un-apportioned tax is still in full force and effect, and stands without rebuttal, and as such, is a constitutionally protected right, as shown by the U.S. Supreme Court rulings in Part 2, and further, an excise (indirect tax) cannot be imposed on a person's right to work as shown in Part 2 rulings. As *Wayte vs. US* states, *"including the exercise of protected statutory and constitutional rights"*.

"The requirement of an offense committed "willfully" is not met, therefore, if a taxpayer has relied in good faith on a prior decision of this Court. James v. United States, 366 U.S., at 221 -222. Cf. Lambert v. California, 355 U.S. 255 (1957)." United States v. Bishop, 412 U.S. 346, 361 (1973). (*underline emphasis*)

The citizen must, of necessity, rely on the rulings of the Supreme Court, especially so when the Court has repeatedly ruled that the 16th Amendment did not confer any new taxing powers on the federal government, nor did the Amendment bring any new subjects under the federal taxing powers. It necessarily follows that nothing was taxable after the 16th Amendment was passed that was not so taxable before the passage. See Part 2.

EISNER v MACOMBER, 252 US 189, 205 - 206 (1920): *"The 16th Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."*

Taft vs. Bowers, 278 US 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."*

Proposed Default

Charles F. Conces, hereby proposes that the Attorney General and Secretary of the Treasury order that the Department of Justice answer the following questions, in order to

avoid a Notice of Default being placed on the public record concerning the following issues. Full disclosure is required by 5 USC 552. The public record can be used as evidence in any court under the rules of federal evidence under Rule 803 (8).

1. Does the Dept. of Justice admit that if a citizen relies on the Supreme Court rulings in Part 2, that the citizen cannot be said to be "willfully or knowingly" breaking the law, as ruled in **United States v. Bishop, 412 U.S. 346, 361 (1973)**?

2. Does the Dept. of Justice admit that if the Department of Justice has prosecuted or has gotten a conviction of a citizen, who has relied on the rulings of the Supreme Court, that such conviction would be unjust and would be a violation of the citizen's right to rely on the rulings of the Highest Court in the Land?

3. Does the Dept. of Justice admit that if a convicted person had relied on the rulings, whether or not the judge would allow the presentation of those cases at trial, that the conviction should be overturned or vacated, as a matter of justice?

4. Does the Dept. of Justice admit that if the U.S. Supreme Court rulings stand as settled decisions (stare decisis), and even if the attorney representing the convicted citizen had not presented the Supreme Court rulings at trial, that the conviction should be overturned or vacated, as a matter of justice and as a violation of the citizen's constitutionally protected rights?

5. Does the Dept. of Justice admit that the Department of Justice should immediately act to obtain the freedom of those wrongfully convicted citizens, including but not limited to Irwin Schiff, Cindy Neun, Lynn Meridith, and Richard Simkanin? (Name spelling may not be accurate.)

If the Department of Justice does not respond to the questions in Part 4 within 14 days, Charles F. Conces will place this Notice Of Fraud on the public record. All citizens may then justifiably rely on the information contained herein, and should be construed as acting in "good faith". Citizens may also use this information to demand the release of those wrongfully convicted.

END OF PART 4

PART 5

Limits on Authority To Levy and To Withhold

The authority to lien or levy on persons are stated in the Statutes At Large, the Code sections of the IRC, and the regulations found in Title 26 and Title 27 of the Code of Federal Regulations. If a lien or levy were to be placed on a person who is not liable for a direct un-apportioned tax, and if that lien or levy claimed that the said person was liable for a direct un-apportioned tax (1040 tax), it would necessarily violate the Constitution of the United States. See Part 2 on direct un-apportioned taxes (A man's labor is his most sacred and inviolable property and a tax on his property or his person being a direct tax).

Additionally, any penalty or fine that was predicated on an alleged debt, incurred by the imposition of a direct un-apportioned tax, would also be unconstitutional. Debra K. Hurst, an IRS agent, signed a notice of levy that she had sent to Calhoun County, Michigan, falsely and maliciously listed a debt owed as a 1040 tax (direct tax) on the property of Charles F. Conces. There is no tax return or any other evidence to support that there is or was any debt owed. There was no due process observed. IRS agents, such as R.A. Mitchell, Debra K. Hurst, Jeffrey Eppler, and Regina Owens, lacking even enforcement authority as per 26 USC 7608, routinely claim people have debts to the federal government without a showing of liability or certified debt, and abuse their Office by use of threats against 3rd Parties, such as Registers of Deeds, banks, and employers. Such abuse, without due process, can only be construed as extortion and racketeering.

The Federal Uniform Lien Registration Act of each state requires that there be a certification by a certifying agent, with signature and printed name of the agent, and address of the agent, and requiring that such certificate accompany notices of lien before filing. This is probably one of the worst violations of citizens' constitutional due process rights on record. Without a certificate of authenticity, there is no way that the Register of

Deeds can know if the notice of lien is lawful, unlawful, erroneous, or valid. The Register of Deeds has taken an Oath to uphold the due process rights of all citizens, and negligence or ignorance is not an excuse since she/he is considered to be competent to carry out the duties of office and is constructively noticed of her duties of Office.

There is nothing shown in 26 USC 6331 or the regulations, showing that private persons are subject to lien or levy, with the exception of a corporate officer, who has the duty to act on behalf of the corporation which is subject to an indirect, corporate excise tax. See the various definitions of direct and indirect taxes in Part 2.

As shown in Part 1, the legal evidence of law that would show that a debt was incurred, resides in the Statutes At Large and the implementing regulations. The statute, by itself, has no legal force or effect without an action by the Secretary of the Treasury promulgating an implementing regulation. In such case, if the Secretary of the Treasury were to promulgate an implementing regulation for collection or enforcement of a direct un-apportioned tax, such action would be an unconstitutional act, and under Amendment Fourteen, section 3, the person acting as Secretary of the Treasury would be barred from holding Office.

However, such is not the case, since the Secretary has not promulgated an implementing regulation in 26 CFR that would authorize the collection or enforcement of a direct un-apportioned tax on every person or on private persons who live and work in the United States. Scrutiny of the regulations in Title 26 of the Code of Federal Regulations only authorizes levies on (1) federal employees, (2) state employees who owe a federal debt, (3) seamen, and (4) on estates of non-competent Indians who have their estates in the care of the federal government.

From the Parallel Table of Authorities

6321.....	27 Part 70
6323.....	27 Part 70, 301
6325.....	26 Part 401
	27 Part 70
6326.....	26 Part 301
	27 Part 70
6331--6343.....	27 Part 70

An examination of 26 CFR Part 31, shows that there is no regulation implementing 26 USC 6331. Such a regulation would be normally listed as 31.6331-1 in Title 26 of the CFR, but here we find no regulation whatsoever!

Additionally, an examination of 27 CFR Part 70 shows that the "appropriate ATF agent" has a delegation order to carry out enforcement of Alcohol, tobacco, and firearms taxes. There is no such delegation order for any IRS agent in 26 CFR. IRS agents also are issued non-enforcement badges that are marked with "A" for "administrative authority". Administrative regulations are issued by the Secretary of the Treasury to carry out internal administration enforcements, but which are not applicable to the general public, since only Congress can pass laws of general applicability.

The only authority cited for 3401, Part 31 is [T.D. 6516, 25 FR 13096, Dec. 20, 1960, as amended by T.D. 7068, 35 FR 17329, Nov. 11, 1970]. Treasury Decisions do not perform the conditions necessary to create law that is applicable to the general public. This is confirmed by the following ruling by the 9th Circuit.

"The TDOs are not Presidential proclamations or documents cited for publication by the President or by an Act of Congress. Nor are they orders having "general applicability and legal effect." Rather, the TDOs fall squarely within section 1505(a)'s express exception for orders "effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof." The TDOs had no legal impact on, or significance for, the general public. They simply effected a shifting of responsibilities wholly internal to the Treasury Department.", 951 F.2d 1065 UNITED STATES of America; Charles L. Gresham, Revenue Officer of the Internal Revenue Service, Petitioners-Appellees, v. David O. SAUNDERS and Sharon Saunders, Respondents-Appellants. Nos. 91-35012, 91-35170. United States Court of Appeals, Ninth Circuit. Submitted Nov. 4, 1991. [FN*]

Note the following definitions for 26 USC 3401 and the regulations:

26 CFR Sec. 31.0-2 General definitions and use of terms.

(a) In general. As used in the regulations in this part, unless otherwise expressly indicated--

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

The Internal Revenue Service issues false statements, signed by Pam Rogers, (violation of 18 USC 241 and 242) that 26 USC 3401-3405 authorizes levies and withholdings on workers in private industry under the authority of 26 USC 3401-3405. The Internal Revenue Service also issues false documents to employers, signed by an alleged agent, Stephen P. Warner, who, it was found through F.O.I.A.s, does not even work for the IRS!

18 USC Sec. 241. Conspiracy against rights

"If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same..."

18 USC Sec. 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States..."

26 USC 3401 defines employees and has a regulation in 26 CFR Part 31 that states: " The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them." (Unless otherwise expressly indicated in the regulation.)

Said definition reads as follows:

**From the U.S. Government Printing Office via GPO Access:
26 USC 3401(c) Employee**

For purposes of this chapter, the term ``employee'' includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or

any agency or instrumentality of any one or more of the foregoing. The term ``employee'' also includes an officer of a corporation.

From the Parallel Table of Authorities

<u>3401--3402.....</u>	<u>26 Part 31</u>
<u>3401.....</u>	<u>26 Part 1</u>

Further, the regulation on the definition of "employees" does not include the following:

26CFR31.3401(c)-1 "(c) Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees."

Proposed Default

Charles F. Conces, hereby proposes that the Attorney General and Secretary of the Treasury order that the Department of Justice answer the following questions, in order to avoid a Notice of Default being placed on the public record concerning the following issues. Full disclosure is required by 5 USC 552. The public record can be used as evidence in any court under the rules of federal evidence under Rule 803 (8).

1. Does the Dept. of Justice admit that the Federal Uniform Lien Registration Act of each state, requires that each notice of federal lien be accompanied by a certification by a certifying officer, who is delegated by the Secretary of the Treasury?
2. Does the Dept. of Justice admit that the certificate be signed under the laws of the state, containing a signature and a printed name?
3. Does the Dept. of Justice admit that the certificate must contain an address, sufficient in content to discern where the agent works, and sufficient to show that the agent actually works for the IRS at the location?
4. Does the Dept. of Justice admit that the certificate is the legal evidence that a debt has actually been incurred, and the due process of the citizen has been faithfully executed?
5. Does the Dept. of Justice admit that without a certification by an IRS certifying officer, there is no legal evidence that the notice of lien has been lawfully executed?

6. Does the Dept. of Justice admit that the signing IRS officer is not necessarily a certifying officer delegated by the Secretary of the Treasury, unless the signing officer(s) specifically designate that their title(s) are "certifying officer"?
7. Does the Dept. of Justice admit that any certifying officer must have "enforcement authority" as specified by 26 USC 7608, and that such certifying officer must of necessity work for the "Intelligence Division" of the IRS and be a Criminal Investigator?
8. Does the Dept. of Justice admit that the enforcement authority of the certifying officer of a notice of federal tax lien is only specified in 26 USC 7608?
9. Does the Dept. of Justice admit that if an IRS agent signs a notice of federal tax lien, without having enforcement authority, that he/she commits an act of fraud and violates state and federal criminal laws?
10. Does the Dept. of Justice admit that if one agent signs for another agent on a Notice of Lien, that both agents are committing fraud, if neither agent works for the Intelligence Division?
11. Does the Dept. of Justice admit that if one agent signs for another agent, that there must be a power of attorney presented with the Notice of Lien, and such signing without a power of attorney, constitutes an act of fraud?
12. Does the Dept. of Justice admit that Stephen P. Warner does not work for the IRS, and that signatures stamped with his signature on notices of lien constitute fraud by the IRS?
13. Does the Dept. of Justice admit that there is no regulation in 26 CFR (Code of Federal Regulations) Part 31, to implement levies or liens under 26 USC 6331 against the private citizen who lives and works in private industry in the 50 states of the union?
14. Does the Dept. of Justice admit that the Parallel Table of Authorities (GPO website) shows only that 26 USC 6331 has an implementing regulation in 27 CFR, Part 70?

15. Does the Dept. of Justice admit that 27 CFR authorizes an "appropriate ATF agent" to administer 26 USC 6331, and that such agent has an identifiable delegation order listed in 27 CFR Part 70?

16. Does the Dept. of Justice admit that there is no delegation order from the Secretary of the Treasury to any IRS official to administer or enforce 26 USC 6331 listed in the Title 26 of the Code of Federal Regulations?

17. Does the Dept. of Justice admit that 26 USC 6331 enforcement is not given to any IRS agent, who does not work for the Intelligence Division as specified by 26 USC 7608?

18. Does the Dept. of Justice admit that enforcement for 26 USC 6331 in subtitle F, is limited to Criminal Investigators of the Intelligence Division?

19. Does the Dept. of Justice admit that **"physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees"** under 26 USC 3401-3405?

20. Does the Dept. of Justice admit that, **"The terms defined in the provisions of law contained in the regulations (26 CFR 3401-3405) in this part shall have the meanings so assigned to them."**

21. Does the Dept. of Justice admit that a levy on private industry workers' wages would be a levy of a direct tax and constitutionally subject to apportionment?

If the Department of Justice does not respond to or rebut the questions within 14 days, Charles F. Conces will place this Notice Of Fraud on the public record. All citizens may then rely on the information contained herein, and should be construed as acting in "good faith".

Signature: _____

Printed Name: Charles F. Conces

Dated: November ____, 2007