

IRWIN A. SCHIFF, PRO PER
444 E. SAHARA AVE.
LAS VEGAS, NV 89104
702-385-6920
Fax. 702-385-6917

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES)	
Plaintiff)	
)	
)	CR-S-04-0119 – KJD (LRL)
V)	NOTICE TO THE COURT AND
)	THE GOVERNMENT OF THE
)	ADDITIONAL DOCUMENTS I WILL
IRWIN SCHIFF, CYNTHIA NEUN)	USE IN CONNECTION WITH MY
and LAWRENCE N. COHEN, a/k/a)	TESTIMONY AS AN
LARRY COHEN)	EXPERT WITNESS
Defendants)	
_____)	

My testimony *as an expert witness* will focus on the fact that, **based upon the documents already in the government’s possession** (as supplied to *defendant* Schiff as discoverable material as shown on attached Exhibit A), it is clear that the government’s prosecutors **HAD TO KNOW** that *each and every allegation in their indictment* as it pertained to *defendant* Schiff **was false**, both with respect to issues of fact and to issues of law. Therefore, since the government had to know that all such allegations were false **based upon such documents**, it is clear that the indictment was secured on the basis of a **gigantic fraud** perpetrated against the grand jury, which the government now seeks to perpetrate again against the petite jury. The documents that my *expert testimony* will focus on are the following:

1) **The Internal Revenue Code** — *three volumes* of the Code the government admits receiving from *three witnesses* it called before the grand jury. It is hard for me to comprehend how the Internal Revenue Code served as incriminating evidence before the grand jury. In any case, my testimony as an expert will be to testify why every document filed and/or recommended by defendant Schiff was filed and/or recommended in accordance with those laws—which the government **knew** or *should have known*, since it received *three* volumes of those laws from witnesses it subpoenaed in its search to find incriminating evidence to be used against me. Why didn’t **three volumes** of the Internal Revenue Code serve as exculpatory material?

2) The U.S. Constitution (“The Tax Rebels Guide To...”) — which the attached Exhibit shows the federal prosecutors received from at least one grand jury witness.¹ My expert testimony will focus on the Introduction (written more than 25 years ago), highlighted text and other comments that obviously prove that for over **25 years** defendant Schiff has labored to keep the government’s tax gathering activities within the restraints imposed by that document, as the government had to know based just on this one piece of “evidence” alone. Again, It is hard for me to comprehend how the U.S. Constitution could have served as incriminating evidence before the grand jury, and why it would not have served as exculpatory evidence? In any case, my expert testimony will focus on the fact that these two document alone establish that all claims in the indictment that Schiff “well knew and believed” that the information he gave to Dr. and Mrs. Dentice and to others was obviously all fabricated, and that his instant prosecution is designed to prevent Schiff from bringing the truth to the American public of how the government is illegally collecting income taxes—in violation of both these documents.

3) The Power to Destroy — which the attached Exhibit shows government prosecutors received from at least one witness. *The Power To Destroy* was authored by Senator William Roth, who was Chairman of the Senate Finance Committee when it investigated the IRS in 1997. One of the 6 “bullets” on the dust jacket back promises that the book (among other things) will reveal, “How the IRS deprives countless taxpayers of basic rights.” Pages 60, 61, 70-73, and 110 provide dramatic evidence of this. On page 110 the book charges that “34 percent of the seizure cases reviewed by IRS investigators did not meet agency procedural requirements and resulted in the mistreatment and abuse of taxpayers.”² That, of course, is a euphemistic way of saying that in one-third of such cases IRS agents literally stole taxpayer money—but how many of these agents were prosecuted by the DOJ?

On pages 70-73, Senator Roth describes how an IRS agent, “...fabricated an association...dummied up a fictitious partnership...sent a bill for \$177,000...[which] was a clear violation of the tax code...seized a \$50,000 check ...[which]...the IRS was not about to give back...[caused]...Tom Savage...[to] spend another \$50,000 in legal fees...[and who]...lost another \$600,000 in work [he] had to decline due to lack of time and resources.” Senator Roth

¹ Therefore, the government’s prosecutors cannot claim to be unfamiliar with this document and the rights secured by it to this defendant.

² Actually all such IRS seizures are 100% illegal, but assuming there were laws that provided for them, one-third would still have been illegal, since they didn’t meet “agency procedural requirements.”

pointed out that, despite the fact that “Justice Department attorneys advised the IRS that what it had done was illegal,” the Savages decided to let the IRS “keep their money after a federal judge explained that to continue the battle in court would run into hundreds of thousands of dollars in legal costs.”

Because of those highly publicized TV hearings, Congress believed it had to **do something** to placate the public so it passed the Tax Restructuring Act of 1998, which provided for “Due Process” hearings and an appeals process (either to the U.S. Tax Court or to a federal district court to contest any adverse IRS determination) before the IRS could “seize” anybody’s property.³ As far as the new “Collection Due Process” (CDP) hearings were concerned, the average taxpayer would not have the faintest idea how to take advantage of these “hearings” and/or what documents he had a right to have the IRS produce at these hearings. As a result, the IRS **NEVER** produces the documentation **the law** and the **regulation** require them to produce.⁴ As a result, defendant Schiff attempted to provide the knowledge and procedures⁵ that might overcome such IRS disregard of the law—which was supported by the DOJ and the courts—as his expert testimony will reveal. Therefore any litigation that Schiff might have helped generate was totally justified (and not “frivolous” as charged in the indictment in such paragraph as 20 and 21) because of the IRS’s total disregard of the provisions of 26 USC 6320 and 6330 (and their implementing regulations), as Schiff’s expert testimony will reveal.

³ Disputes over taxes had to be appealed to the U.S. Tax Court, while disputes over a penalties had to be appealed to a district court. So, to appeal an erroneous, adverse determination involving \$2,000 in taxes and a \$500 frivolous penalty, a taxpayer had to simultaneously (within 30 days from the date of such a determination) initiate two civil law suits. Thus waitresses, truck drivers, cab drivers, school teachers, electricians etc., etc., etc. (who knew absolutely nothing about civil litigation) had to acquire the litigating skills of lawyers in order to contest what might be a totally erroneous IRS determination, where they would be pitted against professional lawyers who did nothing but engage in such litigation. And such a totally unequal and ludicrous contest was created by Congress as a means of protecting the public from the IRS.

⁴ Such as “verification from the Secretary that the requirements of any applicable law or administrative procedure have been met” or (as provided in the regulation) the “verification” “required” to be “obtained from the IRS office collecting the tax” “prior to the issuance of a determination.” However the IRS **NEVER** produces the “verification” required by either the statute (§ 6330) or the regulation (301.6330-1) and would ALWAYS LIE about its need to do so. Nor would the IRS ever produce such documents as: 1) a copy of the record of assessment signed by the assessment officer making the alleged assessment; (2) the tax return from which alleged assessment was made; (3) proof that a “notice and demand” for payment was sent out as required by law; (4) documentation that frivolous penalties were imposed pursuant to the provisions of §6751(b); and that IRS agents filing notices of liens had the “enforcement” pocket commissions that authorized them to do so.

⁵ This is shown in the following material, which was in the government’s possession as shown in the attached Exhibit: “Back yard Role Play,” and two copies of the “Tax Court Tool Kit.”

4) Schiff's "W-4 Packet"

The attached Exhibit reveals that the government, in its search to find incriminating evidence to use against me, received at least one copy of Schiff's "W-4" packet. Therefore, the government had to know that its claim (as specifically contained in paragraph's 11, 13, and 28 of the indictment) that Schiff "instructed attendees (at his seminars and at other times)...to file false IRS Forms W-4 with employers" was a **TOTAL FABRICATION!** The documents in his "W-4 Packet" and passed out at his seminars (attended by undercover IRS agents); pages 154-161 of *The Federal Mafia*; pages 387-88, 390, 396, 397, 398-99 of *The Great Income Tax Hoax* (two copies of which are shown on the attached Exhibit) and as explained on the video tape *Secrets of Living a Tax Free Life* (one copy of which is shown on the attached Exhibit) all explain why and how **THE LAW** (Section 26 USC 3402(n)) allows all American employees to exempt themselves from the withholding tax. What Schiff does is merely explain this LAW to the public, and how the government has **for years misrepresented**⁶ it and has actually developed procedures that **UNLAWFULLY** and **CRIMINALLY** deny its provisions to the public.⁷ And if any government witness **testified under oath** to the grand jury, that Code Section 3402(n) **does not give all American employees the right to stop withholding in the manner explained by Schiff**, then any such testimony would constitute an **open and shut** case of **perjury** and any DOJ lawyer that allowed such testimony to be given would be guilty of **subornation of perjury**.

5) **The "Lien and Levy Packet"**

The attached Exhibit indicates that grand jury witnesses supplied the government with supporting documents from the "Lien and Levy" packet. Thus the government had in its possession documented evidence that all IRS "liens and levies" are issued in violation of law.

⁶ Schiff believes that he is responsible for the government changing the wording on a W-4, as a result of his disclosing in "How Anyone Can Stop Paying Income Taxes" how such wording was contrary to the law, and was obviously designed to deceive the public concerning their right to claim "exempt." Schiff also believes he was responsible for the government changing the wording in the 1040 "Privacy Act Notice" after that book **also revealed** the omissions and violations of law contained in that Notice.

⁷ Which is not even the withholding of "income taxes," but represents **an entirely different tax!** The withholding tax is actually an unapportioned direct tax on wages as explained in pages 159-162 of *The Federal Mafia*. It is "imposed" in Code section 3402, as stated in Code section 6413, and as referred to in Code section 31. The income tax is imposed in Code section 1.

This is also covered extensively in *The Federal Mafia*. An entire chapter of that book (its largest, as covered in government documents 06281-06312) is devoted to how the IRS (i.e. the federal government) illegally seizes citizen's property. This subject, and how the public might protect itself, is treated extensively in all of my seminars and in my "Secrets" tape. In all such instances, I explain how the IRS: (1) misrepresents IR Code Sections 6331 and 6332 and (2) intimidates third parties into turning over taxpayer funds. Since everyone is generally fearful of the IRS and its alleged authority to compel persons to submit to costly and potentially dangerous IRS audits, the public will generally do anything IRS agents asks them to do—regardless of what the law says. However, any IRS agent who sends out a "notice of levy" should be **prosecuted for mail fraud**, since such notices are **illegally designed** to **intimidate** and **mislead** the public into doing something that no law requires anyone to do.⁸

Also the government has in its possession all of my pleadings in *Schiff v. Bank of America* which clearly sets forth why the Bank of America was under no legal obligation—under federal law—to turn over any of my funds to the IRS, but it did so anyway. Indeed, these documents show that Nevada law (31.249 and 31.291) **actually prohibited** the Bank of America from turning over my funds to the IRS. Despite this, Nevada State Judge, Allan R. Earl, awarded the Bank of America a summary judgment and allowed it to keep approximately \$8,000 of my money even though, based on: the pleadings, discovery, and Nevada law – it had no legal basis for doing so. Such is the power of the federal government to illegally enforce the federal income tax – it can even get state judges to break **even state laws** in order to help it collect income taxes in violation of law.⁹

6) **The "Zero" Return**

Essentially all of the books and tapes shown on the attached government Exhibit establish the legality and validity of the "zero" return; however, their "legality" and "validity" are established by the returns themselves. Incorporated in each return is a two-page attachment that refers to approximately **32 legal citations**, which the filer claims establish the validity and legality of the return. These references generally include: 15 statutes, 10 Supreme Court

⁸ Proof that 3rd parties are not legally required to turn over funds to the IRS in response to notices of levy is further conclusively proven by the following documents stamped by the government as documents: 07561, 07562, 07129, 07262, 07189, 07190, 07191, and 0719(4?).

⁹ Because I filed a motion for reconsideration, the 30 day period for filing a notice of appeal was not tolled, as in federal law, so I lost my right to appeal. There is no question the summary judgment would have been reversed on appeal since Judge Earl totally violated two Nevada statutes in awarding a summary judgment to the Bank of America.

decisions, 4 lower court decisions, 1 Treasury Regulation, and 2 statements taken from the Privacy Act Notice that appears in a 1040 Booklet.¹⁰ All those references clearly establish the legality and validity of those returns. Schiff will testify to as an expert, and submit to cross-examination on this claim.

(7) In addition, Schiff will testify that all three statements that appeared on the Dentices Amended 1040's were not false as claimed in Paragraph 29 of the instant indictment, and that the Dentices were entitled – as a matter of law - to a refund of all the taxes they had paid as claimed on their amended returns; and that the testimony of the government's "expert" witness (used at their trial) that those returns were false (as a matter of law) and that they were not entitled to such refunds (as a matter of law) constituted false testimony on the part of the government's "expert."

CONCLUSION

My testimony as an expert will be comparable to the "expert" testimony given by Nancy McLeod at the Dentices' trial – with four significant differences: (1) She testified for the government; (2) she obviously is not an "expert" on the law; (3) her testimony was incorrect as a matter of law; and (4) she was not cross-examined on her testimony despite her admission that she didn't even understand the statements on the Dentices amended returns. I, on the other, (1) will testify for the defense; (2) I am, obviously, a bone fide expert on income tax law; (3) my testimony will be legally correct; and (4) the government will have three able-bodied tax lawyers available to impeach my "expert" testimony – something the Dentices never had.

Therefore for the government to claim that expert testimony is not needed at trial since "the law comes from the bench" is absurd. As shown above, there are over 40 legal claims contained in the documents at issue, all of which make legally correct statements. Is the Court going to charge the jury that all of those statements are legally correct? If not, how will the jury know they are legally correct? In addition, presumably the government had some "expert" testify to the grand jury that those statements were **not legally correct**. Was their "expert" subject to cross-examination at that time? Yet someone had to represent to the grand jury that those

¹⁰ In addition, the attachment states: "Should the Service disagree with the figures and amounts shown on our tax return and claim for refund then we demand an office or field audit to discuss these differences as required by 5 USC 551(1) and Treasury Regulation 601.105..."

statements were not legally correct. I challenge the government to refute any of my expert testimony (which will be made under oath), or that *any* testimony I give as an expert is not legally correct. I also challenge the government to put on the stand one of its many lawyers who would testify under oath—and be subject to cross-examination—that *any* statement in *any* of my books, tapes or other documents **is not legally incorrect.**

Therefore, the above should certainly satisfy the government as to what I will testify about as an expert witness.

ORAL ARGUMENT REQUESTED

Dated: August 10, 2005

Irwin A. Schiff, pro per

CERTIFICATION OF SERVICE

I certify that I have this date hand delivered a copy of the foregoing “NOTICE” to MELISSA SCHRAIBMAN & DANIAL R. SCHIESS and LARRY WSZALEK and have this day mailed copies of this Request to all parties in this action at their respective law offices.

MELISSA SCHRAIBMAN
LARRY J. WSZALEK
Trial Attorneys, Tax Division
US Department of Justice
333 Las Vegas Blvd., South, Suite 5000
Las Vegas, Nevada 89101

CHAD BOWERS, Esq.
Counsel for Defendant Cohen
3202 W. Charleston Blvd.
Las Vegas, Nevada 89102

MICHAEL CRISTALLI, Esq.
Counsel for Defendant Neun
732 S.6th St., Suite 100
Las Vegas, Nevada 89101

Dated: August 10, 2005

Irwin A. Schiff, Pro Per