**IN THE UNITED STATES DISTRICT COURT**
**EASTERN DISTRICT OF MICHIGAN**
**SOUTHERN DIVISION**

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| **UNITED STATES OF AMERICA,** | § | |
| | § | |
| **Plaintiff,** | § | |
| **v.** | § | |
| | § | **Case No. 2:06-CV-11753** |
| **PETER ERIC HENDRICKSON and** | § | **Judge Nancy G. Edmunds** |
| **DOREEN M. HENDRICKSON,** | § | |
| **Defendants.** | § | |
| | § | |

**DEFENDANTS' REPLY TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

**NO TAX WAS DUE, NO TAX WAS REFUNDED, THUS PLAINTIFF HAS NO STANDING TO BE MAINTAINING THIS "SUIT"**

As is pointed out in our previously-filed Motions To Dismiss For Lack Of Jurisdiction, For Failure To State A Claim Upon Which Relief Can Be Granted, Etc., the first, and therefore only relevant question is whether Plaintiff can show that it is already established that what was returned to Defendants in connection with 2002 and 2003 was an amount of TAX. Since that has not already been established, Plaintiff has no lawful authority for bringing this suit, and even less for bringing this Motion. Plaintiff takes pains in its Motion to obscure this fact-- even going so far as to deliberately leave this pre-eminent aspect of IRC §7405 unmentioned in its admissions as to the burdens it carries in this matter in the first section of its "argument".

Indeed, Plaintiff disingenuously titles that first section, "The Tax Refunds Were Erroneous", cunningly inviting the reader to presume as a foregone conclusion that the

return of Defendants' property the Plaintiff wishes to undo was a refund of tax. It was not. In similar bad faith, and spirit of cunning rather than forthrightness, Plaintiff litters its motion with references to the Defendants as "taxpayers", as though by sheer, wearying repetition it will hypnotize the reader into concluding that this is so.

The reason for these subterfuges is simple: Plaintiff has no legitimate case to make here, never HAS had a legitimate case to make, and knows it. This "action"-- a (nominal) federal civil suit seeking to establish a governmental claim to a mere $3,172.30 (the actual cash total returned to Defendants in connection with 2002 and 2003)-- launched in the face of the Plaintiff's own acknowledgement of its illegitimacy as evidenced by the Department of the Treasury Certificates of Assessment attached hereto, is nothing but an utterly corrupt effort to intimidate readers of Defendant Peter Hendrickson's transformational revelations about the income tax set forth in 'Cracking the Code- The Fascinating Truth About Taxation In America' and at losthorizons.com; and to burden, harass and hinder the Defendants.

As noted above, **Plaintiff stipulates, by way of the Certificates of Assessment attached, that the property returned to us was not a refund of tax**. Further, by virtue of the fact that those Certificates, dated February 9th of this year, continue to acknowledge that we owed no tax for 2002 and 2003 in the face of Plaintiff's assertions and representations in this instant action, **Plaintiff admits that its arguments cannot prevail even within its own administrative world, as a matter of law**.

**PLAINTIFF'S ENTIRE ARGUMENT RESTS ON KIM HALBROOK'S IGNORANT, AMBIGUOUS, AND IN ANY EVENT, REBUTTED ASSERTIONS**

Even if its underlying purposes were imagined to be sincere, Plaintiff's effort to draw this honorable Court into a Looking-Glass Land in which going forward with the suit comes first, and establishing the Plaintiff's right to go forward with the suit comes later, is improper on its face; indeed, it is itself an outright effort to evade the law. It also cannot be sustained even if Plaintiff's asserted motives and fanciful propositions were embraced wholesale.

Plaintiff's entire presentation rests on the opinions of Kim Halbrook, an unschooled functionary at Personnel Management, whose "declaration" explicitly declines to clearly state the details of the belief to which she is testifying, as was exhaustively pointed out in our reply to Plaintiff's "Brief In Opposition" to our Motions. Indeed, Halbrook is not even a person responsible for testifying on behalf of Personnel Management in regard to matters such as these.

While Halbrook may be the "Payroll/Human Resources Manager" for Personnel Management, as she asserts in her declaration, she is not an officer or responsible party at the company, does not sign W-3 transmittal forms by which W-2 assertions are attested to, and was not even in her present position of limited responsibility and authority at Personnel Management during 2002 and 2003, the years about which she purports to testify. Indeed, she may well have not even worked at the company in ANY capacity during those years. In any event, she has no personal knowledge at all as to the matters about which she is making assertions-- at best she is relaying what she perceives to be the content of records created by others.

Further, even if Halbrook's assertions were to be taken as meaning what Plaintiff suggests, they would be unavailing to Plaintiff's argument, because **Halbrook's assertions have been explicitly controverted by the sworn testimony on our tax returns and other documents**. Thus, Halbrook's assertions do not establish the right of the plaintiff to be bringing this suit, and cannot be made to do so. The Plaintiff cannot proceed with a suit under IRC §7405 in order to establish its right to proceed with a suit under IRC §7405.

**THIS CONTEST HAS ALREADY BEEN FAIRLY FOUGHT OUT, ACCORDING TO THE RULES, AND PLAINTIFF'S ARGUMENT LOST**

Finally, the "contest" regarding the virtues and significance of Halbrook's assertions has already taken place, and the Plaintiff's argument lost. The Plaintiff strains mightily to suggest to this honorable Court that the government was induced to issue the refunds of Defendants' property that Plaintiff wishes to have back by being misled, due to the Treasury Department and IRS's well-known Pollyanna-like demeanor, and practice of relying without question on the presentations of persons like us on our tax returns. Not only is this a proposition best suited for Jay Leno's evening comedy routine, but it is an outright lie to this honorable Court.

Even Kim Halbrook's declaration reports that the records at Personnel Management indicate that its side of the story was duly transmitted to the IRS in a timely fashion, meaning that the return of Defendant Peter Hendrickson's deposited property took place after proper consideration of what the Plaintiff would have us all imagine Halbrook's declaration asserts. For that matter, Defendant Peter Hendrickson's sworn Form 4852s, submitted as part of Defendants' returns for each year, explicitly point out to

the government that Personnel Management had issued W-2s not in agreement with the testimony on those form 4852s. The documents prepared by Defendant Doreen Hendrickson rebutting the 1099s created by Una Dworkin do the same with regard to those 1099s. Furthermore, the refunds issued as a result of Defendants' proper and lawful claims did not spring forth upon the receipt by the IRS of Defendants' tax returns. Months went by between the two events-- months during which the IRS repeatedly corresponded with Defendants on the subject of these refunds, including an initial refusal to issue the refund for 2002 without further information.

In short, **the government had all the evidence, processed all the evidence, applied and obeyed the law, and issued refunds accordingly**. The bad faith reflected in Plaintiff's effort to suggest otherwise is mind-boggling, and stomach-turning.

**THE FACTS MUST BE VIEWED IN A LIGHT MOST FAVORABLE TO THE DEFENDANTS, AND IN ANY CASE, PLAINTIFF OFFERS NO FACTS TO SUPPORT ITS CONTENTIONS, HOWEVER THEY MAY BE VIEWED**

Without regard to the untimeliness of Plaintiff's Motion for Summary Judgment, its inappropriateness in light of the fact that it has no lawful authority for having brought this suit in the first place, and all points made above, in considering such a motion the facts must be construed in favor of the non-moving party. To the degree that Kim Halbrook's declaration can be considered as constituting "facts", it, and every other assertion, conclusion and calculation relying upon it-- which is to say, everything presented by Plaintiff-- is explicitly contradicted, rebutted and defeated by the testimony and facts reflected on and in our tax returns and related documents.

**"TERRY GRANT" HAS NO PERSONAL KNOWLEDGE WHATSOEVER OF ANYTHING RELEVANT TO THIS ACTION, AND DOES NOT EVEN PURPORT TO ASSERT ANY FACTS**

The "Declaration of Terry Grant", whose admission that this "name" is a "registered pseudonym" "authorized by the IRS" should make any decent American's skin crawl, is of no legal significance whatsoever. As "Grant" itself confesses in paragraph 6 of its "declaration", *"The preparation of this report* [discussion of which is the sole subject of Grant's "declaration"] *did not constitute a formal audit or examination of the taxpayers'* (sic) *2002 or 2003 federal income tax liabilities or tax returns for the tax years at issue."*

"Grant" goes on in paragraphs 7 and 11 of its "declaration" to further confess that *"The attached Form 4549* [the product of "Grant's" INFORMAL contrivances, and the subject of his "declaration"] *reflects (in blocks 1a and 1b), based on the Forms W-2 and 1099 information supplied by (1) Mr. Hendrickson's former employer (sic); and (2) Una E. Dworkin (with respect to the non-employee compensation paid to Doreen M. Hendrickson)..."* Although "Grant" leaves out the word "only" in its admission, the fact is that its scribblings DO reflect ONLY the assertions of the relevant W-2s and 1099s--our tax return testimony is not considered in "Grant's" consequently meaningless nonsense, as the law requires it to be in the real world. This explains, in part, why "Grant's" efforts here DO NOT constitute a "formal audit or examination". Were a formal "audit or examination" appropriate, our testimony would necessarily be included in the calculations and be accorded its due. It was not in this "informal" calculation because to have included it would have resulted in conclusions on "Grant's" Form 4549 which would not suit the Plaintiff's corrupt purposes in this action.

Since the assertions "Grant" is selectively favoring and upon which its entire "declaration" is based stand rebutted by evidence long since in the record (and re-introduced here), "Grant's" self-described not-to-be-taken-seriously "report", and the "declaration" with which it is presented, are so much wasted paper (and public revenue).

**SHAUNA HENLINE HAS NO PERSONAL KNOWLEDGE WHATSOEVER OF ANYTHING RELEVANT TO THIS ACTION, AND NO FACTS TO ASSERT**

The similar infirmity of the "Declaration of Shauna Henline", where reliant upon the assertions of Kim Halbrook, has already been discussed broadly in our reply to Plaintiff's "Brief In Opposition" to our pending "Motions to Dismiss, Etc.". Among other observations, we pointed out that Henline is not personally competent to make assertions of any kind regarding Defendants' earnings, and that therefore any and all conclusions she might arrive at concerning tax liabilities; the nature, character and legitimacy of testimony on our tax returns; or any other matter relevant to the instant action is purely a matter of opinion.

The opinion Henline offers in that regard is a corrupt and unprofessional opinion, as it is based on a deliberate exclusion of the testimony on our tax returns-- which is properly in the record-- in order to arrive at a conclusion favorable to the Plaintiff. Henline has, and asserts, no grounds or authority whatsoever to favor the testimony of Kim Halbrook, or anyone else, over that of the Defendants in arriving at her opinions. In fact, in light of the statutory specification first promulgated in Section 93 of the foundational income tax act, Henline's legal and professional obligation is precisely the contrary:

> *"And be it further enacted,…that any party, in his or her own behalf,…shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue,... ...the amount of his or her annual income,… liable to be assessed,… and* ***the same so declared shall be received as the sum upon which duties are to be assessed and collected****."* (Emphasis added)

**HENLINE CAREFULLY DECLINES TO DESCRIBE DEFENDANTS' TAX RETURNS, OR THOSE OF 'CRACKING THE CODE-...' READERS AS IMPROPER, "FRIVOLOUS", FALSE OR FRAUDULENT**

Henline's "declaration" merits a few further observations beyond the points already made, however, particularly insofar as her "declaration" is to be imagined as supporting Plaintiff's depraved prayer to this honorable Court to assist it in suppressing Defendant Peter Hendrickson's speech.

After her tedious ruminations about how the world would be if only IRS-approved testimony were allowed to have standing in legal contests, Henline proceeds to describe an IRS program called the "Frivolous Return Program", which she says operates out of the "Ogden Compliance Services Campus". She states (in paragraph 21 of her "declaration") that *"Near the end of 2004"* she and her colleagues began to observe *"a particular pattern or trend"* of filings with characteristics which Henline means to be taken as reflecting the knowledge communicated in 'Cracking the Code- The Fascinating Truth About Taxation In America'. She obviously hopes that this honorable Court will presume that the filings described qualify as "frivolous", simply by associating them with her discussion of this program.

However, throughout Henline's "declaration" in its entirety, she never once actually declares the returns she describes to be improper or frivolous. Indeed, she

doesn't even declare OUR returns to be improper or "frivolous". The closest she comes is to suggest that it was "erroneous" for us to include in our claim for refund the amounts withheld in connection with the possibility of Social Security and Medicare "wages" having been received. She doesn't trouble herself to explain how, in light of the fact that we DID NOT receive such "wages", the government has any proper right to keep that money...

Henline is really just trying to play a semantic game involving the fact that on certain tax-related forms, some amounts withheld are designated as "Federal income tax withheld", some as "Social security tax withheld" and some as "Medicare tax withheld", while the line on a 1040 for reporting the total amount withheld uses the expression "Federal income tax withheld". The fact is, the distinction of "federal income tax withheld", "Social security tax withheld" and "Medicare tax withheld" on certain forms is purely nominal, without any legal meaning-- the law explicitly declares "Social security" and "Medicare" taxes to be "income" taxes like any others.

Henline plays other semantic games in this portion of her "declaration" as well. She deploys the term "taxpayer" throughout her descriptions of the filings noted by her "Frivolous Return Program", in the apparent hope that the inference will be drawn that some filers are making claims unsuited to their status (although again, without actually saying so explicitly). However, when Henline specifically refers to those who have received refunds, she carefully uses the word "individuals", instead. Yet another of the endless examples of the bad faith underlying the "complaints" in this action.

**HENLINE CONTRADICTS HERSELF IN HER DECLARATION-- PERHAPS WHILE SEEKING TO CONCEAL THREE YEARS OF SUSTAINED PROOF THAT RETURNS AND CLAIMS LIKE THOSE OF THE HENDRICKSONS ARE NOT IMPROPER, "FRIVOLOUS", FALSE OR FRAUDULENT**

Further on in the "Frivolous Return Program" portion of her "declaration", in paragraph 24, Henline contradicts her earlier statement regarding timing. Now she says that the *"pattern or trend"* of filings to which she refers first caught the attention of her and her colleagues shortly after the publication of 'Cracking the Code-...' in July, 2003, rather than *"near the end of 2004"*. There is about a year-and-a-half of spread between these two points on the calendar, suggesting that Henline is making this up as she goes along and lost track of her earlier fabrication by the time she got around to the later one. Another possibility is that she made the first assertion in deliberate service to her purposes in this carefully-crafted "declaration", and then had a failure of cunning and told the truth inadvertently with the second date.

We favor the latter of these two possibilities, as we suspect that Henline would prefer it to be imagined that it was only in late 2004 that the IRS began to take an interest in what Peter Hendrickson reveals about the law, and would prefer that the preceding 18 months to be forgotten. But it was not late 2004 before the IRS focused on this subject.

The truth is, the very week 'Cracking the Code-...' became available (which was actually late August of 2003), the IRS downloaded the content of Peter Hendrickson's website, losthorizons.com, as part of its immediate preparations for efforts to suppress his book and other speech-- in part by means of injunctions of the same sort being sought in the instant action. The IRS and Department of Justice formally launched those efforts in February of 2004, commencing three different legal actions over the course of the following 7 months-- two of them in this very Court-- and including in its evidence

packages the downloaded website content mentioned above. Each of these three actions was eventually dismissed on the government's own motions, raising a bar to its further pursuit of such efforts under the doctrine of res judicata.

The more significant aspect of this timing reality is the fact that the IRS has been intensely conscious of Peter Hendrickson and his speech for fully three years now. The agency has also been intensely conscious of the many, many filings made by Americans across this great country who have read 'Cracking the Code-...' and acted based upon what they have learned-- and really wishes it could stop them all. But, its gross obfuscations in the instant action notwithstanding, even the IRS recognizes the truth about these filings, and what the law requires. Thus, the agency has been routinely delivering complete refunds of every penny withheld from the (often) considerable earnings of these upstanding Americans-- including nominal "Social Security" and "Medicare" taxes-- during that entire period, without interruption.

Well over a million dollars worth of such refunds, respectfully issued by the federal and 22 state and local governments so far, are displayed at losthorizons.com, and many more have been reported as received but not made available for display. These refunds, the displayed host of which range from a largest single check of $75,150.00 to a smallest of $1.00, continue to this very day. The most recently dated federal refund check posted issued on August 11th, 2006-- every penny withheld from this upstanding American during 2003, plus interest. It shares page space with another issued July 17th, 2006, by the very Ogden "campus" at which Shauna Henline's "Frivolous Return

Program" operates. **Obviously, these filings are not in any way false, fraudulent, or "frivolous", or anything but lawful, proper, and correct in every way**.

Many of these refunds have involved considerable personal contact between the Americans claiming them and IRS workers. Many filing readers, having no withheld property to reclaim, have instead secured transcripts of $0 balances as posted in the IRS database. Others have had "Notices of Deficiencies" and levies withdrawn, or received reimbursement of money previously taken from them by garnishment. **Obviously, these filings are not in any way false, fraudulent, or "frivolous", or anything but lawful, proper, and correct in every way**.

Indeed, just last week the Washington Post reported that throughout 2005, a year during which nearly $1,000,000.00 worth of (merely the posted) refunds were issued, the IRS had a sophisticated "fraud detection" computer program in use, which specifically scrutinized every return on which a refund was claimed. Another administrative program in use since 1977 was also deployed during the same period, under which more than 120,000 refund claims WERE frozen last year. But not those claimed by these 'Cracking the Code-...' readers. **Obviously, this near million dollars worth of refunds claimed by readers of 'Cracking the Code-...' (and the many more received during 2005 but not available for display, and the others of the same character claimed before and since) DID NOT AND DO NOT QUALIFY AS FALSE OR FRAUDULENT**. Needless to say, the same is true of the returns by which these claims were made.

## CONCLUSION

In light of the foregoing, and the affidavits and other material in its support which are attached, the Plaintiff's Motion for Summary Judgment should be DENIED, and Defendants' Motion to Dismiss this case should be granted, on the facts and as a matter of law, along with such other relief as this Honorable Court finds should be accorded to Defendants in the interest of justice.

Dated this the 7th day of September, 2006

Respectfully submitted

_____
Peter E. Hendrickson

_____
Doreen M. Hendrickson

Attachments:

- Affidavit of Peter E. Hendrickson
- Affidavit of Doreen M. Hendrickson
- Certified copy of the Hendricksons' 2002 tax return
- Certified copy of the Hendricksons' 2003 tax return
- Certified copy of the USA Dept. of Treasury Certificate of Assessment for the Hendricksons for the year 2002 as introduced into evidence by the Plaintiff
- Certified copy of the USA Dept. of Treasury Certificate of Assessment for the Hendricksons for the year 2003 as introduced into evidence by the Plaintiff

**Affidavit**

I am Peter E. Hendrickson, a man born, and presently living, in Michigan; older than the age of majority; and of sound mind.

I have personal knowledge of the facts set forth in this affidavit, and, if called upon to testify to them, could and would do so competently. Further, I certify that the accompanying copies of the sworn 2002 and 2003 tax return instruments of Peter and Doreen Hendrickson, themselves affidavits and to be considered as such for the purposes of the reply to Plaintiff's Motion for Summary Judgment to which they are attached, are true copies of the original filed documents; and that the accompanying copies of the United States of America Department of Treasury Certificates of Assessment for Peter E. and Doreen M. Hendrickson for the years 2002 and 2003 are true copies of the documents of the same description entered into evidence by the Plaintiff in the instant action.

I am a private-sector, non-federally-connected individual.

I have no ongoing administrative relationship of any kind with the federal government, and had none during 2002 or 2003.

No federal income tax was or is due and owing from Doreen M. Hendrickson or myself for the years 2002 and 2003 except as is indicated on the tax returns she and I filed for those years.

The federal refunds claimed by Doreen M. Hendrickson and myself for 2002 and 2003 did not exceed by one penny the amounts withheld during those years, and properly reflected the amount of tax assessed, due and owing.

Nothing in my book, 'Cracking the Code- The Fascinating Truth About Taxation in America' is false or fraudulent, nor is anything on my website, losthorizons.com.

Upon information and belief, Kim Halbrook is not a CPA, a lawyer, or in any other way qualified to offer even an educated guess as to whether the affiant was an "employee" of Personnel Management, Inc. as that term is defined in the income tax laws; that Personnel Management, Inc. is or was an "employer" as that term is defined in the income tax laws; that affiant was ever in "employment" as that term is defined in the internal revenue laws; or that affiant was ever paid "wages" as that term is defined in the income tax laws.

Upon information and belief, Shauna Henline has no personal knowledge whatsoever as to the nature of affiant's relationship with Personnel Management, Inc., the nature or legal status of his receipts, or anything else relevant to the instant action.

Upon information and belief, "Terry Grant" has no personal knowledge whatsoever as to the nature of affiant's relationship with Personnel Management, Inc., the nature or legal status of his receipts, or anything else relevant to the instant action.

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

Executed on this 7th day of September, 2006.

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Peter E. Hendrickson

**Affidavit**

I am Doreen M. Hendrickson, a woman born, and presently living, in Michigan; older than the age of majority; and of sound mind.

I have personal knowledge of the facts set forth in this affidavit, and, if called upon to testify to them, could and would do so competently. Further, I certify that the accompanying copies of the sworn 2002 and 2003 tax return instruments of Peter and Doreen Hendrickson, themselves affidavits and to be considered as such for the purposes of the reply to Plaintiff's Motion for Summary Judgment to which they are attached, are true copies of the original filed documents; and that the accompanying copies of the United States of America Department of Treasury Certificates of Assessment for Peter E. and Doreen M. Hendrickson for the years 2002 and 2003 are true copies of the documents of the same description entered into evidence by the Plaintiff in the instant action.

I am a private-sector, non-federally-connected individual.

I have no ongoing administrative relationship of any kind with the federal government, and had none during 2002 or 2003.

No federal income tax was or is due and owing from Peter E. Hendrickson or myself for the years 2002 and 2003 except as is indicated on the tax returns he and I filed for those years.

The federal refunds claimed by Peter E. Hendrickson and myself for 2002 and 2003 did not exceed by one penny the amounts withheld during those years, and properly reflected the amount of tax assessed, due and owing.

Upon information and belief, Kim Halbrook is not a CPA, a lawyer, or in any other way qualified to offer even an educated guess as to whether Peter Hendrickson was an "employee" of Personnel Management, Inc. as that term is defined in the income tax laws; that Personnel Management, Inc. is or was an "employer" as that term is defined in the income tax laws; that Peter Hendrickson was ever in "employment" as that term is defined in the internal revenue laws; or was ever paid "wages" as that term is defined in the income tax laws.

Upon information and belief, Shauna Henline has no personal knowledge whatsoever as to the nature of affiant's relationship with Una E. Dworkin, the nature or legal status of her receipts, or anything else relevant to the instant action.

Upon information and belief, "Terry Grant" has no personal knowledge whatsoever as to the nature of affiant's relationship with Una E. Dworkin, the nature or legal status of her receipts, or anything else relevant to the instant action.

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

Executed on this 7th day of September, 2006.

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Doreen M. Hendrickson