

Henry Dale Goltz  
Evangelina Goltz  
Aggrieved Parties

## Lodgment

### UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS

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UNITED STATES OF AMERICA )  
Complainant )  
)  
-against- )  
)  
Henry Dale Goltz )  
Evangelina Goltz )

No. SA-06-CA-0503-XR

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### Respondents' Reply to Complainant's Response to Respondents' Judicial Notice and Motion to Abate

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Respondents, Henry Dale Goltz and Evangelina Goltz ("the Goltzes") file this reply to United States' response. While the use of the term of art (removal) might not have been appropriate, the Goltzes intended to indicate that there can be no federal jurisdictional enforcement of "federal tax liens" until there are federal tax liens in existence. The filing of "Notices of Federal Tax Liens", masquerading as "federal tax liens", is fraudulent and without legal force and effect absent a court order certifying the lien. There is no such court order; therefore there is no federal tax lien to enforce. That is the basis for the Motion to Abate.

The Complainant states that the Goltzes filed the Motion to Abate "(I)nstead of filing an answer". That is an error. The Answer is due by September 7, 2006 in accordance with court ORDER dated July 28, 2006, and it will be filed by that date.

The Complainant's reference to other pleadings by other unknown persons, and her attempt to characterize the Goltzes as "tax protesters" by way of that reference, is unfounded and prejudicial in the extreme, and unbecoming a United States Attorney. The court should take Judicial Notice of that fact.

## ARGUMENT

### **(1) The United States' Tax Assessments are NOT Valid.**

The inclusion of Forms 4340 in the Complainant's Response "as proof of the tax assessments" is a non-starter. *United States v. Chila* notwithstanding, the Form 2866 – CERTIFICATE OF OFFICIAL RECORD transmitting FORM 4340 as a "true and complete transcript ... of all assessments ..." is only prima facie evidence of a true and complete "transcript" of a computer file. It is **NOT** even prima facie evidence of a "valid, legal assessment". No one has certified the accuracy of the contents of the computer file as a valid, legal "assessment". "The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made." 26 USC 6201(a)(1) Further, "If any person fails to make a return required by any internal revenue law or regulation made thereunder ... the Secretary shall make such return ...." 26 USC 6020(b)(1) [Emphasis added]Petitioner has produced a computer printout only. Petitioner has not produced a valid, legal assessment or the return upon which it is based, as required by law.

### **(2) The Form of a Notice of Federal Tax Lien is Governed by Federal Law**

Petitioner alleges facts not in evidence and seeks to maintain conclusions based on those unsupported facts. **A)** Petitioner refers to the Goltzes as "(T)axpayer(s)" when no evidence has been offered that we are "taxpayers" under the law. There is no provision of the Internal Revenue Code that supports the idea that one is forever a "taxpayer" just because one is alive or may have paid taxes in the past. If that were true the term "taxpayer" is moot. **B)** Petitioner quotes from IRC Section 6321, to wit: "[i]f any person liable to pay any tax neglects or refuses to pay the same after demand...." Petitioner has offered no evidence that the Goltzes are "person(s) liable" or even that a Notice and Demand was issued. Under which provision of the Internal Revenue Code are we made liable? **C)** Petitioner quotes from IRC Section 6322, to wit: the federal tax lien "shall arise at the time the assessment is made...." Again, there is no evidence of an assessment, only a printout of a computer file. "The Secretary shall assess all taxes "determined by the taxpayer or by the Secretary as to which returns or lists are made." 26 USC 6201(a)(1) The Petitioner provides no "return" or "list". Without a return there can be no assessment, and without a court order certifying the alleged "debt", there can be no lien. Arguments about document requirements for form and content are merely a legal dance. Those arguments ignore the only important issue – the existence of lawful documents and the validity of their contents. Mere representations on the part of Petitioner's representative are insufficient to prove the validity of documents or the unsupported allegations of fact that she makes.

## CONCLUSION

For the reasons cited: lack of evidence of a valid, legal assessment, lack of evidence of a “return” on which the “assessment” was based, lack of evidence in support of the allegation that the Goltzes are “taxpayers”, lack of evidence that the Goltzes are “persons made liable”, lack of evidence of a “Notice and Demand”, and lack of evidence of a certified debt upon which the alleged lien is based, the Respondents, the Goltzes, renew their Motion for Abatement or at the court’s discretion, enter a Motion for Summary Judgment against the Complainant for failing to state a claim for which relief can be granted.

Affirmed by: \_\_\_\_\_

Henry Dale Goltz  
Aggrieved Party

Affirmed by: \_\_\_\_\_

Evangelina Goltz  
Aggrieved Party

## CERTIFICATE OF SERVICE

I am the Aggrieved Party in this matter; I am a Texian American, over the age of twenty-one years.

**On September 5, 2006 I served a copy of attached Lodgment of Respondents’ Reply to Complainant’s Response to Respondents’ Judicial Notice and Motion To Abate, by securely enclosing them in an envelope with pre-paid first class postage, and addressed as follows:**

Michelle C. Johns  
Attorney, Tax Division  
Dept of Justice  
717 North Harwood, Suite 400  
Dallas, TX 75201

I certify the foregoing to be true and correct and that I believe the service was made in accordance with the Federal Rules of Civil Procedure.

\_\_\_\_\_  
Henry Dale Goltz, pro per  
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