

Henry-Dale; Goltz and
Evangelina-Salinas; Goltz
Sovereign American Citizens

Lodgment
Into the
DISTRICT COURT of the UNITED STATES
For the
WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA)	
Petitioner)	
)	
-against-)	No. SA-06-CA-0503-XR
)	
Henry-Dale Goltz)	
Evangelina Goltz)	
Defendants-in-error)	

JUDICIAL NOTICE AND MOTION FOR RECONSIDERATION OF ORDER

COMES NOW Defendants-in-error, Henry-Dale Goltz and Evangelina-Salinas Goltz (Goltzes), Sovereign American Citizens by reason of Alienage and Domicile, which Domicile is located within the confines of the defined *geographic, legislative jurisdictions* possessed solely and exclusively by the republic of *Texas*, being one of the fifty (50) independent republics that together and combined form the Federal-Republic known and referenced most commonly as the *United States of America*, and moves this Honorable Court, mindful of its Constitutional Duties and Obligations owed to *Sovereign American Citizens*, and on the basis of its Presiding Officer and all attending Officers of the Court, constantly and continuously aware of their sworn Oaths of Office, in any and all proceedings before this Honorable Court, to **Reconsider its ORDER** dated 12 December 2006 for failure to exercise and respect the **Constitutional Due Process** of the named Defendants-in-error, which Constitutional Due Process is guaranteed by the Constitution of the United States of America by Amendment to same at Article V of the Bill Of Rights¹, and for failure to take any testimony and address the serious challenges to Plaintiff's and the Court's subject matter and geographic (territorial) **jurisdiction** often raised by the Defendants-in-error².

¹ "No person shall ... "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

² See: *Judicial Notice and Motion to Abate*, dated 25 August; *Respondents' Reply ...*, dated 5 September; *LODGMET OF JUDICIAL NOTICE AND AMENDED ANSWER ...*, dated 18 September; *Judicial Notice Exception ...*, dated 5 October; *Judicial Notice and Motion TO CLAIM AND EXERCISE CONSTITUTIONAL RIGHTS ...*, dated 30 October; *Judicial Notice and Motion to Dismiss with Prejudice...*, dated 13 November; *Defendants-in-error MOTION TO REJECT ...*, dated 14 November; and Defendants-in-error REPLY TO U.S. RESPONSE ..., dated 17 November 2006.

Defendants'-in-error Lawful, Constitutional Reasons for Reconsideration of Order

1. No Valid Lawful Assessment Was Made.

In our study of the law over many years, we have come to understand that the lawful and proper IRS Collection Process begins with a) a **valid, legal, Assessment based on a Return** submitted by a taxpayer. In Internal Revenue Code (IRC), 26 USC 6201, “**Assessment Authority**”:

(a) Authority of Secretary.

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) **Taxes shown on return. The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.** (**Bold** is added for emphasis)

At 26 USC 6020, **Returns prepared for or executed by Secretary**, the following appears:

(b) Execution of return by Secretary.

(1) **Authority of Secretary to execute return.** If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

From the foregoing, it is clear that if a person makes a return, the Secretary is precluded from making a substitute return unless the original return is legally found to be false or fraudulent. There has been NO allegation by the government that the returns prepared and submitted by the Defendants-in-error were “false or fraudulent returns”. In fact, the government makes no mention of Returns at all. Since, from 26 USC 6201(a)(1), “the Secretary **shall assess all taxes determined by the taxpayer**”, the “assessments” alleged by the government must be based on the lawful returns submitted by the Defendants-in-error. In the instant case, the “assessments” that form the basis for Collections have **not** been “determine by the taxpayer”, and as a consequence cannot be legal.

Moreover, the “assessments” manufactured by the government must satisfy 26 USC 6203 and its companion implementing regulations. At 26 USC 6203, **Method of assessment**, we read:

The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. (Underline is for emphasis)

The companion implementing regulations for 26 USC Section 6201 “**Assessment authority**” and Section 6203 “**Method of assessment**” are contained in the Code of Federal Regulations in Part 301 at 26 CFR 6201-1 and 26 CFR 6203-1, respectively. With respect to “**Method of assessment**”:

The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed. (Underline added for emphasis)

The “assessments” proffered by the government in the instant case, do **NOT** meet the requirements of Title 26 of the Code of Federal Regulations Part 301.6203-1, and as a consequence of this violation, said “assessments” are not valid. Without a valid, legal assessment, the Collection Process cannot proceed to the next steps, which are, in turn: **b) Notice and Demand for tax** (26 USC 6303), **c) Federal Tax Lien**, and **d) Levy (Seizure) by distraint**. Since no evidence of a valid, legal, assessment based on returns filed by Defendants-in-error has been provided the Notices of Federal Tax Liens are wrong, inappropriate, premature and probably fraudulent as a matter of law. Only a Constitutional Due Process Hearing, wherein evidence can be proffered and witnesses examined could have resolved what appears to be a frivolous and groundless lawsuit.

The Defendants-in-error refer the Court to the attached **AFFIDAVIT OF TRUTH** for the facts.

2. ORDER and JUDGMENT Issued from the Court Violate the Territorial Jurisdiction Command and the Due Process of Law Mandates in the Constitution of the United States of America.

With respect to the section entitled: **Factual and Procedural Background -**

1. The ORDER states that the “United States (“the Government”) filed ... to recover unpaid taxes **allegedly owed** to the Internal Revenue Service (“IRS”).” (**Bold** is added for emphasis) No independent evidence or testimony under oath has been provided by “the Government” to prove the allegation. Printouts from Plaintiff’s computers cannot substitute for evidence. This is a gross violation of Constitutional Due Process. See the attached **AFFIDAVIT OF TRUTH** for the factual evidence.

2. The ORDER continues with “The Government **alleges** that Henry Goltz owes” And, “The Government **alleges** that Evangelina Goltz owes” And, “The Government **alleges** that proper notice and demand” Again, no independent evidence or testimony under oath has been provided by “the Government” to prove the allegations. These are, and must be considered to be, mere opinions by the Court, or at best, allegations of facts not in evidence. To consider them as anything else are further violations of Constitutional Due Process. (**Bold** is added for emphasis)
3. The ORDER continues with “The Government recorded a **Notice of** Federal Tax Lien against Henry Goltz” And, “Similarly, the Government recorded a **Notice of** Federal Tax Lien against Evangelina Goltz” Then, “The Government seeks enforcement of its federal tax liens” (**Bold** is added for emphasis) The Plaintiff **alleges** debts and then records **Notices**, but “seeks enforcement” of **Liens**. There are **no Liens to enforce** because there is no debt liability in evidence or proven. To treat the allegations and Notices as anything but opinions, assumptions, or presumptions without independent evidence or testimony under oath is to violate the Constitutional Due Process rights guaranteed to Defendants-in-error by the Constitution of the United States of America. See the attached **AFFIDAVIT** for the factual evidence.

With respect to the section entitled: **Motion to Remand** -

4. The ORDER proceeds with “The Goltzes argue that the state court has exclusive jurisdiction to determine the “alleged liens.”” That is either a lie or a misstatement of our position. We maintain that the United States (“the Government”) has exclusive territorial or geographic legislative jurisdiction over **property** contained within the confined as defined territory commonly known as the District of Columbia and “all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;”³ Further, we maintain that **Texas**, one of the fifty republics commonly referred to as the united States of America, **has geographic legislative jurisdiction over territory** which is without the United States as defined above, and the subject/object of the “alleged liens” to which the Plaintiff refers. As a consequence of this fundamental fact of Constitutional law, Texas courts are the proper venue to hear evidence with regard to the “alleged liens”, and rule on the

³ *Constitution of the United States of America*, Article I, Section 8, paragraph 17.

validity of same. A violation of this fundamental principle of Law is a further violation of Constitutional Due Process.

5. Plaintiff Removed an Action from Texas Court, which has territorial jurisdiction over the property of Defendants-in-error, to this Court, and immediately proceeded to file a MOTION TO DISMISS for lack of jurisdiction in this Court.⁴ Being deprived of a hearing and obtaining evidence under oath through the use of procedural trickery is an additional violation of Constitutional Due Process guaranteed to all American Citizens by the Constitution of the United States of America.
6. Plaintiff cites an undecipherable (LEXIS) reference, believed to relate to Larrew v. United States, wherein the Court allegedly states: “[F]ederal law clearly governs the validity of the Notice of Federal Tax Lien filed by Internal Revenue Service” This quote is, in the first instance, not applicable, offered to misdirect the Court, and either misstated, taken out of context, a Court error, or a lie. While the Notice of Federal Tax Lien form may be a valid federal form, no **Law** can govern the **validity** of the **content** of any specific Notice of Federal Tax Lien issued for a particular and specific purpose. Specific Notices of Federal Tax Liens issued for a specific and particular purpose are documents of fact, not law. Only testimony under oath can speak to the validity of documentary evidence. Since no such affidavits or testimony given under oath have been produced to authenticate any specific or particular Notice of Federal Tax Lien, Constitutional Due Process has been violated.

With respect to the section entitled: **Government’s motion to dismiss (SA-06-CA-0768-XR) -**

7. The ORDER states: “The Government requests that this Court dismiss the Goltzes’ Order to show cause arguing that the United States has not waived its immunity” **This is blatant obfuscation.** The action initiated by the Goltzes in Texas Court was **NOT** an action against any person or fictional entity including the United States. It was an action to merely authenticate the Notices of Federal Tax Liens recorded against and upon property wholly contained within the confined as defined territory possessed solely and exclusively by Texas, one of the fifty republics more commonly known as the United States of America. Dismissing this Motion is a further violation of Constitutional Due Process.
8. The ORDER further states: “the Government **asserts** that the Goltzes have failed to properly effectuate service.” (**Bold** is added for emphasis) This is one more

⁴ Case No. SA-06-CA-0768-XR

unsupported fabrication **asserted** by Government representatives. The **Government representatives** continue to **allege and assert** “facts” not in evidence; **the Goltzes provide sworn affidavits, affirm, or swear under oath** associated with the penalty of perjury as to the truth of our statements. The Goltzes are in possession of Certified Mail Delivery Receipts (Green Cards) verifying delivery of the Petitions to all parties to the case. Constitutional Due Process, of which the Goltzes have been deprived, would have brought this fact to light if there were any questions.

9. The ORDER makes reference to *Arceneaux v. Everson*, wherein that Court allegedly stated: “Plaintiff’s arguments in support of his contention that he is not subject to the federal tax scheme ...” This citation has no application in the instant case. The Goltzes have not said or implied that they are “not subject to the federal tax scheme”, whatever that means. This instant case (SA-06-CA-0768-XR) was/is about authenticating the specific Notices of Federal Tax **Liens** filed on property in Texas. The Court cannot address the notion of “federal tax **schemes**” until the Government produces verified evidence of a tax liability giving rise to a lawful lien on the property of the Goltzes. This kind of citation to the Court is another violation of Constitutional Due Process. Government’s Counsel is “testifying” to this Court by way of inapplicable case citations.
10. The ORDER continues the quote from *Arceneaux* with: “That Congress has authority only over the District of Columbia and the federal possessions and territories ... is an assertion that has been labeled frivolous.” Again, the Goltzes have never held this position. The only thing even close is contained in the Constitution, at Article I, Section 8, paragraphs 17-18, that the Government’s representatives have sworn an oath to preserve, protect and defend, to wit:

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof.

Any Government attorney trained in the law and the Constitution knows implicitly that the clear reading of that provision of the Constitution means the U.S. Congress has authority “To exercise **exclusive Legislation in all Cases whatsoever** ...” in the

confined as defined United States territory, but it does **not** have like authority in non-U.S. territory. In non-U.S. territory (the fifty republics) the U.S. Congress must only exercise limited, **Constitutionally-granted authority**. Nevertheless, this entire discussion is irrelevant and immaterial in this action to authenticate the Notices of Federal Tax Liens. A Constitutional Due Process Hearing in a Court with proper territorial jurisdiction, a right denied to the Goltzes, would have resolved this matter.

11. The ORDER proceeds with Arceneaux: “Also incorrect, indeed frivolous, are any assertions that the only wages which may be taxed are those paid by the United States in its capacity as employer.” We repeat, the instant case (SA-06-CA-768-XR) is NOT about “federal tax schemes”, authority of Congress, or wages, or employers; references to these matters are “indeed frivolous” and a fraud on justice. This instant case is about the authenticity of specific Notices of Federal Tax Liens, only. This is a further abridgment to Constitutional Due Process.
12. The ORDER continues with Arceneaux: “Plaintiff has not shown that a waiver of immunity applies” As stated previously, no waiver of immunity is needed, as no person or fictional entity was being sued. The parties were named to authenticate the Notices of Federal Tax Lien, **only**. The purpose of the suit was not “to restrain the assessment or collection of any tax”. The purpose of the suit was to authenticate specific Notices of Federal Tax Liens, **only**. A court determination of the authenticity of the “Notices of Lien” does not act to impede the collection of a **lawful** tax. It can only affect the collection of an unverifiable debt. Due process provisions of the Constitution and the endowed, unalienable rights of the Goltzes, secured by Articles I, IV, V, VI, VII, VIII, IX, X, and XIV of Amendment to the Constitution protect the rights of the Goltzes to demand strict proof that the alleged “liens” on their property are authentic and lawful. The Government has provided no verifiable evidence that the “liens” are authentic. Government’s representatives have not certified the Notices of Federal Tax Lien. The “Notices” cannot be authentic “Liens” unless verified evidence and sworn testimony under oath, in a lawful Texas Court with territorial, subject matter, and personal jurisdiction is provided.

With respect to the section entitled: **Motion for leave to file an amended answer** –

13. The ORDER denies this Motion for some esoteric procedural reason that these *Sovereign Citizens*’ minds cannot fathom. A Constitutional Due Process Hearing would render justice. Without a Hearing or discovery, the Goltzes are denied Constitutional Due Process and justice. If the ultimate purpose of the Court is to

render *justice*, and if the Plaintiff's representative is employed by the Department of *Justice*, and if the Plaintiff cannot produce a reasonable basis for any identifiable harm that he incurs as a result of the Court's entertaining the Goltzes' amended answer, then **justice demands** that the Motion for leave to file the Amended Answer be granted or, in the alternative, that this ORDER of the Court be vacated

With respect to the section entitled: **Motion to claim and exercise constitutional rights** –

14. The ORDER states that: "This Court will abide by and respect the Constitution, and provide due process and equal protection. To that extent, the Goltzes' motion are, (sic) in part, GRANTED." Yet it is clear, based on the preceding thirteen (13) items, that Constitutional Due Process has **not** been provided. Only a Constitutional Due Process Hearing, wherein full discovery is allowed, witnesses are sworn to tell the truth, evidence is admitted and testimony is taken, as guaranteed by Article V of the Bill Of Rights, can satisfy the Court's pledge to due process as expressed in the ORDER.

With respect to the section entitled: **Motion to demand this court read all pleadings** –

15. The ORDER states that "This Court will read and rule upon all motions filed in this matter and honor its judicial oath. To that extent, the motions are, in part, GRANTED." The judicial Oath of Office states in pertinent part: "... I will faithfully and impartially discharge and perform all the duties incumbent upon me ... under the Constitution and laws of the United States; ... that I take this obligation freely, without any mental reservation or purpose of evasion ... So Help Me God." Since no Discovery has occurred, and since no hearing has been scheduled by this Court; and since a request for a hearing by the Defendants-in-error on the question of jurisdiction was denied by this Court; and since geographic, legislative jurisdiction has been repeatedly challenged and has not been established; and since no forward progress, much less Summary Judgment, can occur until the challenge to jurisdiction is addressed by the Plaintiff and proven, and a judicial determination is made; and since no substantive ORDER issued by this Court contains a pen, wet ink signature of the Clerk of the Court or the Seal of the Court; and since it appears from their content and format that ORDERS issued by this Court may have been manufactured by the Plaintiff's representative; and since the Court may have instructed the Plaintiff's representative to prepare the substantive ORDERS for the judge's signature stamp mark in an *ex parte* meeting since **no** hearings with all parties present have occurred; it appears that judicial misconduct may have taken place. Such misconduct, if it

occurred would, as a minimum, amount to a serious lapse of judgment, possibly an egregious breach of the judicial Oath of Office, certainly a clear-cut infringement on the Sovereign Citizens' Goltzes' Constitutionally-guaranteed right to Due Process, a possible offense subject to punishment by the BAR association, and in the extreme, an offense subject to possible impeachment by the U.S. Congress.

With respect to the section entitled: **Motion for hearing** –

16. The ORDER states: “The Goltzes seek an immediate hearing on their motion to remand. The motion is DISMISSED as moot.” The actual motion was stated as follows: “JUDICIAL NOTICE and MOTION to Set an IMMEDIATE HEARING On The AFFIDAVIT OF NON-ACCEPTANCE OF REMOVAL FROM STATE COURT, BASED ON JURISDICTION”. As is clear, this was another attempt to obtain a judicial determination, based on evidence, of the **jurisdiction** of the federal court on the matter of Notices of Federal Tax Liens when attached to property without the United States. Dismissing a motion for a hearing to challenge jurisdiction “as moot”, i.e. “having no practical significance”, without even an explanation, may be a violation of the judicial Oath of Office. It is certainly another infringement on the Goltzes' Constitutionally-guaranteed right to justice and Due Process.

With respect to the section entitled: **Government's Motion for summary judgment ...** -

17. The ORDER states: “The government has presented evidence that shows that Henry D. Goltz was assessed income tax liabilities for the years 1999 through 2004. This evidence indicates that Henry D. Goltz is indebted to the United States” “The government has also presented evidence that shows that Evangeline S. Goltz (sic) was assessed income tax liabilities for the years 2001 through 2004. This evidence indicates that Evangeline S. Goltz (sic) is indebted to the United States” **This is a lie. No evidence**⁵ has been proffered by the Plaintiff; **allegations only** have been tendered by a third party – the Plaintiff's representative. The Form 4340s provided by the Plaintiff are not evidence; they are an “illusion of evidence” They represent the content of a computer file only, not assessments. Defendants-in-error have first hand knowledge, and have produced and proffered **sworn statements** and affidavits as a matter of course. Those sworn statements and affidavits, contained in pleadings

⁵ According to Black's Law Dictionary: “EVIDENCE. Any species of proof, or probative matter, **legally presented at the trial of an issue**, by the act of the parties and through the medium of witnesses, records, documents, concrete objects, etc., for the purpose of inducing belief in the minds of the court or jury as to their contention.” (**Bold** added)

submitted by the Goltzes, controvert the Plaintiffs allegations. Un-rebutted affidavits stand as truth. Opinions or statements made by Plaintiff's representatives do not overcome sworn statements made by the Goltzes. Only in Constitutional Due Process hearings, wherein witnesses can be examined and cross-examined, can authentication of the **alleged** "evidence" occur. The Goltzes have been summarily denied hearings and discovery, and therefore denied Constitutional Due Process by this Court. The attached sworn AFFIDAVIT OF TRUTH together with the six Exhibits is Evidence.

18. On the top of page 6, the ORDER acknowledges that the Goltzes are challenging the Court's jurisdiction. The ORDER then quotes a passage from the Goltzes' filing dealing with the geographic jurisdiction of the United States vice that of Texas. That said, the ORDER summarily drops the issue as if it is unimportant and changes the subject. **The issue of geographic jurisdiction was never resolved.** The United States Supreme Court has ruled that once a question of jurisdiction is raised, the proceedings must stop and the challenge to jurisdiction must be resolved.⁶ In the instant case, the proceedings have barely started, and an ORDER for Summary Judgment has been entered with jurisdictional questions pending. This is one more violation of the Constitutional Due Process right of Defendants-in-error.
19. In the very next paragraph on page 6 of the ORDER, the Court states a fallacy, to wit: "they [the Goltzes] opine that they do not owe federal income tax because they are ... not a citizen (sic) of the United States." In the following paragraph, the Court quotes a portion of the Fourteenth Amendment to the Constitution of the United States of America and states: "The Fourteenth Amendment therefore establishes state and federal citizenship." It is true - the Fourteenth Amendment does establish state and federal citizenship, **but not for all people.** What the Court fails to recognize is that the Goltzes are Sovereign Citizens of the **United States of America**, not Subject citizens of the "United States". Subject citizens are those people, as the Fourteenth Amendment clearly states, "born or naturalized in the United States". The "United States", as that term is used in the Fourteenth Amendment, does **NOT** include the fifty

⁶ In *The State of Rhode Island v. The State of Massachusetts*, 37 U.S. 657, 718, the U.S. Supreme Court said: "However late this objection [as to jurisdiction] has been made, or may be made in any cause, in an inferior or appellate court of the United States, it must be considered and decided, before any court can move one further step in the cause; as any movement is necessarily the exercise of jurisdiction. Jurisdiction is the power to hear and determine the subject matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them; the question is, whether on the case before a court, their action is judicial or extra-judicial; with or without the authority of law; to render a judgment or decree upon the rights of the litigant parties. If the law confers the power to render a judgment or decree, then the court has jurisdiction; what shall be adjudged or decreed between the parties, and with which is the right of the case, is judicial action, by hearing and determining it." 6 Peters, 709; 4 Russell 415; 3 Peters 203-7.

republics. The geographic boundaries of the “United States”, as that term is used in the Fourteenth Amendment and throughout the Constitution for that matter, is that territory confined as defined in the organic Constitution of the United States of America at Article I, Section 8, paragraph 17⁷, and the **exclusive legislative Powers** of Congress “**in all Cases whatsoever**” are confined as defined in the Constitution of the United States of America at Article I, Section 8, paragraph 18⁸, and Article IV, Section 3, paragraph 2.⁹ All other legislative Powers of the Congress, (not “in all cases whatsoever”) must conform to the rest of Article I, Section 8. So while the Court is correct when it says: “The Fourteenth Amendment therefore establishes state and federal citizenship”, the Court is misleading by omission to then imply that therefore, all persons are Fourteenth Amendment citizens. Only those persons “born or naturalized in the United States” as defined by the Constitution are such persons “subject to the jurisdiction thereof”. In any case, the Goltzes, as Sovereign Citizens, are subject to laws (Statutes At Large), passed by the Congress and in conformity with the Constitution of the United States of America. A Constitutional Due Process Hearing, wherein these important matters are presented, is the proper forum for resolution and understanding. The Goltzes have been denied a Constitutional Due Process hearing.

20. On page 7 of the ORDER, the Court cites *Cummings v. Commissioner* saying: “This Court must presume the correctness of the IRS determination of taxes owed.” If such a principle were to be universally held, the existence of Courts to adjudicate tax liabilities would be moot – that is, “having no practical significance”. The ORDER continues with the following: “The Certificates of Assessments, Payments and Other Matters show **presumptively correct** tax assessments and establish a prima facie case of liability on the part of the taxpayer.” (**Bold** is added) The Constitutional position is that an accused is **presumed innocent until proven guilty** of an infraction. The Due Process requirements in the Constitution do not abide by the notion of guilty until the accused proves he is innocent. Cases such as those here cited by the Court turn

⁷ “Congress shall have Power ... To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;”

⁸ “Congress shall have Power ... To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers **vested by this Constitution in the Government of the United States**, or in any Department or Office thereof.” (**Bold** is added for emphasis.)

⁹ “The Congress shall have Power to dispose of and make all needed Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be construed as to Prejudice and Claims of the United States, **or of any particular State.**” (**Bold** is added for emphasis.)

justice on its head and do not apply in the instant case. The attached AFFIDAVIT OF TRUTH together with the six Exhibits represent a correct and sworn certification of information that should have been contained in a valid, legal assessment by an “assessment officer, appointed by the district director and director of the regional service center”, by “signing the summary record of assessment.” See 26 CFR 6203-1.

3. Information Obtained Under Duress and Threat of Incarceration Used in this Case.

21. It is a principle of justice and law, and a mandate provided for in the Constitution of the United States of America at Article V of the Bill of Rights, that “No person shall ... be compelled to be a witness against himself” Defendant-in-error, Henry-Dale Goltz was so compelled by threat of incarceration “for up to 18 months” if he did not cooperate and provide testimony in a similar civil complaint brought by the same plaintiff in this same Court in 2005. In fact, the Government made reference to that case in their pleading filed in this case on 8 September 2006 – **United States’ Response to Defendants (-in-error) Motion to Dismiss with Prejudice.** In that pleading, on page 1, the Plaintiff alleged as follows:

“The summons action required the defendants to appear and give testimony relating to their tax liability or the collection of their tax liability and to provide financial information to the IRS. After the defendants refused to provide that information in the summons enforcement action, the IRS agreed to dismiss the case without prejudice”

That statement by the Plaintiff, made on 8 September 2006 in this court, is not only disingenuous but a blatant lie. Defendant-in-error Goltz was repeatedly threatened by the judge that he, the judge, could confine Goltz for up to 18 months if he, Goltz, did not cooperate and answer questions. Here is an excerpt of the transcript of the hearing in this Court on 9 February 2006 at page 44 - 46. THE COURT is speaking:

“But, you know, the issue here for me – the issue here for me is: Did you appear because I signed an order saying that you were to appear and give him [IRS agent] the information that he requested and answer the questions that he put to you. And he says, that although you appeared, you did not do that [answer all his questions]. And so, based upon his testimony right now, it appears that you were in contempt of court, of a court order. You’re in my presence.

And unless there’s something changing here, I will find you in contempt and **I will authorize these two United States marshals to take you into custody and detain you until you present the information and answer the questions. If you don’t want to, then they will detain you for up to 18 months.** So that’s – that’s your option.

And **if you have information and want to present testimony about this, you may do so. But, otherwise, that’s going to be the result of this hearing.** I pleaded with you at our last meeting to resolve this matter. I asked you. Mr.

Gargotta [US attorney] would be willing to help you resolve it. Mr. Dietz [IRS agent alias name] would be. You've taken the position you don't want to resolve it. If you don't –

MR. GOLTZ: Not at all. I object to that. I want to resolve it.

THE COURT: You have not shown any willingness to resolve it. You resolve it by giving these people the information they requested and answering the questions. Mr. Gargotta?

MR. GARGOTTA: Forgive me for interrupting, Your Honor. Pursuant to what you requested last week, I did meet with Mr. Dietz (sic) Monday morning.

MR. GOLTZ: I'm not Mr. Dietz.

MR. GARGOTTA: Forgive me. Mr. Goltz. And pretty much what you've heard today is the substance of our meeting. He challenged the authority of Mr. Dietz to issue the summons. He challenged the authority of the Internal Revenue code. And he did not provide the information that we sought. I showed him that we had a 433-A. I offered to go through it with him. He declined to do that.

THE COURT: So we are here. If you (Goltz) want to come now and give testimony that you have done everything requested, you may do so. I'll put you under oath. You can take the witness stand and give your testimony and then be questioned by Mr. Gargotta. Is that what you wish to do at this time?

MR. GOLTZ: Under duress, I will do that.

THE COURT: You don't have to do it. You may do it or not do it.

MR. GOLTZ: I understand that. But I'm doing it under duress and threat of going to prison. And there's been no testimony – very little testimony here, and I'm being threatened to go to prison. And under duress, I will take the stand.”

Defendant-in-error was under duress and threat of detention for up to 18 months, so he took the stand and answered many questions to avoid contempt of court and detention for up to 18 months. The transcript of that case – SA: 05-CV-0156 – clearly indicates that Goltz provided information on the stand, under duress, which was a basis for this action – SA: 06-CV-0503.¹⁰ That is a serious violation of Constitutional Due Process guaranteed by the Constitution of the United States of America.

Conclusion

The Goltzes, Defendants-in-error, take Exception to the Summary Judgment of this Court; it is in error and must be Reconsidered on four fundamental and Constitutional issues as outlined in the foregoing discussion. Those fundamental issues are:

1) The “assessment” alleged by the Plaintiff is false and fraudulent because it is not a valid, legal assessment as mandated by the Internal Revenue Code Chapter 63 dealing with assessments, and the companion implementing regulations found at Part 301 of the Code of Federal Regulations (See the attached **AFFIDAVIT OF TRUTH** for the factual evidence);

¹⁰ In fact, Plaintiff admits that the prior case was a basis for this action when she filed her initial pleading with the title – **United States of America's First Amended Complaint**.

2) The territorial jurisdiction of the Government to enforce legislation, manufactured by the Congress in its capacity as legislator for the “United States” (as that term is intended by the Constitution at Article I, Section 8 and Article IV, Section 3), without the “United States”¹¹;

3) The responsibility of the Court to guarantee to Sovereign American Citizens Due Process as written in the Constitution of the United States of America. Only a Constitutional Due Process Hearing, wherein the question of jurisdiction can be properly and lawfully addressed and determined, can provide justice and dispense “due process” as guaranteed in Article V of the Bill of Rights; and

4) The rights of the Defendants-in-error were abridged when testimony given under duress and threat of incarceration in a prior case was used to initiate this action.

Based on the above, the “ORDER” and “JUDGMENT” of this Court must be Reconsidered and Reversed, and an ORDER to Dismiss with Prejudice must be entered.

Submitted *in propria persona*

Submitted *in propria persona*

By My Hand:

By My Hand:

Affirmed By: _____

Affirmed By: _____

Henry-Dale Goltz

Evangelina-Salinas Goltz

Affidavit

We, Henry-Dale Goltz and Evangelina-Salinas Goltz, each over the age of 21 years, and each of sound mind and body, knowing the facts first hand about the matters described in the attached document entitled “**JUDICIAL NOTICE AND MOTION FOR RECONSIDERATION OF ORDER**” and dated _____ do solemnly affirm under oath that the facts presented in the said “**JUDICIAL NOTICE AND MOTION FOR RECONSIDERATION OF ORDER**” are true and correct, and that any verbal or written testimony obtained by the Government from the Goltzes by way of prior meetings or court hearings was obtained under duress and threat of confinement by the Government or the court. This is our true and correct sworn statement, SO HELP US, GOD.

Affirmed by: _____

Affirmed by: _____

Henry-Dale; Goltz

Evangelina Salinas; Goltz

Subscribed and sworn to before me this _____ day of December 2006.

SIGNATURE OF NOTARY OR AUTHORIZED OFFICIAL

¹¹ Refer to *Defendants’-in-error MOTION TO REJECT*, dated 14 November 2006 for a thorough examination of Federal Jurisdiction prepared by Lowell Becraft, Constitutional Scholar and Attorney at Law.

CERTIFICATE OF SERVICE

I certify that on this 26th day of December, 2006 A.D., a true and exact copy of the aforesaid Motion was sent, first class postage prepaid, by U.S. mail, to

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

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Henry-Dale Goltz, Sovereign American Citizen