

1 **In the U.S. District Court for the**  
2 **District of New Mexico**

3  
4 Jeffrey T. Maehr )  
5 Petitioner, )  
6 )  
7 v. ) Case No. 1:08-mc-00018-BB  
8 )  
9 UNITED STATES OF AMERICA )  
10 Respondent )  
11 )

12 **BRIEF AND MEMORANDUM OF LAW IN RESPONSE TO**  
13 **RESPONDENTS “MOTION FOR SUMMARY DENIAL OF PETITION TO**  
14 **QUASH AND FOR SUMMARY ENFORCEMENT OF SUMMONS AND**  
15 **BRIEF”**

16  
17 re: Summons to Aurora Loan Service, Custodian of Records, 125 Lincoln Ave., Ste.  
18 #223, Santa Fe, NM 87501. Jeffrey T. Maehr, Petitioner; U.S., Respondent.

19  
20 Jeffrey T. Maehr, Pro Se, acting under and depending on equal protection under the  
21 Constitution, the Judicial machinery of the Court, the Rule of Law, Rules of Evidence  
22 and Rules of Civil Procedure, comes now before this Honorable Court and Your Honor.

23 Petitioner submits this brief refuting Respondent's Motion arguments, and requests the  
24 Summary Denial of Respondent's Summary Enforcement Motion. (Emphasis  
25 throughout, Petitioner's).

26  
27 Petitioner moves Your Honor to take Mandatory Judicial Notice under Federal Rule  
28 201(d) of the following case law:

29  
30 1. "The Court is free to act in a judicial capacity, free to disagree with the administrative  
31 enforcement actions if a substantial question is raised or the minimum standard is not  
32 met. The District Court reserves the right to prevent the 'arbitrary' exercise of  
33 administrative power, by nipping it in the bud." United States v. Morton Salt Co., 338  
34 U.S. 632, 654.

35  
36 2. "It is on this account that our law is deemed certain, and founded in permanent  
37 principles, and not dependant on the caprice or will of judges. A more alarming doctrine  
38 could not be promulgated by any American court, than that it was at liberty to disregard  
39 all former rules and decisions, and to decide for itself, without reference to the settled  
40 course of antecedent principles." Faye Anastasoff vs. United States of America, 8th  
41 Circuit Court, 2000.

42  
43 Petitioner begs Your Honor's indulgence in any redundant information or incorrect form  
44 in these documents, as this is a major undertaking, and requests Your Honor to look at  
45 the intent, substance, precedent laws and facts presented, above presentation and

46 form, as noticed in Petition to Quash.

47 **BRIEF AND MEMORANDUM** (emphasis mine throughout)

48 **IN RESPONSE TO RESPONDENT MOTION ARGUMENTS**

49

50 a) The Respondent grossly failed to address multiple challenges to authority, IR  
51 code, presumptions, hearsay testimony or jurisdiction in this issue, even though  
52 supported with case law and documents By Petitioner. Relevant areas neglected and  
53 ignored are named in Petition to Quash, specifically at:

54 -line 121, a) page 6,

55 -line 125, b) page 6, (See original Petition to Quash, attachment H, and  
56 attachment F herein).

57 -line 130, c) page 6,

58 -line 136, d) page 7,

59 -line 142, f) page 7,

60 -line 165, g) page 8,

61 -line 173, h) page 8,

62 -line 177, l) page 9,

63 -line 189, k), page 9,

64 -line 205, m), page 10,

65 -line 214, o), page 10,

66 -line 219, p), page 11,

67 -line 224, q), page 11,

68 -line 229, r), page 11 (To be further addressed by brief with case law below),  
69 -line 240, t), page 11;

70  
71 Can justice and fairness be achieved where silence and neglect is the norm and where  
72 a duty to respond is required but not provided?

73  
74 b) Respondent, throughout Motion for Summary Denial, claims to NOT have any  
75 “information” regarding “income” it is seeking from the Summons to Aurora Loan  
76 Service, citing compliance with *Powell* to create a *prima facie* case.

77  
78 This is denied by Petitioner. Any supposed failure to “state a cognizable claim” is  
79 without merit. Petitioner has directly challenged Respondent’s right under *Powell* by  
80 showing that the *prima facie* evidence from Petitioner’s Social Security Statements from  
81 the Years 2005, 2006, 2007 and 2008, (See attachment R) clearly show the Social  
82 Security Administration (SSA) has some kind of figures which it is reporting as “income”  
83 for 2003, 2004 and 2005, and 2006. It is doubtful that the SSA created these figures  
84 out of thin air, and seems to support the obvious fact that Respondent is, once again,  
85 violating the law by providing false testimony to this Honorable Court and Your Honor in  
86 denying having any already established figures created by someone in the government.  
87 Is Your Honor to believe the SSA has financial information that the Respondent doesn’t  
88 have access to? Also, Petitioner believes the *Powell* case is irrelevant to the greater,  
89 foundational issues brought up as hearsay, presumptive testimony of “facts” by  
90 Respondent, addressed below.

91 e) Respondent claims to have no material regarding any 1040 filing for year  
92 2004, but Respondent has been attempting to extract a “frivolous income tax return”  
93 penalty for the same year. (See Attachment C). Respondent can’t have it both ways.  
94 How can they attempt to fine Petitioner for a “frivolous” 1040 form for 2004, and yet they  
95 deny Petitioner did NOT file a 1040 form for 2004? This is *prima facie* evidence of  
96 perjury and fraud being presented to Your Honor and this Honorable Court.

97  
98 f) Petitioner challenges the legality of the Department of Justice (DOJ) to be  
99 representing the Respondent, since previous documentation raises the “substantial  
100 question” as to whether the Respondent is even a “Federal” agency, a position that is  
101 **clearly denied** by Respondent in *Diversified Metal Products v. T-Bow Company Trust,*  
102 *IRS, and Steve Morgan, Civil # 93-405-E-EJL* - (See Attachment S). If the Respondent  
103 is NOT a Federal agency, under what laws is it acting against Petitioner and under what  
104 laws can the DOJ be representing this non-federal agency?

105  
106 g) Petitioner denies that the Respondent has ANY proven jurisdiction over  
107 Petitioner or his personal property or private information.

108  
109 **GENERAL ARGUMENT BRIEF**  
110 **AND MEMORANDUM**

111  
112 In order for Petitioner to know what he is legally compelled to do, he must know what

113 the law says, and understand it. If there is no knowledge of the law, obedience is not  
114 possible, and where Petitioner seeks to discover the actual laws, but is thwarted,  
115 threatened and denied such, he is left to depend on his own research and that of others  
116 to be sure he can comply, in fact. Petitioner is liable for all constitutional law, and  
117 cannot claim ignorance. Petitioner has a moral and legal responsibility to determine  
118 what the law is he is being asked to comply with, and to determine whether any  
119 government employee or agency is truly within the law when that individual or agency is  
120 acting in the name of any government or other party:

121  
122 "Persons dealing with the government are charged with knowing government statutes  
123 and regulations, and they assume the risk that government agents may exceed their  
124 authority and provide misinformation." *Ninth Circuit Court of Appeals, Lavin v Marsh,*  
125 *644 f.2D 1378, (1981).*

126  
127 "All persons in the United States are chargeable with knowledge of the Statutes at  
128 Large... It is well established that anyone who deals with the government assumes the  
129 risk that the agent acting in the government's behalf has exceeded the bounds of his  
130 authority." *Bollow v. Federal Reserve Bank of San Francisco, 650 F.2d 1093, 9th Cir.,*  
131 *(1981).*

132  
133 Petitioner has been attempting to ascertain whether Respondent has "exceeded their  
134 bounds of authority" for well over 5 years, depending on the Respondent's own IR Code  
135 rules... (See Attachment F, at line 235), and on case laws, Constitutional law and

136 Congressional testimony. In order for justice to prevail and for the truth of this issue to  
137 be forthcoming, it is necessary to address the foundation of Respondent's whole case...  
138 that the Respondent has a right, jurisdiction and authority to even consider examining  
139 personal records of Petitioner or obtain private information directly related to Petitioner.  
140 It is Petitioner's position that there is absolutely none of this evident in the Respondent's  
141 position and response record, despite Petitioner's massive "good faith" efforts to obtain  
142 such documentation for over 5 years. (Original affidavit and complete attachments are  
143 in Petitioner's personal IMF file with Respondent).

144  
145 It might be a temptation by Your Honor to disregard several issues raised by  
146 Respondent (see below) in this case as "not being before the Court," but Petitioner  
147 believes these issues have been directly raised by Respondent and have an  
148 unequivocal bearing upon the whole issue and to Respondent's frivolous position  
149 against Petitioner. To set aside these foundational issues which are the underpinnings  
150 of Respondent's entire position, severely reduces or eliminates Procedural Due Process  
151 and Petitioner's right to a fair hearing and consideration of all precedent Case Law,  
152 Constitutional Law and Congressional evidence to support Petitioner's position that  
153 Respondent has NO legal standing on issues raised herein, or jurisdiction or authority to  
154 unlawfully request personal information, especially from a third party source, and  
155 especially based on presumed, hearsay legal obligations of Petitioner.

156  
157 No Courts have willingly addressed all aspects of this issue, which cannot logically and  
158 reasonably be isolated from all other related aspects that bear on the issues at hand.

159 Even though Respondent claims to stand on Court cases, these cases are isolated,  
160 microcosmic aspects, taken out of context and painted with a fraudulent brush by  
161 Respondent to appear to be legal and valid, but when placed in the light of the  
162 Constitution, Congressional testimony, the Rule of Law, Rules of Civil and Criminal  
163 Procedures, and the Rules of Evidence, the fraud is exposed.

164  
165 If Respondent's case foundation and their claimed authority is void and extra-legal, the  
166 Summons becomes a moot issue immediately, and vitiates all ongoing actions, as  
167 declared by the Courts in Petitioner's previous Petition to Quash Brief. (See line 66, k,  
168 page 3); also;

169  
170 "The general rule is that an unconstitutional statute, though having the form and name  
171 of law, is in reality no law, but is wholly void and ineffective for any purpose, since its  
172 unconstitutionality dates from the time of its enactment... In legal contemplation, it is as  
173 inoperative as if it had never been passed... Since an unconstitutional law is void, the  
174 general principles follow that it imposes no duties, confers no right, creates no office,  
175 bestows no power or authority on anyone, affords no protection and justifies no acts  
176 performed under it... A void act cannot be legally consistent with a valid one. An  
177 unconstitutional law cannot operate to super cede any existing law. Indeed insofar as a  
178 statute runs counter to the fundamental law of the land, (the Constitution - JTM) it is  
179 superseded thereby. No one is bound to obey an unconstitutional law and no courts are  
180 bound to enforce it." *Bonnett v. Vallier*, 116 N.W. 885, 136 Wis. 193 (1908); *NORTON v.*  
181 *SHELBY COUNTY*, 118 U.S. 425 (1886). See also *Bonnett v Vallier*, 136 Wis 193, 200;

182 116 NW 885, 887 (1908); *State ex rel Ballard v Goodland*, 159 Wis 393, 395; 150 NW  
183 488, 489 (1915); *State ex rel Kleist v Donald*, 164 Wis 545, 552-553; 160 NW 1067,  
184 1070 (1917); *State ex rel Martin v Zimmerman*, 233 Wis 16, 21; 288 NW 454, 457  
185 (1939); *State ex rel Commissioners of Public Lands v Anderson*, 56 Wis 2d 666, 672;  
186 203 NW2d 84, 87 (1973); and *Butzlaffer v Van Der Geest & Sons, Inc*, 115 Wis 2d  
187 539; 340 NW2d 742, 744-745 (1983).

188  
189 If Respondent's position is Constitutional, and legally valid, and supported by actual  
190 Constitutional law, and case law, then Respondent can surely provide this proof to Your  
191 Honor and to this Honorable Court and provide direct answers to the Court precedent  
192 presented herein by Petitioner.

193  
194 The issue is NOT whether the government has a Constitutional or legal right to tax  
195 citizens. That fact is well established, and need not be presented as a distraction and  
196 misdirection away from the issue at hand. The question raised is "HOW" Respondent  
197 may tax Petitioner, and how it may do so within the law. Administrative actions are  
198 subject to laws, and supposed "laws," including the IR Code itself, or activities  
199 performed by Respondent which circumvent the Constitution, the Rules of Civil and  
200 Criminal Procedure and the Rules of Evidence, are void. Taxes are to be  
201 Constitutionally applied and legally enforced.

202  
203 The IR Code is so convoluted, and covered by "smoke and mirrors," so as to make it  
204 extremely difficult for any average person of intelligence to be able to piece together the

205 evidence, but this has been done, in part herein. This “smoke and mirrors” is  
206 purposefully, craftily and constructively concocted so as to confuse and mislead the  
207 public and Your Honor, and which dishonors the Court. (See Attachment F, Line 499-  
208 573).

209  
210 Respondent claims to be standing on the law, but is showing complete disregard in  
211 these proceedings for not only the Rule of Law, and IR Code itself, but has failed to  
212 provide ANY law that makes Petitioner “liable” for “income” taxes to begin with, which  
213 would have to be a fact of record to make Petitioner a “taxpayer,” as compared to a “tax  
214 payer.”

215  
216 The *prime facie* evidence is that the Respondent has NOT provided valid evidence or  
217 answer to Petitioner’s good faith questions and case law. Respondent is grossly silent  
218 and showing wonton disregard of ALL elements of these issues:

219  
220 "Silence can only be equated with fraud where there is a legal or moral duty to speak, or  
221 where an inquiry left unanswered would be intentionally misleading. . . We cannot  
222 condone this shocking behavior by the IRS. Our revenue system is based on the good  
223 faith of the taxpayer and the taxpayers should be able to expect the same from the  
224 government in its enforcement and collection activities. If that is the case we hope our  
225 message is clear. This sort of deception will not be tolerated and if this is routine it  
226 should be corrected immediately." *U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v.*  
227 *Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.*

228 "Silence is a species of conduct, and constitutes an implied representation of the  
229 existence of facts in question. When silence is of such character and under such  
230 circumstances that it would become a fraud, it will operate as an Estoppel." *Carmine v.*  
231 *Bowen*, 64 U.S. 932.

232  
233 "Fraud in its elementary common law sense of deceit, includes the deliberate  
234 concealment of material information in a setting of fiduciary obligation. A public official is  
235 a fiduciary toward the public, and if he deliberately conceals material information from  
236 them he is guilty of fraud." *McNally v. U.S.*, 483 U.S. 350, 371 372, *Quoting U.S. v*  
237 *Holzer*, 816 F.2d. 304, 307.

238  
239 Emotions, beliefs, feelings and "conventional wisdom" have NO place in this Honorable  
240 Court, and only facts in evidence and ALL court case precedent on these issues can  
241 have affect and can legally and Constitutionally be considered.

## 242 243 **ARGUMENT SPECIFICS**

244  
245 Respondent, in argument, begins with numerous presumptive, unproven,  
246 unauthenticated statements and hearsay testimony. Referencing said Respondent  
247 Motion to Deny Petition...

248  
249 a) Page 1, "Questions Presented," and Page 6, "Argument," Respondent testifies

250 that Petitioner failed to file federal income tax returns for years 2003 through 2006.

251  
252 This is Respondent's first presumptive hearsay argument, but it is baseless and wholly  
253 without merit. Respondent is stating an unauthenticated statement with no  
254 authenticated evidence. No evidence whatsoever has been forthcoming to even begin  
255 to claim that Petitioner is legally liable to file any 1040 tax return. In actual legal fact,  
256 the 1040 form, as well as the Third Party Summons, are facially void documents under  
257 the Paperwork Reduction Act (PRA) . (See Attachment M).

258  
259 b) Page 1, "Questions Presented," Respondent testifies that the Respondent  
260 seeks to "determine Maehr's correct Federal income tax liabilities..." with the use of third  
261 party private documents. This, too, is moot.

262  
263 "The search for and seizure of stolen or forfeited goods, or goods liable to duties and  
264 concealed to avoid the payment thereof, are totally different things from a search for  
265 and seizure of a man's private books and papers for the purpose of obtaining  
266 information therein contained, or of using them as evidence against him. The two things  
267 differ toto coelo. In the one case, the government is entitled to the possession of the  
268 property; in the other it is not."

269  
270 \*"Papers are the owner's goods and chattels; they are his dearest property, and  
271 are so far from enduring a seizure, that they will hardly bear an inspection; and though  
272 the eye cannot by the laws of England be guilty of a trespass, yet where private papers

273 are removed and carried away the secret nature of those goods will be an aggravation  
274 of the trespass, and demand more considerable damages in that respect. Where is the  
275 written law that gives any magistrate such a power? Petitioner can safely answer, there  
276 is none; and therefore it is too much for us, without such authority, to pronounce a  
277 practice legal which would be subversive of all the comforts of society." at 628. *BOYD v.*  
278 *U S, 116 U.S. 616, 623 (1886):*

279  
280 Respondent's attempts to access Petitioner's private information, whether from third  
281 party sources or Petitioner directly, is to violate Petitioner's privacy and circumvent the  
282 law. Despite the actual "documents" being sought possibly being the "property" of  
283 Aurora Loan Service, the Petitioner's private information, financial information and other  
284 personal information contained therein is NOT their property to dispose of as they wish,  
285 and is being illegally sought by Respondent under color of law. This personal and  
286 financial information certainly is relevantly attached to Petitioner's Constitutional rights  
287 and privacy, whether directly or indirectly. Aurora Loan Service has a fiduciary duty to  
288 Petitioner to NOT illegally release Petitioner's private information to others acting under  
289 the color of law.

290  
291 c) The Respondent uses the term "income" throughout Respondent's Motion in  
292 justifying their attempt to obtain third party records, for which there is no definition for in  
293 the IR Code, and for which Congressional testimony and case law defined and settled  
294 long ago. (See attachment A). Only Constitutionally taxable events can be addressed  
295 by Respondent. (See Attachment F and FF).

296 d) Respondent uses the words “tax liabilities,” which is also hearsay testimony,  
297 once again, indicating the presumption that there exists a possible “tax liability” where  
298 one has been denied by affidavit and attachments. No place in the IR Code is there any  
299 documented evidence making Petitioner personally “liable” for said “income” tax, and  
300 Respondent has refused, for 5 years, to provide such evidence.

301  
302 e) Respondent labels Petitioner as a “taxpayer,” which Petitioner denies is  
303 legally binding, and then attempts to use case law which supports Respondent’s  
304 position that all “taxpayers” are “liable” to file a 1040 for “income” they receive. This is  
305 twisting the issue to fit their notions and ignoring the facts. Petitioner does NOT deny  
306 that someone who is made “liable” for legal “income” taxes is legally liable to pay those  
307 taxes in whatever legal means is provided.

308  
309 f) Page 1, “Questions Presented,” Respondent testifies that the Respondent  
310 “issued an administrative summons directed to Aurora Loan Service.” This type of  
311 “administrative summons” is extra-legal, as previously ruled on by the Courts. (See  
312 Attachment D, Lines 326-369).

313  
314 g) Page 2, “Questions Presented” continued, Respondent testifies that “Both of  
315 these arguments have long been rejected,” but fails to provide any case law rebuttal to  
316 previous documentation Petitioner provided to Respondent and to this Honorable Court  
317 presenting factual and legal evidence proving Respondent’s hearsay testimony position.

319 h) Page 4, “ Summary of Argument,” Respondent claims Petitioner is raising  
320 “numerous frivolous arguments,” which they do not address with anything but hearsay  
321 testimony, and then claims they only have to “establish four elements... Creating a  
322 *prima facie* case for enforcement.” This is getting the cart before the horse and ignoring  
323 the true, relevant foundational material. Respondent claims jurisdiction and authority  
324 where none are in evidence or on record, and Petitioner has provided facts refuting their  
325 claimed *Powell* position.

326  
327 i) Page 5, “Argument,” Respondent begins by raising the right for government to  
328 tax. This is NOT being contested and is muddying the waters with frivolous and  
329 irrelevant distractions to bias and mislead Your Honor.

330  
331 j) Page 5, Respondent testifies that the Respondent has a “broad mandate,” and  
332 “can investigate merely on suspicion that the law is being violated, or even just because  
333 it wants assurance that it is not.” This would hold true against “taxpayers” who are  
334 made “liable” for said laws and taxes, NOT for those who do not fall under such  
335 jurisdiction;

336  
337 "The revenue laws are a code or system in regulation of tax assessment and collection.  
338 They relate to taxpayers and not to non-taxpayers. The latter are without their scope.  
339 No procedure is prescribed for non-taxpayers and no attempt is made to annul any of  
340 their rights and remedies in due course of law. With them Congress does not assume to  
341 deal, and they are neither of the subject nor of the object of the revenue laws. Persons

342 who are not taxpayers are not within the system and can obtain no benefit by following  
343 the procedures prescribed for taxpayers..." *United States Court of Claims, Economy*  
344 *Plumbing and Heating v. United States, 470 Fwd 585, at 589 (1972).*

345  
346 Respondent can no more attempt to force or claim "taxpayer" status, or "liability," on  
347 Petitioner, outside the law, than they can in attempting to make a German or  
348 Frenchman a "taxpayer" or "liable" without legal, valid and Constitutional proof. No  
349 evidence is presented by Respondent that Petitioner is, indeed, a "taxpayer" or "liable"  
350 for taxes:

351  
352 "Tax liability is a condition precedent to the demand. Merely demanding payment, even  
353 repeatedly, does not cause liability. For the condition precedent of liability to be met,  
354 there must be a lawful assessment... (Section 301.6203-1, title 26 CFR.) Verification  
355 under penalty of perjury or seal, either a voluntary one by the taxpayer (See Attachment  
356 A) or one procedurally proper by the IRS..." *Bothke v. Flour, 713 F. 2d 1405, pg 1414,*  
357 *[14, 15].* (See Attachment D).

358  
359 No lawful assessment has been forthcoming, and Respondent's own code states this:

360  
361 "Electing the option of estimating a speculated tax and sending accompanying deposit  
362 via use of Form 1040, or should surmised assessment not be made by appropriate

363 authority within the time restraints of three (3) years, reasonable assumption exists a tax  
364 is not owing.” 26 USC Section 6501.

365  
366 Petitioner is aware of, and relies upon, the United States Supreme Court ruling where  
367 the court stated;

368  
369 “Whenever any act done under its authority is challenged, the proper sanction  
370 must be found in its charter, or the act is ultra vires and void.” See PACIFIC  
371 INS. CO. v. SOULE, 74 U.S. 433 (1868).

372  
373 This current matter involves the same Internal Revenue Service as from their beginning  
374 days as shown from the foregoing case. The current law requires the taxpayers consent  
375 to an assessment by the filing of a return; See 26 U.S.C. §6201.

376  
377 “Where the rights of individuals are affected, it is incumbent upon agencies to follow  
378 their own procedures. This is so even where the internal procedures are possibly more  
379 rigorous than otherwise would be required. MORTON v. RUIZ, 415 U.S. 199, 235  
380 (1974)

381  
382 ONLY what someone signs and confirms as their "income" can legally and

383 Constitutionally be used to validate any "income" and any tax on said "income:"

384  
385 IR Code Sec. 6020. - Returns prepared for or executed by Secretary

386 1. (a) Preparation of return by Secretary

387 "If any 'person' (defined as "U.S. person" in IRC 7701 (30) and discussed in Attachment  
388 F) shall fail to make a return required by this title or by regulations prescribed  
389 thereunder, but shall consent to disclose all information necessary for the preparation  
390 thereof, then, and in that case the Secretary may prepare such return, which, being  
391 signed by such 'person,' may be received by the Secretary as the return of such  
392 'person.'"

393  
394 No such presentment has ever been provided by Respondent, and NO signature of  
395 Petitioner has ever been added to such document.

396  
397 None of these issues herein are documented as true and valid in the slightest, even  
398 though Petitioner has, in all good faith, requested said documentation, proof, and  
399 clarification on conflicting and even deceptive presentments and claims made by  
400 Respondent. This would eliminate all Respondent's case laws relevant to a "taxpayer."

401  
402 Again, the question is not one of the right of taxation by government, but of the legal  
403 definition of "income," said "liability," and Respondent jurisdiction over Petitioner where

404 he is NOT made “liable” by Constitutional law, case law or IR Code.

405  
406 k) Respondent, et al., are placing this Honorable Court and Your Honor into a  
407 possible position where Fraud upon the Court could occur, and which Respondent  
408 would depend upon to succeed in their Motion. Acting under the color of law,  
409 Respondent is attempting to create a legal reality which does not exist in order to  
410 proceed with their Summons action, and looking to this Honorable Court and Your  
411 Honor to be an accomplice in these actions. (See Exhibit G of original Petition to  
412 Quash).

413  
414 l) Respondent has committed Fraud by Concealment: Respondent is required by  
415 law under Federal Rules of Civil Procedure #4, to provide Judge’s signature and stamp  
416 of the Court on the Summons document, which they did not provide, thereby creating a  
417 facade of legality which Aurora Loan Service would have been deceived by.

418  
419 m) Respondent has committed Fraud by Concealment: Respondent failed to  
420 inform Aurora Loan Service that response to a Summons that does not include the  
421 Director's certification number nor an OMB number is VOLUNTARY and the PRA  
422 forbids any penalties against non-response choices. In addition, they are not legally  
423 required to respond, and to NOT notice Aurora Loan Service of this fact is to coerce  
424 Aurora Loan Service, under the color of law, into breaking the law and their affirmative  
425 and fiduciary duty to protect Petitioner’s personal, private information. (See Attachment  
426 M).

427 n) Document “Declaration of William Sothen:” Sothen provided hearsay  
428 testimony to the same presumption... that Petitioner is legally “liable” to file said 1040  
429 tax returns, and to the use of the word “income” without any evidence in fact. This  
430 provides *prima facie* evidence that makes Sothen a possible accomplice in violation of  
431 18 U.S.C. Racketeering Laws, and U.S.C. 7214:

432  
433 U.S.C. 7214 - Offenses by officers and employees of the United States.

434 (a) Unlawful acts of revenue officers or agents

435 Any officer or employee of the United States acting in connection with any revenue law  
436 of the United States—

437 (1) who is guilty of any extortion or willful oppression under color of law; or

438 (2) who knowingly demands other or greater sums than are authorized by law...;

439  
440 The *prime facie* evidence in the facially void Summons itself proves this illegal activity.  
441

442 o) Respondent has presented case law as evidence of their legal standing, but  
443 often this case law is in direct contradiction to more complete case law presented by  
444 Petitioner since the beginning throughout these documents. If case law contradicts  
445 itself, then there is a larger problem of interpretation of the original issues being  
446 adjudicated within Respondent’s stated cases. Since the case law Petitioner has  
447 presented is substantial, and extremely precise in its statements, Respondent should be  
448 able to provide clear answers to these questions raised by this case law rather than  
449 providing case law which ignores the direct questions and challenges raised by other

450 case law.

451  
452 p) Further declarations, case law and documentation for position:

453  
454 1. In years past, Petitioner had been influenced and misled by the news media,  
455 including Respondent press releases, tax preparers and by a misinformed public, into  
456 believing that Petitioner was subject to and “liable” for the so-called "income" tax, and  
457 that if Petitioner did not file Form 1040 Income Tax Returns and other Respondent  
458 forms and documents by the April 15th deadline, Petitioner would be subject to a fine  
459 and jail sentence. Petitioner no longer believe this to be Constitutional, legal or true,  
460 and believes that the IR Code (See Attachment F) DOES not provide "Plain and Clear,"  
461 income" tax “liability” (See Attachment FF) documentation.

462  
463 2. Petitioner has since learned and believes that by signing tax forms and  
464 providing a social security number, erroneously and illegally called a "Taxpayer  
465 Identification Number," Petitioner was providing *prima facie* evidence, whether factually  
466 true or not, indicating that Petitioner believed he was a "person" (See Attachment F)  
467 “subject to and liable for” an “income” tax and a “person” who supposedly recognized a  
468 legal obligation to file 1040 tax forms. Petitioner no longer believes that any legal  
469 “liability” for "income" taxes as defined by IR Code OR Constitutional Law apply to  
470 Petitioner to be factual or true.

471  
472 3. Petitioner has since learned and believes that the Internal Revenue Code states

473 exactly who is liable for other taxes, such as the excise tax on distilled spirits, clearly  
474 stating that the distiller or importer of distilled spirits shall be liable for the taxes imposed  
475 thereon (26 U.S.C. 5005(a)), and that Petitioner finds no section in the Internal Revenue  
476 Code making him personally "liable" for any "income" tax whatsoever.

477  
478 4. Petitioner has since learned and believes that the Internal Revenue Code relates  
479 only to those who are "taxpayer(s)" as that term is defined therein, that is, only those  
480 who are "subject to or liable for" a revenue tax... (26 U.S.C. 1313 (b) and 7701 (a) (14);  
481 *Economy Plumbing and Heating v. United States*, 470 F.2d 585, 589 590(1972)), or who  
482 knowingly, with full understanding, will volunteer willingly to pay such taxes. Petitioner is  
483 NOT such a person.

484  
485 5. Petitioner has since learned and believes that sections of the Internal Revenue Code  
486 which indicate requirements to keep records and make returns apply only to those  
487 persons who are "liable" for or "made liable" for a tax (26 U.S.C. 6001, 6011). (Also see  
488 Attachment F).

489  
490 6. Petitioner has since learned and believes that section of the Internal Revenue Code  
491 which also indicates a requirement to make returns relates only to so-called "income"  
492 taxes under Subtitle A of the Internal Revenue Code (26 U.S.C. 6012) and additionally  
493 relates only to "persons" who have "taxable year(s)" (taxpayer's annual accounting  
494 periods) as that term is defined in the Internal Revenue Code (26 U.S.C. 441(b)).

496 7. Petitioner has since learned and believes that, Per 26 USC 7701(a)(12)), a  
497 **Delegation** (See Attachment D, lines 51-79) Order from the Secretary of Treasury  
498 delegating to the Commissioner of Internal Revenue the authority to collect "income"  
499 taxes, and (per 44 USC 1505), which legally requires a copy of its publication in the  
500 Federal Register, simply does not exist in the Federal Registry and has not been  
501 provided although requests have been made to the Respondent for such publication.  
502

503 8. Petitioner has since learned and believes that the Respondent, has very limited  
504 jurisdiction within the sovereign 50 states, pursuant to Article 1, Section 8, Clause 17 of  
505 the Constitution. This means the Respondent has NO jurisdictional authority over  
506 Petitioner, and therefore ANY Respondent action against Petitioner is illegal and only  
507 under the color of law. (See Attachment B).  
508

509 9. Petitioner has since learned and believes that Respondent use names and  
510 definitions in a deceiving way and that the common understanding of these names is  
511 misleading and causes misunderstandings and confusion when trying to establish actual  
512 individual tax liability. (See Attachment A). By deceptive and misleading words and  
513 statements in the Respondent's IR Code, publications and news releases, and by  
514 means of constructive fraud, previously deceived Petitioner into believing that Congress  
515 had imposed a direct tax on our earnings when in fact only "persons" involved in a taxed  
516 activity or event could possibly be subject to or "liable" for an "income" tax. Petitioner  
517 rescinded all such previous supposed *prima facie* evidence and signatures in Affidavit  
518 previously sent to Respondent.

519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541

10. *Prima facie* evidence against Respondent is established because Petitioner has repeatedly petitioned the Respondent and other government officials, including Senators, Representatives, U.S. Attorney Generals, and IRS commissioners, for answers to these questions, and to provide answers to, or rebuttal to, Petitioner's affidavits over the last 5+ years, but no relevant answers have been forthcoming, and Petitioner, therefore, stands on his position and belief as being legally valid and true, by default. (See attachment P).

11. Petitioner has since learned and believes that Respondent is committing mail fraud (Title 18, Part I, Chapter 63, 1341) in EACH use of the U.S. Mail service to correspond with Petitioner or Aurora Loan Service in attempts to illegally extract information and in administrative functions contrary to Federal law, and which **the DOJ is NOTICED on.**

12. Petitioner has since learned and believes that Respondent is not a true "Federal" agency, (See Attachment S) but is acting under color of law, and guilty of Racketeering (R.I.C.O.) crimes. After much diligent research by many others, Petitioner can only concluded that there is no known Act of Congress, nor any Executive Order, giving Respondent lawful jurisdiction to operate outside the Federal/Territorial United States, and within any of the 50 States of the Union. No lawful jurisdiction has been granted to Respondent by any of the 50 sovereign states, and no proof of lawful jurisdiction has been forthcoming after repeated requests from the Respondent. Providing case law to suggest otherwise in no way "creates" the actual event or jurisdictional fact, but merely

542 supports the frivolous hearsay presumptions. (See Attachment F).

543  
544 13. Petitioner is NOT a "tax protestor," and not "anti-government." Petitioner pays  
545 taxes in many forms and swore an oath to defend the Constitution of the U.S.A., which  
546 he is doing herein. Petitioner stated in the Petition to Quash that he was NOT a "tax  
547 protestor," and for Respondent to presumptively, and with hearsay testimony,  
548 derogatorily label Petitioner as a "tax protestor" is to create bias against Petitioner in the  
549 eyes of Your Honor, without legal proof or support.

550  
551 14. Petitioner has since learned and believes that the filing of a 1040 form violates  
552 Petitioner's 5<sup>th</sup> Amendment rights of self incrimination due to the fact that the 1040 form  
553 can be used against Petitioner in a Court of law. (See Attachment D, line 135-150).

554  
555 15. Petitioner has since learned and believes the 8th Circuit Court's precedent that the  
556 lack of Respondent or other government official response to previous affidavit creates a  
557 legal presumption against the Respondent, as follows:

558  
559 "The law creates a presumption, where the burden is on a party to prove a material fact  
560 peculiarly within his knowledge and he fails without excuse to testify, that his testimony,  
561 if introduced, would be adverse to his interests." Meier v CIR, 199 F 2d 392, 396 (8th  
562 Cir. 1952) quoting 20 Am Jur, Evidence Sec 190, page 193. (Also see Attachment P).

563  
564 Surely the "knowledge" that Respondent claims to have that refutes Petitioner's position

565 is available, but it is NOT being presented as such. If it is NOT available, or does not  
566 even exist, which is Petitioner's position, then the "presumption" of Petitioner's evidence  
567 and position as being factual and true, hold.

568  
569 16. Petitioner believes the following adjudicated cases support his contention that there  
570 is no section of the IR Code making Petitioner "liable" for income taxes: USA v. Kuglin,  
571 U.S. District Court, Western District of Tennessee (Memphis) # 03 CR 20111, (2003);  
572 United States of America v Joseph Banister, et al., CR No. S 04 435, (2005); United  
573 States of America v Tommy K. Cryer, No. 06 50164 01, Western District of Louisiana ,  
574 Shreveport Division, (2007).

## 575 CONCLUSION

576  
577 Petitioner is just the little guy, fighting the Goliath of dozens of lawyers and agents who  
578 are making presumptions and providing hearsay testimony in an attempt to carry out an  
579 unlawful act. Petitioner is using the simple but powerful "sling and rocks" of the  
580 Constitution, Rule of Law, Case Law and the Judicial Machine of the Court.

581 Respondent cannot pick and choose case law anymore than anyone can pick and  
582 choose biblical scriptures out of context to try to create a "truth" to support their position  
583 or belief, while ignoring all the other case (or biblical) laws which impact the collective  
584 data and the truth being sought.

585  
586 Petitioner has repeatedly requested, in this case and elsewhere, for Respondent to

587 answer the actual questions and challenges, directly and without obfuscation and  
588 distraction. The fundamental issues raised have been completely ignored by  
589 Respondent, citing case law which is out of context with the actual challenges and in  
590 conflict with case law and other evidence provided by Petitioner.

591  
592 For Respondent to depend upon school yard bully tactics rather than facts of law, and to  
593 ignore the “practice” of law and to depend upon cookie cutter, canned written “form”  
594 responses being presented to this Court...(Virtually the same exact response as two  
595 other pending cases in two other states), rather than professionally and dutifully perform  
596 their sworn duty and address the real issues and case law presented, is a gross  
597 dishonor to the Court and to the intelligence of Your Honor.

598  
599 Just because Respondent may believe “things have always been done this way,” or,  
600 “everyone knows they have to pay income taxes,” or, “the definition of income is  
601 obvious,” or “because we said so,” does not make those things FACT. Everyone  
602 “knew...” it was conventional wisdom... that the Earth was flat, and that spontaneous  
603 generation was a “scientific fact,” too. People who claimed otherwise, even with  
604 available proof, were attacked and maligned regularly, even killed... until the evidence  
605 was actually considered and tested. Without testing, proving and complete evaluation  
606 of all data, the truth is never found, and perhaps this is why Respondent fails to prove  
607 up their claims or answer these simple challenges.

608  
609 1. Respondent cannot label Petitioner as a “taxpayer” when Petitioner has not been

610 “made liable” by any IR Code section or other supposed law, and therefore cannot  
611 possibly be a “taxpayer” by law, or be expected to act like a “taxpayer” and conform to  
612 laws governing a “taxpayer.”

613  
614 2. Respondent cannot claim that Petitioner has “income,” without first defining  
615 “income,” from either the IR Code itself, or case law defining “income” which supports  
616 their contentions and eliminates Petitioner’s case law, which they have failed to do,  
617 thereby making moot any subsequent attempts to obtain supposed information which  
618 they claim would provide this data when it is not even defined or described. Respondent  
619 is merely fishing without a license. Petitioner cannot possibly respond in providing  
620 something which Respondent fails to adequately legally define and explain, without  
621 hearsay, or show case law that their position on “income” overrides case law and  
622 Congressional testimony on “income,” and “liability” provided by Petitioner.

623  
624 3. Respondent cannot claim to require Petitioner to file a 1040 form without the above  
625 being provided, nor can they ignore the Federal Rules of Civil Procedure governing their  
626 own Summons documents, or ignore the laws governing OMB numbers, and the claim  
627 that the 1040 (bootleg) form conforms to the law, which Respondent has consistently  
628 claimed throughout, but which simply make the Summons facially void.

629  
630 4. Where the Courts have not been given complete disclosure of case law in any past  
631 cases, nor provided the larger picture which encompasses the issues of “income,”  
632 “liability,” the legal status of the 1040 form, and Petitioner’s legal liability to file a bootleg

633 form, the Honorable Court must now be allowed to function as the Judicial Machine it is,  
634 and for Your Honor to consider these issues *in toto*, in context, and in truth of facts in  
635 evidence.

636  
637 5. Respondent, et al., may claim they are “just doing their job,” and may be sincerely  
638 believing they are doing so, but they have the “higher duty” to know ALL the law they  
639 supposedly uphold, and have a duty to answer for it. Ignorance of the laws is no  
640 excuse. If they, or anyone taking a stand on this issue, have not actually read any of  
641 the IR code, personally, have not read the case laws and other testimony and material  
642 in this case, personally, and have not considered the Constitutional elements herein,  
643 and continue to stand their ground, this is deceptive, and very unprofessional conduct,  
644 at the least, and bordering on willful fraud and criminal collusion, and has nothing to do  
645 with freedom and liberty in this country. How can someone claim a fact when they have  
646 not even read or understand the relevant material?

647  
648 These issues are now before this Honorable Court, and ripe for adjudication. Petitioner  
649 maintains they have met their burden to submit a “minimal amount of evidence” and has  
650 raised much more than “a substantial question” to support contention of civil procedure  
651 violations being done under the color of law, Respondent’s lack of good faith in  
652 addressing Petitioner’s individual issues, and Respondent’s obfuscation of the facts and  
653 definitions, potential fraud, all of which support Cause for denying Respondent’s Motion  
654 for Summary Denial, and to grant Petitioner’s Petition to Quash Third party Summons.

656 To continually rehash the irrelevant hearsay testimony depended upon by Respondent,  
657 without Respondent answering these direct case law challenges, point by point, is a  
658 waste of this Honorable Court's resources, and Your Honor's time and does not serve  
659 justice and the search for truth, and is a default by Respondent.

## 661 **Do Now Request:**

662  
663 1. Your Honor Deny Respondent's Motion for Summary Denial, and Grant  
664 Petitioner's Petition to Quash 3<sup>rd</sup> Party Respondent Summons, with prejudice.

665  
666 2. Declaratory Judgement that Petitioner is not a "taxpayer" as mislabeled by the  
667 Respondent according to all existing evidence provided, and to ORDER Respondent to  
668 remove all records related to any aspect of Petitioner's fraudulent "taxpayer" status with  
669 Respondent until Respondent, in good faith, proves such status in law.

670  
671 3. ORDER Respondent to provide factual and legal answers to Petitioner's  
672 original Affidavit dated March 25, 2006, and this case challenges on definitions and  
673 labels, point by point, to show good faith, and to comply with the IR Code itself (See  
674 Attachment F, lines 235-286) in their responsibility to the public, which they have failed  
675 to do thus far.

676  
677 4. ORDER Respondent to have all these answers published to the public, and to

678 have a public forum where independent parties will evaluate all evidence on these  
679 issues in a publically televised forum which Respondent has, multiple times since 1995,  
680 agreed to do, but then reneged on in every case. (Evidence available).

681  
682 If the Respondent truly seeks to serve the public and provide lawful direction, this  
683 response will help to easily and simply quell the rapidly growing resistance to what is  
684 proving to be extra-legal activity by Respondent, and that Respondent refuses to  
685 answer for under Constitutional “Redress of Grievance.” If they stand on the law, they  
686 should be able to answer the specifics because they certainly must have the material in  
687 order to be stating and claiming what they are.

688  
689 5. Under 26 USC 7433; Compensation for costs of time and expenses in  
690 responding to Respondent’s frivolous and void actions, to include new costs for filing  
691 Brief, at 35 hours research and preparation, at \$125 per hour, and all previous costs for  
692 previous Petition and motions as noted in previous documentation.

693  
694 6. Respondent’s, et al., have shown clear evidence of illegal activities under the  
695 color of law, making themselves liable for prosecution under 7214 and Racketeering  
696 Laws, which the DOJ MUST act on under law, and which Petitioner requests Your  
697 Honor to ORDER said response and investigation. (See Attachment D, lines 92-127,  
698 151-187, and 285-314 for violations).

699  
700 7. Request injunctions against Respondent, et al., from attempting any future

701 illegal schemes to circumvent the law and Petitioner's rights, and cease and desist any  
702 and all correspondence with Petitioner, unless they can provide lawful, factual,  
703 authenticated evidence that would bring Petitioner within Respondent's jurisdiction, such  
704 as being an employee of the U.S. Government, or living within the territorial "United  
705 States," other valid proof.

706  
707 8. Default Judgement against Respondent regarding Original Affidavit financial  
708 claims, with interest, on funds fraudulently obtained from Petitioner by Respondent  
709 without lawful authority. Refund based as stated in copy of Original Affidavit provided to  
710 this Honorable Court, to be provided within 21 days of Judgement and as described in  
711 Original Affidavit.

712  
713 9. Find Respondent, et. al., in Contempt of Court for all the obvious violations of  
714 law, and false testimony, which Respondent, et. al., are attempting against the Rule of  
715 Law, Rule of Civil Procedures and Rules of Evidence, and against this Honorable Court  
716 and Your Honor.

717  
718 10. Petitioner believes this case is ripe for adjudication if Respondent continually  
719 defaults in addressing the vital issues herein.

720  
721 Enclosed: Attachments: A, B, C, D, F, FF, I, M, P, R-1, R-2, S-1, S-2, S-3,T; Certificate  
722 of Mailing.

724 Respectfully submitted in the spirit of truth and freedom for our great country, and dated  
725 this\_\_\_\_\_ day of July, 2008.

726

727

728 \_\_\_\_\_  
Jeffrey T. Maehr, Pro Se

729 924 E. Stollsteimer Rd

730 Pagosa Springs, CO 81147