UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Jeffrey T. Maehr, Petitioner	)	
v.	)	Docket No. 11-9019
COMMISSIONER OF INTERNAL REVENUE, Respondent	)	

BRIEF IN SUPPORT OF APPEAL

Comes now, Jeffrey T. Maehr, Pro se, before the United States Court of Appeals, with this Brief in support of Appeal. Petitioner would point this Honorable Court to P. 1 of original Petition regarding "Pro Se" litigants should this brief be unknowingly defective in form in any way. This Honorable Court can adjudicate on the laws, or lack thereof, in question, and the improper application of laws by Respondent and the Tax Court. Petitioner is presently studying law for a judgeship, (already tentatively offered) and can only look to the law in all actions he takes. Petitioner is under the impression that this Honorable Court is an Article III Court, able to adjudicate common law and constitutional law issues. If this is incorrect, please provide the type of court this is, and the rules that apply.

These challenges may likely be "new," and the case law never seen by this Honorable Court because the Courts have been manipulated and deceived by Respondent's actions and previous documentation, like Petitioner has been.

STATEMENT OF THE INITIAL CASE

Respondent assessed Petitioner for alleged tax deficiencies for years 2003-2006, deficiency notice date of 5-12-11. Petitioner, in order to NOT be found in default, was forced to respond via the Tax Court in the given time frame.

Petitioner timely filed his Petition with the tax court, including 7 exhibits, challenging all elements of Respondent's lack of Standing. The Respondent failed to provide the legally required "Summary Record of Assessment" and lawful signature and certification pursuant to 26 CFR 301.6203-1, and failed to provide in the record any Form 23C, (See Form 23C Assessment Law document separately filed) regarding any tax liability status for years, 2003, 2004, 2005, 2006, which is a violation of 15 U.S.C. § 1692. Without such assessment form and certification, the Tax Court had NO jurisdiction to continue, and should have ruled in support of Petitioner that Respondent failed to provide lawful proof of authority to create deficiencies against Petitioner. This is prima Facie evidence that Respondent is acting in bad faith outside its own laws, and attempting to commit fraud, and fraud

on the court.

Respondent also did not provide the Court , or in the record, any evidence of having standing to move against Petitioner personally with said deficiencies, despite challenge. Proof of standing in the Tax Court, a threshold issue, MUST be proven by Respondent, (burden of proof on it) to have assessed Petitioner, apart from Respondent's own Code and Supreme Court case law, forcing him to respond through tax court. No evidence is on record to date in this instant case. The Court erred in not requiring Form 23C in the record, and thus "standing" by Respondent, to be placed into the record, and did not comply with its legal duty to verify standing, and ignored many other lawful "standing" issues of law as presented.

Respondent is acting within the "law of the forum," lex fori, but **Petitioner stands on the "law of the place/land," lex loci. Respondent has NO "in personam" or "in rem" jurisdiction. (See separately filed "Notarial Verification")**.
Petitioner is a man living on the land, not within any jurisdiction of Respondent, and did NOT give any "personal jurisdiction" to Respondent to be acting against Petitioner. However, even under the law of the forum, **Respondent is in violation of its own laws and rules, and Supreme Court case law**, on multiple fronts, as

clearly established in the original record, and as discussed below.

While it may be argued that, because Petitioner filed in Tax Court as Petitioner, that Respondent has "subject matter jurisdiction" under lex fori, however Respondent has no lawful ability to proceed in any form of exercise of such authority because they have no, and were not given, personal jurisdiction over Petitioner living on the land, and Petitioner denies any such "implied consent" to such.

There was nothing entered in the record that rises to the level of evidence to prove Respondent has personal jurisdiction, and thus no capacity to lawfully assess any alleged deficiencies, making said deficiencies void on their face. By assessing Petitioner against the law of the forum, and against Petitioner personally, Respondent is invading Petitioner's territory with a foreign law and foreign jurisdiction.

Petitioner denies being a 14th Amendment "citizen" as prescribed by the 14th Amendment ("a citizen of the District of Columbia" who is "resident" in one of the several States), and denies being under any alleged jurisdiction of Respondent, and

therefore, in Petitioner NOT being a 14th Amendment "citizen," Respondent has shown no lawful standing to assess Petitioner for any alleged tax deficiencies, as previously pleaded, and which, again, Petitioner challenges such jurisdiction.

If this Honorable Court has jurisdiction under these conditions, it has the authority to adjudicate the lex fori laws provided in original Petition and discussed below, and can rule on the laws themselves. If the court does NOT have jurisdiction under these circumstances, then neither does Respondent have jurisdiction over Petitioner, and the alleged deficiencies are moot, and void on their face.

If this Honorable Court has jurisdiction, then the following argument and law is provided. **Petitioner reserves all his rights and remedies under law, without prejudice, to bring these issues before his suitors one supreme Court for adjudication**.

Claim Upon Which Relief May Be Granted

Petitioner has been in dialog with Respondent, at length, since 2003 regarding issues of law, including standing, jurisdiction, Constitutional law, Supreme Court case law, and IR code assessment issues, and Congressional testimony, as well as

suits filed in 5 State Federal District Courts against respondent's "summons" to Petitioner's business contacts, on all the same issues.

In all this time, Respondent, and the Courts, have failed to provide any lawful or constitutional rebuttal to the foundational issue presented on standing, (despite Respondent's own code requiring such response-see Exhibit E in original Petition) and which were presented to the U.S. Tax Court, but were left unaddressed. (Entire document history is in Petitioner's file with Respondent, and available from Petitioner if not provided by Respondent).

Respondent stated to Petitioner, paraphrasing, that "if you want a response to these challenges, it would have to be done through the Courts" and it refused to answer. (Respondent's document stating such is available). Petitioner herein does just that because, thus far, the Courts have been silent on the all these lawful challenges.

Lawful challenges of the issue is the following, with some expansion below:

1. That Petitioner does NOT have "income" as well established and still standing Supreme Court case law, and Congress, defines it, but which is "presumed" by

Respondent in contradiction said case law. Presumption is no form of evidence, as previous pleaded case law proves. "The power to create [false] presumptions is not a means of escape from constitutional restrictions." *New York Times v. Sullivan*, 376 U.S. 254 (1964). (Also see Presumption Exhibit H in Original Petition).

2. That Petitioner is NOT a "taxpayer" as compared to a "non-taxpayer" which the courts have clearly delineated, (see below) but which has been, once again, "presumed" by Respondent and the Tax Court, but not proven as fact or with any law, statute or constitutional evidence that overturns the Supreme Court.

3. That Petitioner has received no proof that he is personally lawfully liable to file a 1040 form, for a variety of reasons, including the absence of any IR Code section that would require such lawful filing, and no evidence of said law has been presented in evidence that makes Petitioner personally liable, as the Courts are clearly recognizing: For example, in *UNITED STATES OF AMERICA VS. VERNICE B. KUGLIN, CR. NO. 03-20111 Ml/A,* Respondent could not provide the law requiring the filing of a 1040 form, and Defendant was acquitted due to that.

4. That the IR Code is not "positive" law, but only prima facie evidence of alleged

law, therefore holding no authority over Petitioner. (See original Petition, EXHIBITS V & T). Respondent has provided no evidence of the code being "positive law," and this leaves only more presumption of law, which Petitioner challenges as lawfully valid or binding on Petitioner.

5. Respondent's own testimony that it is NOT a government agency, and therefore has no jurisdiction over Petitioner, was ignored. (See original Petition, EXHIBIT E-2). *Diversified Metal Products v. IRS*, et al. CV-93-405E-EJE -USDC District of Idaho.

Respondent testified that it was not a U.S. Government agency, so, under what laws is it acting against Petitioner in a personal capacity? No such law has been provided proving the Respondent is a U.S. government agency. If it is, in fact of law, a U.S. government agency, then was perjury or fraud on the Court committed by Respondent in the cited case? Respondent can't have it both ways.

6. Petitioner's Motion to Vacate Order of Dismissal and Decision Entered August 19, 2011 was filed with more case law in support of a void judgment, which was immediately denied by the Court, with no response required from Respondent.

This is prima facie evidence that Court violations occurred. The Tax Court seemed to be prosecuting this case from the bench, not requiring Respondent to file responses or any pleadings on the issues brought forth, and the court merely rubber-stamped the pleadings as "denied."

7. The tax court denied motions and pleadings at the same time that Petitioner's filings were accepted by the court, but without proper lawful Service of Process to Petitioner of findings by the court revealing said decisions. Petitioner was left waiting for a response all the while the Court had already responded but did not notify Petitioner of these responses. (See Tax Court Docket showing no "Service of Process," and the Motion to submit new evidence already filed with the court.)

8. Petitioner provided an "Affidavit of Jeffrey T. Maehr" which was full of testimony, but which went unrebutted. A maxim of law states that "an unrebutted affidavit stands as truth." Legally, "He who does not deny, admits" or "silence implies consent." "Court of Appeals may not assume the truth of allegations in a pleading which are contradicted by affidavit." Data Disc, Inc. v. Systems Tech. Assocs., Inc. 557 F.2d 1280 (9th Cir. 1977). Respondent left the battlefield!

9. Petitioner moved for recusal of Judge Colvin due to prejudice, which was assigned to Judge Carluzzo. Petitioner then filed an "Affidavit of Prejudice" after learning of Judge Carluzzo's improper service of process, but this was ignored and denied.

LAWFUL ARGUMENT AND AUTHORITIES

1. Standing: In all court proceedings, standing is of paramount importance before the Court can rule on any elements of the case. It is a "threshold" issue which must be proven, in the record, by Respondent or the Court, and standing can be challenged at any time. (See above on 23C form violations).

Standing is legally defined as "The position of a person in reference to his capacity to act in a particular instance…19 Am J2d Corp § 559." *Ballentine's Law Dictionary,* page 1209. The Supreme Court has written: "In essence the question of standing is whether the litigant is entitled to have the Court decide the merits of the dispute or of particular issues." *Warth v. Seldin*, 422 U.S. 490, 498 (1975).

Petitioner maintains that he has Standing to be bringing said case before the tax Court and now the Court of Appeals, as this was the stated response necessary to, under Due Process, and within the limited time frame, address these alleged

deficiencies and relevant issues, but denies Respondent has standing to act against Petitioner, on multiple grounds;

"The requirement of standing, however, has a core component derived directly from the Constitution. A plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *Allen v. Wright*, 468 U.S. 737, 751 (1984); *Perry v. United States*, 294 U.S. 330 (1935).

Justice Scalia delivered the opinion of the Court, except as to Part III-B, concluding that respondents lack standing:

(a) As the parties invoking federal jurisdiction, respondents bear the burden of showing standing by establishing, *inter alia,* that they have suffered an injury in fact, *I. e.,* a concrete and particularized, actual or imminent invasion of a legally protected interest.

(b) Respondents did not demonstrate that they suffered an injury in fact.

LUJAN, SECRETARY OF THE INTERIOR v. DEFENDERS OF WILDLIFE

***et al.* certiorari to the United States Court of Appeals for the eight circuit**

No. 90-1424. Argued December 3, 1991 — Decided June 12, 1992.

Respondent has demonstrated no injury in fact to anyone in the record, but the record clearly shows injury to Petitioner in that Respondent is attempting to extract monies under color of law from Petitioner.

This "standing" issue is a catch 22 for Petitioner. Petitioner calls upon the Court to adjudicate the facts of the challenges made to Respondent's alleged deficiencies, and can only do so by bringing Petition to the Court in response to the alleged deficiencies, as required. However, if Petitioner did not bring such suit, his Due Process rights would have been violated in Respondent attempting to take property from Petitioner outside a Court of law, and he would have been found in default by the tax Court.

Respondent has provided NO evidence of standing to be acting against Petitioner, or in reply to the following further issues which support Respondent's lack of standing to be assessing Petitioner, or forcing him into Court to defend his rights and property.

2. Petitioner challenged Respondent's claim that Petitioner has "income" that can be lawfully taxed. This presumption and "conventional wisdom" has been used for decades to weave a revision of what lawful "income" is. Petitioner denies having anything resembling "income" as defined by the Courts for many decades. The following is taken from Petitioner's full doc on case law and discussion of "What is Income?" that can be filed (which is part of the "new" evidence Petitioner requests to be placed into the record). Rather than repeat all that has already been pleaded, please refer to original Petition, #9, P.7-9, for just a portion of the case law and discussion on this topic. Portions are repeated below:

The IR Code itself fails to define "income..."

"The general term "income" is not defined in the Internal Revenue Code." *US v Ballard, 535 F2d 400, 404, (1976).*

The IR Code term "gross income" is NOT a legal "definition" of "income," so we must look to the Courts for such legal definition. Respondent has long endorsed the concept that "income" is "all that comes in," or, is all "profit," but the Supreme Court clearly differs from this presumption...

"...income, as used in the statute should be given a meaning so as not to include everything that comes in. The true function of the words "gains" and "profits" is to limit the meaning of the word "income." *S. Pacific v. Lowe*, 247 F. U.S. 330. (1918).

The hearsay and presumptive concept of "income" being anything Petitioner receives as compensation, which is the direct target of Respondent's assessment and deficiency, is a direct conflict with Supreme Court case law, and Petitioner denies having received such "income" in the course of his work or related to his work;

"Wages, and compensation for personal services are to be taxed as an entirety... **is without support, either in the language of the Act (16th Amendment-Petitioner) or in the decisions of the courts construing it.** Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S. Treasury Department, which either prescribed or permits that compensations for personal services not be taxed as a entirety and not be returned by the individual performing the services. It has to be noted that, by the language of the Act, **it is not salaries, wages or compensation for personal services that are to be included in gross income**. That which is to be included is gains, profits, and income **derived from**

salaries, wages, or compensation for personal services." *Lucas v. Earl, 281 U.S.* 111 (1930). (Emphasis added).

In other words, “income” is NOT wages that Petitioner has received for work, or anything outside a corporate profit. Petitioner has “derived,” no such “income” from his wages, salary or compensation, and none is of record. Congressional testimony further clarifies the law. - See original Petition P. 7-10 for congressional testimony.

" We must reject in this case...the broad contention submitted in behalf of the Government that all receipts - everything that comes in - are income within the proper definition of the term 'gross income'... " *Doyle v. Mitchell Brother, Co.,* 247 US 179 (1918).

“Income is not a wage or compensation for any type of labor.” *Staples v. U.S.,* 21 F Supp 737 U.S. Dist. Ct. ED PA, (1937).

The word “income” has been slowly distorted from the original intent of the framers and Courts, and common knowledge. The true meaning of “income” is essentially a

"corporate profit," or "unearned" assets. That is, something that is derived **from** capital, NOT EATING INTO CAPITAL, thus destroying the very source for the lawful "income." Respondent claims all wages are "gain," or "profit," to be taxed in its entirety, but the Supreme Courts differs with this presumption and falsehood;

"There is a clear distinction between 'profit' and 'wages' or 'compensation for labor.' **Compensation for labor cannot be regarded as profit within the meaning of the law**...The word profit is a different thing altogether from mere compensation for labor...The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who performed the services which produced the gain **is without support either in the language of the Act or in the decisions of the courts** construing it and is directly opposed to provisions of the Act and to Regulations of the Treasury Department..." *U.S. v. Balard*, 575 F. 2D 400 (1976), *Oliver v. Halstead*, 196 VA 992; 86 S.E. 707 Rep. 2D 858: (Emphasis added).

"...Reasonable compensation for labor or services rendered is not profit..." *Laureldale Cemetery Assc. v. Matthews*, 47 Atlantic 2d. 277 (1946).

"All are agreed that an income tax is a "direct tax" on gain or profits..." *Bank of America National T. & Sav. Ass'n. V United States*, 459 F.2d 513, 517 (Ct.Cl 1972).

"Simply put, pay from a job is a 'wage,' and wages are not taxable. Congress has taxed income, not compensation." - *Conner v. U.S. 303 F Supp.* 1187 (1969).

"Income, as defined by the supreme Court means, 'gains and profits as a result of corporate activity and profit gained through the sale or conversion of capital assets.'" *Stanton v. Baltic Mining Co.* 240 U.S. 103, *Stratton's Independence v. Howbert* 231 U.S. 399. *Doyle v. Mitchell Bros. Co.* 247 U.S. 179, *Eisner v. Macomber* 252 U.S. 189, *Evans v. Gore* 253 U.S. 245, *Merchants Loan & Trust Co. v. Smietanka* 225 U.S. 509. (1921).

The bottom line on “income” is this; It is NOT wages, salary or compensation, but IS corporate profit, or “gain” FROM the exercise of capital (gains) and use of principle to create lawful “income.” The Courts are clear on this distinction. (See P. 7-10 of original Petition for more case law.)

Petitioner has no proven lawful “income” that Respondent can presume to attack.

Petitioner is not a corporation, or acting in a corporate capacity, or has any "unearned" assets, and has nothing in the record to prove such that any lawful "income" is the issue in this instant case.

3. No evidence whatsoever has been forthcoming to even begin to claim that Petitioner is personally or legally a "**taxpayer**" which is a hearsay and presumptive statement. Petitioner has repeatedly requested proof of statutory law or constitutional law or documents proving he is a "taxpayer," as labeled by the Respondent, and is "liable" to said "deficiencies," as compared to a "non-taxpayer," as identified in the U.S. Supreme Court. No such document has been provided:

"The **revenue laws** are a code or system in regulation of tax assessment and collection. They **relate to taxpayers and not to non-taxpayers**. The latter are without their scope. **No procedure is prescribed for non-taxpayers** and **no attempt is made to annul any of their rights and remedies in due course of law**. With them Congress does not assume to deal, and **they are neither of the subject nor of the object of the revenue laws**. **Persons who are not taxpayers are not within the system and can obtain no benefit by following the procedures prescribed for taxpayers...**" *United States Court of Claims, Economy Plumbing*

and Heating v. United States, *470 Fwd 585, at 589 (1972)*. (Emphasis added).

Petitioner maintains that he is a "non-taxpayer" until proven to be a "taxpayer" by law, statute, code or the Constitution, or that he has taxable "income" that could be liable to taxation, and enters into a "taxpayer" status through voluntarily filing said tax forms on lawful "income" subject to lawful taxation.

Petitioner being presumptively labeled a "taxpayer" by the Respondent, according to all existing evidence provided, is acting outside of law. Liability cannot be created by fiat or presumption, or "because we say so." Liability cannot exist absent a law creating that liability or proof that Petitioner's personal information can in any way create any liability anymore than a German or Frenchman's personal information can make them "liable" to Respondent absent law that does so FIRST.

4. The IR tax code is ambiguous, at best, and provides no liability on Petitioner to be required to file a federal tax return form 1040. The code is obvious about alcohol, tobacco and firearms taxes, which are constitutional, but nothing in the code exists that makes Petitioner "liable" for anything Respondent is alleging.

In *Billings v. U.S.*, *232 U.S. 261, 34 S.Ct. 421 (1914)*, the Courts clearly acknowledged the basic and long-standing rule of statutory construction: "Tax statutes . . . should be strictly construed, and, if any ambiguity be found to exist, it must be resolved in favor of the citizen." *Eidman* v. *Martinez*, 184 U.S. 578, 583; *United States* v. *Wigglesworth*, 2 Story, 369, 374; *Mutual Benefit Life Ins. Co*. v. *Herold*, 198 F. 199, 201, aff'd 201 F. 918; *Parkview Bldg. Assn*. v. *Herold*, 203 F. 876, 880; *Mutual Trust Co*. v. *Miller*, 177 N.Y. 51, 57." (Id at p. 265,).

Ambiguity in the IR Code is very evident based on the brief evidence provided, and which can be substantially supported in complete disclosure. The necessity for Petitioner's personal financial information on presumed "tax liability or the collection of the tax liability" is without merit and has no legal standing and is under the color of law and outside Respondent's legal jurisdiction. No such liability has every been provided to Petitioner from the IR Code, thus, any "assessment" or "alleged "deficiencies" are moot and void, ab initio, and favor should be shown to Petitioner in determining the actual law, or lack thereof. Respondent is acting under color of law, and attempting to deceive this honorable Court using unconstitutional arguments;

"a law repugnant to the Constitution is void; and the courts, as well as other departments, are bound by that instrument." *Marbury v Madison*, 5 US 1803 (2 Cranch) 137, 170-180, and *NORTON v. SHELBY COUNTY*, 118 U.S. 425.

Petitioner maintains that Respondent is arguing from hearsay and presumption, as well as court rulings that are in direct conflict with long standing Supreme Court case law, and is attempting to manipulate this honorable Court with its traditional worn tactics of obfuscation and avoidance of the Rule of law. Presumption does not rise to the level of evidence or law.

5. Respondent replied to original Petition with "failure to state a claim upon which relief can be granted." Petitioner denies this "usual" response in that Petitioner clearly stated multiple claims, but which respondent failed to respond to in addressing the actual issues presented. They are in default:

"The general rule in appraising the sufficiency of a complaint for failure to state a claim is that a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *CONLEY VS. GIBSON* (1957), 355 U.S. 41, 45, 46, 78 S.Ct.

99, 102, 2LEd 2d 80; (See "Exhibit B, Failure to State a Claim" in "Response to Motion to Dismiss" for more case law on this issue).

6. Petitioner also entered new and relevant information to the U.S. Tax Court prior to being notified of "veiled" denial of previous motions and pleadings, and learning of improper Service of Process, and would like to have that information entered into the record in this honorable court which Petitioner was deprived of timely entering.

7. Petitioner denies Respondent's "frivolous" argument against challenges made. Petitioner provided a document which he now understands to be an "Amicus Curiae Brief" from a third party disproving Respondent's claims regarding "frivolous" arguments it has for public consumption on its website. This document was ignored and denied.

Claims that Petitioner's arguments are "frivolous," or "already answered by the Courts," are untenable in that Petitioner is claiming that his evidence of Supreme Court case law and Congressional record quotes are MORE valid than a few contradictory, and taken out of context, Court cases which counter long standing precedent. Case quotes and Congressional testimony provided by Petitioner have

never been overturned, and have been long standing case law and self-authenticating Evidence in Fact that has never been lawfully addressed by Respondent. Petitioner's Court case law supported arguments can be no more "frivolous" than Respondent's which counter Supreme Court case law.

Either the well settled Supreme Court precedent is valid, or it is not. Either Congressional testimony and original intent clearly in the record is valid, or it is not. Standing must be based either on lawful evidence and NOT hearsay and presumption, or hearsay and presumption have risen to the level of evidence in the Courts. Nothing is in the record from Respondent that remotely touches on the legality and validity of their presumptive claims of law they allegedly depend on.

Petitioner can also provide yet another Amicus Curiae Brief from an X-IRS Special Agent which case law and IR Code discussion clearly refutes Respondent's position against Petitioner.

8. Petitioner wants to make statements on the questions the Appeals Court sent to him in the "A-12" form to be perfectly clear in his argument and claim and to provide enough answer to this Honorable Court:

4. Question; "Do you think the district court (herein "tax court") applied the wrong law? If so, what law do you want applied?"

Response; Petitioner entered the tax court under belief that it was an article III, common law and constitutional court, and subject to the same laws. The tax court didn't apply "any" proper "lex fori" law, (its own laws). The Court presumed, under "assumed consent," that lex fori law ruled, but this was under lack of full disclosure and understanding of the forum in which Petitioner entered.

5. "Did the tax court incorrectly decide the facts? If so, what facts?"

Response; The tax court did not decide ANY facts of the evidence and law in the argument presented to the best of Petitioner's awareness. The Court failed to address binding Supreme Court case law used in defense of Respondent's actions and position under color of law.

6. "Did the tax court fail to consider important grounds for relief? If so, what grounds?"

Response: Petitioner has clearly declared and established that the tax court "failed to consider" the very heart of the argument, laws, facts and basis for the claim Respondent is making in presuming to assess Petitioner for alleged

tax deficiencies. Lawful relief can only come in the form of proper adjudication of all facts and law, or dismissal of Respondent's alleged deficiency claims against Petitioner without proof of claim.

7. "Do you feel that there are any other reasons why the tax court's judgment was wrong? If so, why?"

Response; The tax court not only didn't establish any standing in the record, it ignored Supreme Court case law, ignored proper "service of process," and failed to require any answer from Respondent to most of the presumptive claims presented, and ignored the established law presented in defense.

(End of A-12 Questions and responses).

9. Petitioner could bring in far more legal facts initially presented in the Petition, and far more issues NOT initially presented, but is at the length limits of this brief.

CONCLUSION

Petitioner is NOT a "tax protester," does not believe "income" taxes are illegal, and pays state sales taxes for his private business, as well as dozens of other taxes. As Judge Andrew Napalitano has clearly stated many times, the issue involving Respondent is "illegal" taxation under the color of law...

http://www.youtube.com/watch?v=lA_Yl_JCdFg&feature=player_embedded#!

Petitioner has shown that Respondent has provided no evidence that rises to the level of fact. It has failed to:

1. Prove Petitioner has lawful "income."

2. Prove that Petitioner is lawfully made a "taxpayer," as compared to a "non-taxpayer."

3. Prove there is any "law" or IR Code section which makes Petitioner "liable" to file any 1040 form.

4. Prove that Respondent IS a lawful government agency, contrary to its testimony in the previous case cited, and which has any jurisdiction over Petitioner.

5. Prove evidence of a valid "Summary Record of Assessment" or "Verified Assessment," or 23C form, as required by law.

6. Prove it has any standing to be moving against Petitioner in assessing deficiencies in contradiction to Supreme Court and other evidence to the contrary.

Respondent, over the last 100 years, whether through unwitting changes, or wanton and willful manipulation, has distanced itself from the Rule of Law and the Constitution and original intent, and is now practicing merely administrative procedures which have no authority over Petitioner, with no lawful support even being considered regarding its actions against Petitioner.

The world "believed" the earth was flat at one time until "law" and facts proved otherwise. Because Respondent makes unsubstantiated presumptive and hearsay claims, under color of law against Petitioner, and because most people, and some past Courts, have been misled by years and decades of Respondent's manipulating the public consciousness (and the Courts) of terms such as "income," and "taxpayer," Courts have ruled on this mere presumption, and this distortion of original law has occurred.

However, because of the easily accessible Court case records and other documentation now readily available and searchable, the collective facts and laws are being exposed in a much more coherent means and now this Honorable Court has just some of this evidence before it, and said presumptions by Respondent can now be put out of view.

Petitioner calls upon the Appeal's Court's good reputation for defending the Rule of Law, and the Constitution of these United States. Our United States has steadily moved from the Rule of Law, and Constitutional parameters, to one that has been re-written by those with the most to gain.

Because of a cascading series of breaches against the Constitution, the Rule of Law, original intent of our founders, Supreme Court case law and Congressional testimony, lawlessness has slowly undermined our very fabric of freedom and rules. Events have slowly and subtly shifted policy, and our "Ship of State" has been drifting away from the Rule of Law and the Constitution, so much so, that we are headed, like the Titanic, toward an iceberg that can take this country down the road to fascism, and tyranny... lawlessness.

This Honorable Court has the authority to adjudicate the law, to right this clear wrong, to re-establish precedent, to re-establish the Rule of Law, to re-establish the Constitutional parameters for taxation, and to require Respondent to finally provide valid proof of claim. The Courts themselves have been deceived by these subtle changes that swept over us all for the past century, but which are clearly in violation of original intent and standing case law.

This honorable Court has the right, and duty, according to Supreme Court case law (as supplied in previous pleadings), to reject unjust, unlawful, unconstitutional positions being foisted on this Honorable Court as true law which has been fraudulently created and forced upon us. If this Honorable Court is willing to

examine ALL the evidence, in detail, the whole issue... even if that might take weeks or months, it will clearly see the scope of the witting or unwitting fraud by Respondent.

Petitioner is willing to enter into oral arguments if this Honorable Court believes there is more that it needs to hear on the actual facts of the case law already presented in all pleadings. Petitioner believes the fundamental issues raised are vitally important to our constitutional form of government and the Rule of Law, and perhaps requiring en banc hearing and deliberation, as this is nation-changing facts of law, and opportunity for this Honorable Court to simply and finally say, “Show us the laws."

Petitioner would notice the Court that he is a disabled veteran which makes extended travel difficult, such as to Denver for oral testimony, a 5 hour drive, but is willing to testify to this, and far more evidence available to this honorable Court, if possible, via conference call or other electronic means, but will try to travel if required.

REQUEST FOR RELIEF TO BE GRANTED

Petitioner moves this Honorable Court to either remand this case back to the U.S.

Tax Court for proper adjudication of ALL the law and the facts, and to ORDER Respondent to provide lawful proof of standing and claim on ALL the issues raised, as required by law, **or** to dismiss, without prejudice, the unlawful ORDER of the Tax Court regarding alleged deficiencies, and to ORDER Respondent to cease and desist any and all action against Petitioner unless or until Respondent can provide adequate proof of standing and claim on the record.

Petitioner also Requests that any docket fee Petitioner may have been required to pay in his defense, (which he feels is a prohibition against his Due Process rights to have to pay for a right) and any other expenses Petitioner incurred, including lost work time and other costs, that the Court may find just and right, be reimbursed by Respondent.

Respectfully submitted to this Honorable Court.

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Jeffrey T. Maehr (Digital)

UNITED STATES COURT OF APPEALS
FOR THE TENTH DISTRICT

Jeffrey T. Maehr, Petitioner	))	
v.	)	Docket No. 11-9019
COMMISSIONER OF INTERNAL REVENUE, Respondent	))	

Form 23C Assessment Law

Internal Revenue Manual 3(17)(63)(14).1:

Account 6110 Tax Assessments

(2) All tax assessments must be recorded on Form 23C Assessment Certificate. The Assessment Certificate must be signed by the Assessment Officer and dated. The Assessment Certificate is the legal document that permits collection activity.

Internal Revenue Manual 3(17)(46)2.3:

Certification

(1) All assessments must be certified by signature of an authorized official on Form 23C, Assessment Certificate. A signed Form 23C authorizes issuance of notices and other collection action…

(2) Some assessments are prescribed for expeditious action as and be certified on a daily basis. These assessments will require immediate preparation of Form 23C from RACS…

Form 23C is described in Document 7130, IRS Printed Product Catalog as:

23C - Assessment Certificate-Summary Record of Assessments

Form 23C is used to official assess tax liabilities. The completed form is retained in the Service Center case file as a legal document to support the assessment made against the taxpayer. This status notice is reissued to update the status notice file. TR:R:A Internal Use

CURLEY v. U.S., Cite as 791 F. Supp 52 (E.D.N.Y. 1992):

"… [5] Plaintiff relies heavily on Brafman v. United States, 384 F.2d 863 (5th Cir. 1967), where an assessment was invalidated due to the lack of a signature on the 23C Form. This defect, however, was a significant violation of the regulation…"

"…A signature requirement protects the taxpayer by ensuring that a responsible officer has approved the assessment…"

764 FEDERAL SUPPLEMENT Page 315

BREWER v. U.S. , Cite as 764 F.Supp. 309 (S.D.N.Y. 1991)

"…However, there is no indication in the record before us that the "Summary Report of Assessments," known as Form 23C, was completed and signed by the assessment officer as required by 26 CFR § 301.6203-1.3. Nor do the Certificates of Assessments and Payments contain 23C dates which would allow us to conclude that a Form 23C form was signed on that date. See United States v. Dixon, 672 F. Supp. 503, 505-506 (M.D.Ala.1987). Thus we find that the plaintiff has raised a factual question concerning whether IRS procedures were followed in making the assessments…"

"This regulation provides, in relevant part, that "[t]he assessment shall be made by an assessment officer signing the summary record of assessment…"

Citing Huff v. United States, 10 F.3d 1440 (9th Cir. 1993), the court explained that Form 4340 Certificates of Assessment and Payment, together with Form 23C Summary Records of Assessment, demonstrate that a valid assessment was made.

STATE OF COLORADO
COUNTY OF ARCHULETA

NOTARIAL VERIFICATION OF ESTABLISHED TRUTH

On the date of, March 12. 2012, I, Sally M Alling, being a commissioned officer of the STATE OF COLORADO, as a COLORADO NOTARY PUBLIC, hereby verify observed facts, inspected evidence, and make conclusions verifying the establishment of the truth of Jeffrey Thomas Maehr, who appeared before me, and attests as follows;

1. A living breathing man was born on April 18, 1953, in Davenport, Scott County, Iowa, of Caucasian (white) parentage, and given the civil law name of Jeffrey Thomas Maehr.
2. Jeffrey Thomas Maehr is a living breathing man, living on the land under lex loci (law of the place) created by Nature and Nature's God, and NOT, a created fiction of any entity or person.
3. Jeffrey Thomas Maehr has made a voluntary knowledgeable political determination to be one of the People of the United States and NOT a United States of America Citizen under the 14th Amendment to the 1787 Constitution of the United States for the United States of America, nor subject to the jurisdiction thereof.

Dated: March 12. 2012

Sally M Alling
Colorado Notary Public Signature

seal

Sally M. Alling
Notary Public
State of Colorado
My Commission Expires 7.39.12

Sally M Alling
Colorado Notary Public Printed Name

My Commission expires on: 7.39.2012

COUNTY RECORDER, PLEASE RETURN TO:

Jeffrey Thomas Maehr
c/o 924 E. Stollsteimer Rd
Pagosa Springs, Colorado [81147]

CERTIFICATE OF COMPLIANCE to Rule 32 (a) (7) (C).

I, Jeffrey T. Maehr, Pro Se, do hereby certify the following;

The document titled "Brief in Support of Appeal" complies with the type-volume limitation as prescribed under Rule 32 (a) (7) (C).

• the number of words in the brief;

_____

Jeffrey T. Maehr (Digital)

CERTIFICATE OF SERVICE

I, Jeffrey T. Maehr, Pro Se hereby certify that a copy of the foregoing **APPELLANT'S OPENING BRIEF, Notarial Verification, CERTIFICATE OF COMPLIANCE to Rule 32 (a) (7) C, and IRS Form 23C Assessment Law document** were furnished through (ECF) electronic service to the following on this the 15th day of March, 2012:

Sara Ann Ketchum
U.S. Department of Justice
P.O. Box 502
Washingtoon, D.C. 20044
202-514-9838
Email: sara.a.ketchum@usdoj.gov

_____
Jeffrey T. Maehr (Digital)