Mr. Arnold Cohn
P.O. Box 549
Andersonville, TN 37705-0549
I support marriage.

Dear Advisory Board —

The information that I am sending to you should help you understand income TAX. Please adjust your Findings Accordingly — and Above All Follow The Constitution of The united States of America — and The Supreme Court Rulings —

Anything else is merely perpetrating a Fraud.

Respectfully

Arnold Cohn, Sui Juris
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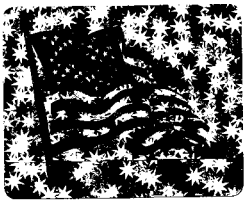

BRIEF IN SUPPORT

At one point in history, most educated men believed that the world was flat. Today, many lawyers and judges believe that the 16th Amendment conferred a new taxing power on the federal government. The second erroneous belief is the subject of this lawsuit.

The taxing authorities are listed in the United States Constitution. The taxing authorities are clarified and explained by the United States Supreme Court.

In 1864, a tax act was passed that authorized taxation on an individual's portion of corporate earnings. The act did not impose a tax on the non-corporate portion of the individual's earnings.

" (The) Income Tax Act of June 30, 1864 (chapter 173, 13 Stat. 223, 281, 282), under which this court held, in Collector v. Hubbard, 12 Wall. 1, 16, that an individual was taxable upon his proportion of the earnings of the corporation although not declared as dividends. That decision was based upon the very special language of a clause of section 117 of the act (13 Stat. 282) that 'the gains and profits of all companies, whether incorporated or partnership, other than the companies specified in this section, shall be included in estimating the annual gains, profits, or income of any person entitled to the same, whether divided or otherwise." **SOUTHERN PAC CO. v. LOWE , 247 U.S. 330 (1918).**

In Butcher's Union, the year prior to Pollack, i.e. 1894, the U.S. Supreme Court ruled: ***"The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must therefore be free in this country to all alike upon the same conditions. The right to pursue them, without let or hinderance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright. It has been well said that 'the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the***

strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him." Butcher's Union Co. v. Cresent City Co., 111 US 746 (1884).

As recently as 1943, the U.S. Supreme Court ruled:

***"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution."* MURDOCK v. COMMONWEALTH OF PENNSYLVANIA, 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943).**

A look at POLLOCK is crucial because, as I shall show this Honorable Court, the Plaintiffs in this lawsuit fall under the ruling of POLLOCK and not under the 16th Amendment.

In POLLACK v FARMERS' LOAN & TRUST CO., 157 US 429 (1895), addressed the issue of direct taxes. The Court quoting the Constitution: ***"No capitation, or other direct, tax shall be laid, unless in proportion to the census...."*** And,

"As to the states and their municipalities, this (contributions to expense of government) is reached largely through the imposition of direct taxes. As to the federal government, it is attained in part through excises and indirect taxes upon luxuries and consumption generally, to which direct taxation may be added to the extent the rule of apportionment allows."

POLLOCK stated, ***"...that such tax is a direct tax, and void because imposed without regard to the rule of apportionment; and that by reason thereof the whole law is invalidated."*** It is also stated in the U.S. Constitution: ***Article 1, sec. 9, "No Capitation, or other direct,***

Tax shall be laid, unless in proportion to the Census or Enumeration herein before directed to be taken." These two prohibitions and limitations on federal taxing authority were never repealed and remain in force in the main body of the Constitution.

Pollock also stated the intention of the framers of the Constitution: ***"Nothing can be clearer than that what the constitution intended to guard against was the exercise by the general government of the power of directly taxing persons and property within any state through a majority made up from the other states."*** **Pollock vs. Farmers' Loan and Trust Co., 157 US 429, 582 (1895).**

POLLOCK also ruled that the Constitution clearly recognized the two classes of taxation: ***"Thus, in the matter of taxation, the constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely, the rule of apportionment as to direct taxes, and the rule of uniformity as to duties, imposts, and excises." Pollock, 157 US 429, 556 (1895).***

"From the foregoing it is apparent (1) that the distinction between direct and indirect taxation was well understood by the framers of the constitution and those who adopted it; (2) that, under the state system of taxation, all taxes on real estate or personal property or the rents or income thereof were regarded as direct taxes; (3) that the rules of apportionment and of uniformity were adopted in view of that distinction and those systems..." Pollock, 157 US 429, 573.

The notion that a federal income tax where one person pays one amount and another person pays nothing, was ruled against by POLLOCK as having violated "apportionment".

"The income tax law under consideration is marked by discriminating features which affect the whole law. It discriminates between those who receive an income of $4,000

and those who do not. It thus vitiates, in my judgment, by this arbitrary discrimination, the whole legislation." Pollock, 157 US 429, 595.

Butcher's Union and Pollock were in complete agreement and not in contradiction. This was in sum, the taxing authority that was in existence in 1895.

In 1909, the Corporate Excise Tax Act was passed and the U.S. Supreme Court ruled that this met the requirements of the U.S. Constitutional. There can be no question that the 1909 tax was passed to imposed on corporations, an "income tax", placed on the privilege of incorporation, and fell under the category of excise tax, and therefore was an indirect tax, not subject to the rule of "apportionment".

In 1911, the U.S. Supreme Court confirmed the taxing authority on corporate privileges in FLINT v STONE TRACY, 220 US 107 (1911):

"Excises are 'taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges.' Cooley, Const. Lim. 7th ed. 680."

In 1913, STRATTON'S INDEPENDENCE addressed the intent of congress in passing the 16th Amendment, while also addressing the corporate excise tax act of 1909.

STRATTON'S INDEPENDENCE, LTD. v. HOWBERT, 231 U.S. 399, 417 (1913):

"Evidently Congress adopted the income as the measure of the tax to be imposed with respect to the doing of business in corporate form because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the government. In Flint v. Stone Tracy Co. 220 U.S. 107, 165 , 55 S. L. ed. 107, 419, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B. 1312, it was held that Congress, in exercising the right to tax a legitimate subject of taxation as a franchise [231

U.S. 399, 417] or privilege, was not debarred by the Constitution from measuring the taxation by the total income, although derived in part from property which, considered by itself, was not taxable."

"As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an excise tax upon the conduct of business in a corporate capacity, measuring, however, the amount of tax by the income of the corporation."

STRATTON'S went on to say that corporations receive a government conferred benefit and that such benefit could be taxed as a corporate privilege.

"Corporations engaged in such business share in the benefits of the federal government, and ought as reasonably to contribute to the support of that government as corporations that conduct other kinds of profitable business."

"... the annual gains of such corporations are certainly to be taken as income for the purpose of measuring the amount of the tax."

In 1916, the U.S. Supreme Court confirmed once again that the 16th Amendment conferred no new taxing powers in its ruling in STANTON v BALTIC MINING CO., 240 US 103 (1916):

"Not being within the authority of the 16th Amendment, the tax is therefore, within the ruling of Pollack... a direct tax and void for want of compliance with the regulation of apportionment."

"...it manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation.."

"...it was settled in Stratton's Independence... that such tax is not a tax upon property... but a true excise levied on the result of the business.."

Also in 1916, the U.S. Supreme Court confirmed prior rulings on the 16th Amendment:

BRUSHABER v UNION PACIFIC R. CO., 240 US 1 (1916):

"...the confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it..."

BRUSHABER went on to rule on the purpose of the 16th Amendment and the necessity of maintaining and harmonizing the 16th Amendment with the "apportionment" requirements:

"...the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source..."

"...on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation."

In 1918, the High Court confirmed prior decisions in PECK v LOWE, 247 US 165 (1918):

"As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects..."

In 1918, the U.S. Supreme Court once again addressed taxation authorized under the 16th Amendment.

" (The) Income Tax Act of June 30, 1864 (chapter 173, 13 Stat. 223, 281, 282), under which this court held, in Collector v. Hubbard, 12 Wall. 1, 16, that an individual was taxable upon his proportion of the earnings of the corporation although not declared as dividends. That decision was based upon the very special language of a clause of section 117 of the act (13 Stat. 282) that 'the gains and profits of all companies, whether incorporated or partnership, other than the companies specified in this section, shall be included in estimating the annual gains, profits, or income of any person entitled to the same, whether divided or otherwise.' The act of 1913 contains no similar language, but on the contrary deals with dividends as a particular item of income, leaving them free from the normal tax imposed upon individuals, subjecting them to the graduated surtaxes only when received as dividends (38 Stat. 167, paragraph B), and subjecting the interest of an individual shareholder in the undivided gains and profits of

his corporation to these taxes only in case the company is formed or fraudulently availed of for the purpose of preventing the imposition of such tax by permitting gains and profits to accumulate instead of being divided or distributed." **SOUTHERN PAC CO. v. LOWE , 247 U.S. 330 (1918).**

In Doyle v. Mitchell Bros., 247 U.S. 179 (1918):

"An examination of these and other provisions of the Act (The 16th Amendment) make it plain that the legislative purpose was not to tax property as such, or the mere conversion of property, but to tax the conduct of the business of corporations organized for profit upon the gainful returns from their business operations."

SOUTHERN PACIFIC CO. v. LOWE, 247 U.S. 330 (1918) ruled that everything that comes in cannot be included in "income":

"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909, the broad contention submitted on behalf of the government that all receipts, everything that comes in, are income within the proper definition of the term 'gross income'. Certainly the term 'income' has no broader meaning in the Income Tax Act of 1913 than in that of 1909, and for the present purpose we assume there is no difference in its meaning as used in the two acts."

In EISNER v MACOMBER, 252 US 189 (1920), the High Court confirmed prior rulings:

"The 16th Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."

"As repeatedly held, this did not extend the taxing power to new subjects..."

"...it becomes essential to distinguish between what is and is not 'income', as the term is there used.."

"...we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909...(Stratton's and Doyle)"

EISNER v MACOMBER also ruled that congress may not change the definition of "income":

"In order, therefore, that the clauses cited from article 1 of the Constitution may have proper force and effect, save only as modified by the amendment, and that the latter also may have proper effect, it becomes essential to distinguish between what is and what is not 'income,' as

the term is there used, and to apply the distinction, as cases arise, according to truth and substance, without regard to form. Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised."

In 1920, the U.S. Supreme Court ruled on the compensation as being not subject to tax in EVANS v GORE, 253 US 245 (1920):

"If the tax in respect of his compensation be prohibited, it can find no justification in the taxation of other income as to which there is no prohibition; for, of course, doing what the Constitution permits gives no license to do what it prohibits."

EVANS further ruled that the 16th Amendment did not authorize new taxing powers over subjects and the government agreed that this was so:

"Does the Sixteenth Amendment authorize and support this tax and the attendant diminution; that is to say, does it bring within the taxing powers subjects theretofore excepted? The court below answered in the negative; and counsel for the government say: 'It is not, in view of recent decisions, contended that this amendment rendered anything taxable as income that was not so taxable before'."

INCOME

In 1921, the U.S. Supreme Court ruled on the definition of the word "income" in MERCHANTS' LOAN & TRUST CO. v SMIETANKA, 255 US 509 (1921):

"The Corporation Excise Tax Act of August 5, 1909, was not an income tax law, but a definition of the word 'income' was so necessary in its administration..."

"It is obvious that these decisions in principle rule the case at bar if the word 'income' has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in Southern Pacific v Lowe..., where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber...the definition of 'income' which was applied was adopted from Stratton's Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909... there would seem to be no room to doubt that the word must be given the same meaning in all the Income Tax Acts of Congress

that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by decisions of this Court."

The High Court, in SMIETANKA, seemed as if it had become exasperated that the question of the definition of the word "income" had repeatedly been raised.

The word "income" has been wrongfully used by the IRS, as including all wages, compensation, or earnings of the Plaintiffs, when not engaged as a corporate enterprise. The general public, being unaware of the legal definition of "income", has been misled into a wrongful use of the word and has been also misled into believing that they had "income', although not participating in a government conferred corporate benefit.

Once again in Bowers v. Kerbaugh-Empire, 271 U.S. 170 (1926):

"Income has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the 16th Amendment, and in the various revenue acts subsequently passed."

In 1943, HELVERING v. EDISON BROTHERS' STORES, 8 Cir. 133 F2d 575 (1943) ruled on the limitation of the definition of "income":

"The Treasury cannot by interpretive regulation make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax that which is not income within the meaning of the 16th Amendment."

As late as 1960, the U.S. Supreme Court ruled in FLORA v US, 362 US 145 (1960):

"Our system of taxation is based upon voluntary assessment and payment, not upon distraint."

The definition of distraint in the legal dictionary, "to seize a person's goods as security for an obligation."

In 1976, in U.S. v. BALLARD, 535 F2d 400: ***"Gross income and not 'gross receipts' is the foundation of income tax liability..."*** BALLARD gives us two useful explanations: At 404, ***"The general term 'income' is not defined in the Internal Revenue Code."*** At 404, BALLARD further ruled that ***"... 'gross income' means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources."***

Thus, it is shown by these U.S. Supreme Court rulings that the Plaintiffs, in this action, did not have "income" as the meaning of the word is intended in the 16th Amendment.

To: Mark Everson, IRS Commissioner,

Internal Revenue Service,

1111 Constitution Avenue NW,

Washington, DC 20224

Copies to IRS agents alleged in conspiracy: Jeffrey D. Eppler and Susan Meredith, Kansas City ACS; Dennis Parizek, Deborah S. Decker, Thomas Mathews, and Timothy A. Towns, Internal Revenue Service Center, Ogden, Utah; Dan Myers, Regina Owens, Christie Arlinghause-Clem, Larry Leder, IR Service Center, Cincinnati, Ohio; Brent Johns, Reno, Nev.; L. Brown, Las Vegas; Stephen P. Warner, Fresno; J. Pruett and Thomas Tracy, Phoenix; Curtis May, Kalamazoo, Mich.; Jim Flink, Grand Rapids, Mich.; Griff Anderson and Roberta Gagnon, Sioux Falls, S.D.; James Pruett, Seattle; Wiley Davis and Debra Brush, Las Vegas; Russell Nelson and Russel Kellner, Tempe, Az.; Dennis Scott, Ben Dotson, and Stephanie Hart, Sacramento; Douglas Engler, King Of Prussia, PA.; Patrick Lin, Los Angeles; Lynn Walsh and Diane L. Herndon, Holtsville, N.Y.; Mark Johnson, Detroit; David Alito and Carolyn Levy, Memphis; Carlton R. Cutts, Houston;.

From: Charles F. Conces,

9523 Pine Hill Dr.,

Battle Creek, Mich. 49017

Phone: 1-269-964-7025

YOU ARE HEREBY PUT ON NOTICE
THAT THIS LETTER MUST BE FILED
AS A PERMANENT PART
OF MY IRS/TDA/AIMS/IMF
23C RECORD IF SUCH RECORD(S)
HAVE/HAS BEEN DELETED OR SUBSTITUTED,
THIS DEMAND STILL APPLIES.
RECORDERS INITIAL _____

Date: January 27, 2004

Dear Mr. Everson;

The purpose of this letter is to establish the facts at issue in the controversy that has arisen between the IRS and members of our group. Due to the fact that we have not received our administrative remedy as we have demanded, the IRS agents refuse to respond to our administrative pleadings, and the IRS continues to use harassing tactics in order to intimidate us, we will have no alternative but to take this controversy before the U.S. District Court. It appears, prima facially, that it has become IRS policy to refuse to answer any issue of liability that our members bring to the attention of the alleged conspiratorial agents mentioned above.

In order that each of us has the facts before entering the judicial arena, I am, therefore, stating the facts that we, individually, are willing to swear to in court. This is your opportunity to rebut the facts as I have enumerated them below. Please carefully review each statement of fact, and if you disagree with that fact, state the reasons for your disagreement, along with your rebuttal. List each of your rebuttals, numbering them

according to the number as listed below. If you do not contest any fact listed below, please state so or I will be forced to conclude that you do not disagree with such fact.

The above named IRS agents are guilty of the equivalence of fraud and extortion, by refusing to respond to the liability issues that were raised by members of our group. It is important for you to realize that if you refuse to respond to these facts, U.S. Courts have ruled:

"Silence can be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . We cannot condone this shocking behavior by the IRS. Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same from the government in its enforcement and collection activities." **U.S. v. Tweel, 550 F.2d 297, 299.** See also **U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.**

STATEMENT OF FACTS

Question of corporate income tax v individual income tax

1) Future and potential co-plaintiffs (hereafter referred to as Charles F. Conces et al.) are Charles F. Conces, Mary E. Conces, William M. Price, Carleen Price, David Cates, Gisela Cates, Ron Grandy, Randy Silvernail, Charles Redmond, Richard L. Snyder, Arlene M. Frerichs, Manida Rosa Reese, Rose Lear, Roy Dobbs, Ernest R. Brown, Karen A. Brown, Robert E. Wesley, Robert R. Warner, Nancy Beckwith, Harold Call, Robert V. Crifasi, William F. Ritch, Bernice R. Ritch, Todd M. Johnson, Donald Buehrer, Carl Tucker, Robert M. Anderton, Erica Miller, Allen Miller, David Thornton, Debra L. Bishop, Anthony J. Rossi, Michael Olszta, Deborah Olszta, Michael J. Gray, Jason Warden, Nicholas D. Rodin, Greg Slaughter, Delmer D. Harvey, George Watrous, Dan Adams, Kenneth Lane, Brenda Robinson, William Barasch, Kevin Stone, Scott Reese, Gregory McNeil, Duane Kuyper, Darrell F. May, Billie R. May, David R. Funk, Ryan Funk, Dennis Schlueter, Mary Schlueter, Barnabas David Grice, Edward Loomis, Lawrence Marcinkowski, Mary E. Marcincowski, Wilson Turner, Robert Gunselman, Angela Stark, Everett Gilbertson, Janet Gilbertson, Michael D. Davis, Loma Wharton, Leon Lewis, Helene L. Chavez, David G. Turner, Arnold Cohn, Eleanor L. Cohn.

2) Charles F. Conces et al. are natural persons and are not and have not been acting in a corporate capacity, nor have Charles F. Conces et al. obtained or acted under a corporate privilege. Charles F. Conces et al. are not and have not been subject, in their individual and personal capacities, to the tax, commonly known as the "corporate income tax" and ruled to be a corporate excise tax by the United States Supreme Court.

3) The corporate income tax is imposed as an excise tax (indirect tax) and is imposed on the privilege of incorporation and only measured by the size of the "income".

STRATTON'S INDEPENDENCE, LTD. v HOWBERT, 231 US 399 (1913):

"As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an excise tax upon the conduct of business in a corporate capacity, measuring, however, the amount of tax by the income of the corporation, with certain qualifications prescribed by the act itself."

"Moreover, the section imposes ' a special excise tax with respect to the carrying on or doing business by such corporation,' etc..."

4) The individual income tax imposed on a natural person is a direct tax imposed on the "income" of a non-corporate individual and is, therefore, different in character from the corporate income tax and is also subject to the Constitutional rule of "apportionment".

STANTON v BALTIC MINING CO., 240 US 103 (1916):

"Not being within the authority of the 16th Amendment, the tax is therefore, within the ruling of Pollack... a direct tax and void for want of compliance with the regulation of apportionment."

5) The Constitution of the United States, in article 1, section 2, states, "Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective

numbers, which shall be determined by adding to the whole number of free persons..." This provision of the Constitution is in full force and effect. In **MIRANDA vs. ARIZONA, 384 US 436, at 491 (1966)**, the U.S. Supreme Court ruled, ***"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."***

6) The Constitution of the United States, in article 1, section 9, states, "No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken."

7) The United States' taxing authority is limited to the "rule of apportionment" in the matters of direct taxes and capitation taxes.

POLLACK v FARMERS' LOAN & TRUST CO., 157 US 429 (1895):

"...that such tax is a direct tax, and void because imposed without regard to the rule of apportionment; and that by reason thereof the whole law is invalidated."

"That the law is invalid, because imposing indirect taxes in violation of the constitutional requirement of uniformity, and therein also in violation of the implied limitation upon taxation that all tax laws must apply equally, impartially, and uniformly to all similarly situated."

8) A direct tax is a tax on a natural person's property or being.

STANTON v BALTIC MINING CO., 240 US 103 (1916):
Regarding a direct tax being void: ***"Not being within the authority of the 16th Amendment, the tax is therefore, within the ruling of Pollack... a direct tax and void for want of compliance with the regulation of apportionment."***

9) An indirect tax is an excise tax on activities as ruled by the U.S. Supreme Court:

FLINT v STONE TRACY, 220 US 107 (1911):

Regarding the definition of excise taxes: ***"Excises are 'taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges."***

The compensation, wages, or salaries that Charles F. Conces et al. received does not fall under any of these three activities, as defined by the Supreme Court, therefore, leaving such compensation under the category of direct taxes. The corporate income tax is imposed on the privilege of incorporation as an excise tax and measured by the size of the corporate income. Occupations of "common right" may not be taxed or hindered. The compensation of lawyers and other licensed occupations are taxable, under the power to impose excise taxes.

"Direct Taxes bear upon persons, upon possession and the enjoyment of rights" **Knowlton v. Moore, 178 US 41, 47 (1900).**

10) All direct taxes must be applied under the rule of "apportionment" provision of the Constitution, as being a tax evenly imposed on every citizen or adult citizen.

11) The Internal Revenue Service official literature fraudulently states that Congress passed laws, under the authority of the 16th Amendment and the Constitution, imposing an income tax on every individual. A study of the Statutes At Large, conducted by Charles F. Conces, has proven that there are no Statutes At Large in 26 USC that impose an income tax on every individual.

12) There is no law passed by Congress and published in the Federal Register that makes every individual liable for an income tax.

13) The Internal Revenue Service fraudulently claims that the 16th Amendment to the United States Constitution has authorized an individual income tax on a natural person's wages, salary, and compensation without the rule of

apportionment. This claim is false as ruled by the Supreme Court in many rulings:

STANTON v BALTIC MINING CO., 240 US 103 (1916):
Regarding the lack of any new taxing powers: ***"...it manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation.."***

BRUSHABER v UNION PACIFIC R. CO., 240 US 1 (1916):
Regarding the erroneous assumption that there was a new power of taxation: ***"...the confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption...."***

EVANS v GORE, 253 US 245 (1920):
"Does the Sixteenth Amendment authorize and support this tax and the attendant diminution; that is to say, does it bring within the taxing powers subjects theretofore excepted? The court below answered in the negative; and counsel for the government say: 'It is not, in view of recent decisions, contended that this amendment rendered anything taxable as income that was not so taxable before'."

PECK v LOWE, 247 US 165 (1918):

Regarding the ruling on the 16th Amendment and its limitations as to new subjects: ***"As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects..."***

EISNER v MACOMBER, 252 US 189 (1920):
Regarding the necessity of maintaining the effect of the original Constitution: ***"The 16th Amendment must be construed in connection with the taxing clauses of***

the original Constitution and the effect attributed to them before the amendment was adopted."

The only legal definition of "income".

14) Charles F. Conces et al. have not received "income" as defined by the U.S. Supreme Court. The definition of "income" as stated in the U.S. Supreme Court rulings below, and as applied to the 16th Amendment, is a corporate profit. This is the only legal definition that can be used in court, since it is superior to all other definitions, and the U.S. Supreme Court has ruled that Congress may not define the word "income".

Bowers v. Kerbaugh-Empire, 271 U.S. 170 (1926):

Regarding the definition of "income" before and after the passage of the 16th Amendment: ***"Income has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the 16th Amendment, and in the various revenue acts subsequently passed."***

MERCHANTS' LOAN & TRUST CO. v SMIETANKA, 255 US 509 (1921):
Regarding the corporate excise tax: ***"The Corporation Excise Tax Act of August 5, 1909, was not an income tax law, but a definition of the word 'income' was so necessary in its administration..."***
Regarding the meaning of "income" and consistent rulings of the Court on such definition: ***"It is obvious that these decisions in principle rule the case at bar if the word 'income' has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in Southern Pacific v Lowe..., where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber...the definition***

of 'income' which was applied was adopted from Stratton's Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909... there would seem to be no room to doubt that the word must be given the same meaning in all the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by decisions of this Court."

Southern Pacific Co. v. Lowe, 247 U.S. 330 (1918):

Regarding the definition of "income": ***"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909, the broad contention submitted on behalf of the government that all receipts, everything that comes in, are income within the proper definition of the term 'gross income'. Certainly the term 'income' has no broader meaning in the Income Tax Act of 1913 than in that of 1909, and for the present purpose we assume there is no difference in its meaning as used in the two acts."***

15) The income tax that was passed by Congress was an excise tax on corporations and licensed professions and is not a tax on income, but a tax measured by the size of the income.

"The income tax is not a tax on income as such. It is an Excise Tax with respect to Certain Activities and Privileges which is measured by reference to the income which they produce. The income is not the subject of the tax; it is the basis for determining the amount of tax." House Congressional Records, page 2580, March 27, 1943.

16) In **U.S. v. Ballard, 535 F2d 400, 404,** ***"The general term 'income' is not defined in the Internal Revenue Code."***

Voluntary nature of the individual income tax.

17) Our system of taxation is based upon voluntary assessment **and** payment.

FLORA vs. US, 362 US 145 (1960): ***"Our system of taxation is based upon voluntary assessment and payment, not upon distraint."***

Dwight E. Davis, Head of the Alcohol, Tobacco, and Firearms Bureau of Internal Revenue testified under oath before Congress (2/3/53 – 2/13/53) ***"Let me point this out now. This is where the structure differs. Your income tax is a 100% voluntary tax and your liquor tax (A.T.F.) is a 100% enforced tax. Now the situation is as different as night and day. Consequently, your same rules simply will not apply."***

The IRS is a private agency employed by the Treasury Dept. for tax collection.

18) The Internal Revenue Service is not a governmental entity established by an act of Congress. Such a claim that the Internal Revenue Service is a governmental agency stands in contradiction to prior statements by the DOJ in the **DIVERSIFIED METAL PRODUCTS, v INTERNAL REVENUE SERVICE et al.** case. Such claim would also stands in contradiction to **CHRYSLER v BROWN, 441 US 281**. (Note: The IRS does not have a postage privilege that government bodies have.)

Substitute returns.

19) IRC regulations do not authorize a substitute return for the 1040 form, under 6020 (b). There is no substitute return and no return authorized for Charles F. Conces et al. other than the returns that have been submitted by Charles F. Conces et al.

Assessment.

20) There is no assessment against Charles F. Conces et al. without a return on which to base an assessment as per IRC section 6201. The above named IRS agents have never presented a verified assessment to Charles F. Conces or other members of our group. Dennis Parizek, Timothy A. Towns, and other agents are unable to obtain or produce a copy of a verified assessment on

Charles F. Conces et al., which must be perfected on the form 23C, as required by law.

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

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..."

In Radinsky v. United States 622 F. Supp. 412 (D.C. Colo. 1985) the Court stated, ***"....that the plaintiffs are not 'taxpayers' because no tax has been assessed."***

Cease And Desist

21) We have been attempting to obtain our administrative remedy from the IRS before taking this case to U.S. District Court and suing for damages against the IRS. We are demanding that all collection activities against us cease immediately while these issues remain unresolved.

COMMISSIONER v. SHAPIRO, 424 U.S. 614 (1976):

"Normally, the Internal Revenue Service may not "assess" a tax or collect it, by levying on or otherwise seizing a taxpayer's assets, until the taxpayer has had an opportunity to exhaust his administrative remedies..."

22) The U.S. Supreme Court has ruled that a "taking" may not be done prior to a judgment and hearing.

SNIADACH v. FAMILY FINANCE CORP., 395 U.S. 337 (1969): ***"Held: Wisconsin's prejudgment garnishment of wages procedure, with its obvious taking of property without notice and prior hearing, violates the fundamental principles of procedural due process. Pp. 339-342."***

23) There is no deficiency unless an assessment shows a deficiency. There is no deficiency against Charles F. Conces et al.

24) A Notice of Deficiency, without an actual deficiency, is fraud. If such fraudulent Notice is sent through the U.S. Mail, that would constitute mail fraud.

Employer Liability.

25) Private employers are not requires to enter into payroll deduction agreements. The above named IRS agents have no authority to force a private employer into withholding agreements with their employees.

IRM 5.14.10.2 (03-30-2002) Payroll Deduction Agreements:

1. **The use of Form 2159, Payroll Deduction Agreement, should be encouraged when the taxpayer is a wage earner, particularly if the taxpayer defaulted on a previous installment agreement.**
2. **<u>Private employers, states, and political subdivisions</u> are not required to enter into payroll deduction agreements. Taxpayers should determine whether their employers will accept and process executed agreements before agreements are submitted for approval or finalized.**

26) The employer must accept a W-4 as filed by the employee. The IRS agents, named above, have no authority to change a return or alter a return made by an employee.

(Referring to the W-4 form) ***"The employer is not authorized to alter the form or to dishonor the employee's claim. The certificate goes into effect automatically in accordance with certain standards enumerated in section 3402 (f)(3)".*** **United States v. Malinowski, 347 F. Supp. 347 at 352 (1972).** (Note: 3402 (f)(3) specifies when the certificate takes effect. In general shall take effect on first payroll period.)

27) The IRS agents named above have no authority to force an agreement between an employer and employee.

26 CFR 31.3402 (p)-1(b)(2) states: "An agreement under Section 3402(p) shall be effective for such period as the employer and the employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other."(Underline emphasis added)

28) The IRS agents, named above, have no authority under IRC section 6331, to levy on private citizens, as per Sims vs. US.

***"This section was enacted to subject salaries of federal employees to same collection procedures as are available against all other taxpayers, including employees of a state."* Sims v US, W. Va. 1959, 79 S. Ct. 641, 359 US 108, and 3 L. Ed. 2d 667.**

Congressman Dennis Hertel when he was representing the 14th District of Michigan stated in a letter to his constituent after having congressional research approval:

We can address your specific question relative to IRS Form 668-W, Notice of Levy on Wages... Section 6331 IRC entitled "Levy and Distraint" and Section 6331(a) IRC entitled "Authority of Secretary", "...Levy may be made upon the accrued salary or wages of any officer, employee or elected official of the United States, District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer of such officer, employee or elected official..." does not provide authority to levy wages of private citizens in the private sector.

The omission of this section from IRS Form 668-W may be misleading to some employers, as you have suggested.

I hope that you will find this information useful and regret that I am unable to provide you with more assistance.

Please feel free to contact me again if you have any questions or comments regarding your federal government.

Sincerely,

Dennis M. Hertel

DENNIS M. HERTEL
Member of Congress

29) The IRS agents, named above, have not gotten assessment approval from their supervisors and are acting under color of law.

IRC section 6751 (b) states: "No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing)

by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate."

30) The IRS agents, named above, can impose no penalty to enforce employer compliance with any reporting requirement.

"Under current law, IRS does not have statutory authority to impose a penalty to enforce employer compliance with the reporting requirement. The reporting requirement was promulgated in Treasury regulations." **GAO report of September 15, 2003 to Congressman, Elton Gallegly, by James R. White, Director, Strategic Issues.**

Liability Of Our Membership

31) There has been no liability established on Charles F. Conces et al. for an individual income tax on "incomes"

"The taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability". Bothke v. Fluor Engineers & Construction, Inc., 713, F.2d 1405, at 1414, Ninth Circuit (1983)

32) There is no levy perfected against Charles F. Conces et al., since a levy must be perfected on form 668-B, and <u>there is no 668-B on Charles F. Conces et al. in existence</u>.

"Under the 1939 Code, effective with respect to distraint and seizure and sale actions prior to January 1, 1955, levy or distraint on personal or real property in the possession of a taxpayer was authorized by a signed Warrant for Distraint, Form 69, which commanded the collection officer to take the necessary distraint action. Under the 1954 Code, effective with respect to all collection actions after December 31, 1954, the levy and distraint action will be authorized by a new form, Levy, Form 668-B, January 1955. This form (668-B, not 668-W, notice of levy), properly executed, directs the collection officer to levy upon, and to sell so much of the property and rights to property, either real or personal, of the taxpayer liable, as may be necessary to satisfy the taxes enumerated in the levy. The Form will not require any accompanying documents, since the Form, properly prepared, will

contain all information necessary to meet the statutory requirements (emphasis added)." **Henderson v. Internal Revenue Service, Kleinrock's Tax Court Reported, 1994-486, S.D.Indiana, Case # IP 93-1699-C, Filed May 31, 1994).**

"A 'Levy' requires that property be brought into legal custody through seizure, actual or constructive, and is absolute appropriation <u>in law</u> of property levied on, and MERE NOTICE OF INTENT TO LEVY IS INSUFFICIENT" **(Emphasis added). United States v. O'Dell, 160 F. 2d 304, 307 (6th Circuit 1947).**

Authorization by Secretary and Attorney General.

33) The Secretary of the U.S. Treasury or his delegate has not authorized collections actions against Charles F. Conces et al. as required by IRC section 7401.

34) The above named IRS agents do not have delegation orders from the U.S. Treasury Secretary to take collection actions under subtitle A or subtitle C.

35) The U.S. Attorney General, or his delegate, has not authorized collections actions against Charles F. Conces et al. as required by IRC section 7401.

36) The above named IRS agents do not have authorization from the U.S. Attorney General to commence collection actions against Charles F. Conces et al.

Non-enforcement pocket commissions.

37) The above named IRS agent's pocketbook commissions are non-enforcement pocket commissions as designated by the "A".

38) IRC section 7608 is the only code section specifying the authority of various Internal Revenue agents by title. It specifically excludes the above named IRS agents from all actions under subtitle A and C. It only authorizes said agent's activities under subtitle E.

Constructive and actual knowledge.

39) Mark Everson and the above named IRS agents are charged with knowledge of the law to a higher standard than is charged to the average citizen.

The legal dictionary states, ***"Constructive knowledge - knowledge that the law attributes to a person regardless of whether that person has actual knowledge of the matter, usually because the circumstances are such that a failure to know a fact is regarded as inexcusable."***

40) The above named IRS agents have shown that they do not have knowledge of the Internal Revenue Manual. Therefore, said agents are not qualified as competent IRS agents and should be removed from Office immediately. The above named IRS agents have acted in a willful, knowing, and reckless manner, while acting under "color of law", to deprive the membership of our organization (The Lawmen) of their Constitutionally protected rights under the 14th Amendment, the 4th Amendment, and the 5th Amendment.

Conspiracy To Defraud

Quotes from Internal Revenue Manual:

"Before any seizure action is considered, the assessment will be fully explained and verified with the taxpayer. Also, any adjustments will be fully explained, and the taxpayer will be informed of his/her rights."

41) The above named IRS agents are engaged in a conspiracy of extortion and fraud, by violating procedures and by not explaining or verifying alleged assessments before seizure.

42) The above named IRS agents have extorted money by acting under color of law and in violation of the law, by continuing seizures amounting to 85% to 100% of a person's wages in violation of IRC 6331 (h), which only allows up to 15% seizure. The said agents were required to gain the approval of the Secretary of the Treasury for even a 15% levy. The said agents refused to respond to members who suffered grievous losses under these illegal procedures.

43) The above named IRS agents are engaged in a conspiracy of extortion and fraud by acting without delegation orders from the U.S. Treasury Secretary.

44) The above named IRS agents are engaged in a conspiracy to defraud our members by promoting and promulgating fraudulent claims in official literature. **Publication 2105 (Rev. 10-1999), Catalog Number 23871N**. Number 2 statement is as follows: ***"The Sixteenth Amendment to the Constitution, ratified on February 3, 1913, states, 'The Congress shall have the power to lay and collect taxes on income, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration'."*** While the statement by itself may contain truth, the statement is misleading in that it infers that the 16th Amendment authorizes federal taxation on Plaintiffs' wages, compensation, or remuneration without the requirement of "apportionment". Said literature goes further concerning the "Sixteenth Amendment" portion of the statement numbered 3, in said exhibit, states, ***"Congress used the power granted by the Constitution and the Sixteenth Amendment and made laws requiring all individuals to pay tax."*** These false and misleading statements are shown to be false by the U.S. Supreme Court rulings as cited above in paragraph 13 and other paragraphs.

45) The above named IRS agents have engaged in a conspiracy to violated IRS procedures by not answering or explaining the alleged liability of our members when our members have presented U.S. Supreme Court case law to said agents, and by which our members have made administrative pleadings before filing suit against the IRS in U.S. District Court.

46) The above named IRS agents have engaged in a conspiracy to collect and extort money and property from our members by operations conducted under color of law, while bypassing procedures of collection.

47) The above named IRS agents have engaged in a conspiracy to extort money and property from our members by the use of threats and harassment of our members by sending multiple fraudulent notices to our membership from

multiple locations from around the United States and by not signing said fraudulent notices.

48) The above named IRS agents are violating the Oath Of Office they have taken or have not taken their Oath Of Office.

Fourteenth Amendment Remedy.

49) The remedy for an unlawful encumbrance of property or unlawful seizure of property or imprisonment, lies in the 14th Amendment and is done under **42 U.S.C. § 1983** ***"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."***

NOTICE

If you fail to respond within 15 days, I will be forced to conclude that the IRS has been acting against the members of our group without authority of law, and without the authorizations by the U.S. Secretary of the Treasury and the U.S. Attorney General. We will, thereafter, commence a lawsuit against you and the IRS for fraud, extortion, and mail fraud in U.S. District Court. IRS actions have caused all of us very much mental and emotional hardship, along with expenses and losses suffered by the IRS's unauthorized actions.

NOTICE TO MARK EVERSON AND THE ABOVE NAMED IRS AGENTS

Our membership may do a lawsuit against the private corporation, known as the Internal Revenue Service, and also may do personal lawsuits against Mr. Everson and the above named IRS agents.

"When lawsuits are brought against federal officials, they must be brought against them in their "individual" capacity not their official capacity. When federal officials perpetrate

constitutional torts, they do so ultra vires (beyond the powers) and lose the shield of immunity." **Williamson v. U.S. Department of Agriculture, 815 F.2d. 369, ACLU Foundation v. Barr, 952 F.2d. 457, 293 U.S. App. DC 101, (CA DC 1991).**

"Personal involvement in deprivation of constitutional rights is prerequisite to award of damages, but defendant may be personally involved in constitutional deprivation by direct participation, failure to remedy wrongs after learning about it, creation of a policy or custom under which unconstitutional practices occur or gross negligence in managing subordinates who cause violation." **(Gallegos v. Haggerty, N.D. of New York, 689 F. Supp. 93 (1988).**

"Sovereign immunity does not shield the individual appellees in their individual, as opposed to their official, capacities. White v. Franklin, 637 F. Supp. 601, 612 (N.D. Miss. 1986); Keese v. United States, 632 F. Supp.85, 92 (S.D. Tex. 1985)." **Williamson v. U.S. Dept. Of Agriculture, 815 F.2d 368 at 379, (5th Cir. 1987).**

Further, if you do not answer or rebut my assertions of fact, we will be forced to conclude that you, your agents, and the IRS have violated IRC section 7214:

"IRC 7214 (a) unlawful acts of revenue officers or agents. Any officer or employee of the United States acting in connection with any revenue law of the United States –

(1) who is guilty of any extortion or willful oppression under color of law, or
(2) who knowingly demands other or greater sums than authorized by law...
(3) who with intent to defeat the application of any provision of this title fails to perform any of the duties of his office or employment,...
(7) who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return or statement, ...shall be dismissed from office or discharged from employment..."

Awaiting your response and/or rebuttals.

Sincerely,

Charles F. Conces,

Notary Statement: The above signed has appeared before me and properly identified himself. The above signed has presented an original and two copies of the above and will be retaining the copies as proof of the contents of the original.