

endowed Rights to be the responsibility and duty of every American citizen, I have been scrutinizing the behavior of local, state and federal government officials and comparing that behavior with the requirements of my State and Federal Constitutions. Wherever I have seen a conflict or an impropriety, I have challenged the government's behavior, usually by bringing the offending government official(s) before the judiciary. I have gathered the facts, performed the legal research, written the pleadings and argued the cases in both State and federal courts, most often without benefit of attorneys. I have done so at my own expense. I have won many of the cases, setting important constitutional precedent along the way. On information and belief, the legal and judicial communities in New York State are of the opinion that my work has been intelligent, rational and professional. One official publicly referred to me as "Citizen Schulz." Another as "The People's Centurion." For a listing of the reported decisions in the cases I have brought in State courts, see Exhibit A. For a listing of reported decisions in cases I have brought in federal courts, see Exhibit B.

Relevant Experience **The Court's "No Standing" Doctrine**

5. Between 1995 and 1999, I documented behavior by federal government officials that was *ultra vires* and prohibited by the money and war powers clauses of the federal Constitution, that is, action to bale out the Mexican Peso

and the bombing of the Republic of Yugoslavia. With the assistance of a senior, experienced attorney and constitutional law professor, I, along with a group of other pro-se plaintiffs petitioned the Judicial branch of the United States for Redress of those Grievances. The question before the Court in each case required a declaration by the Court of the *Rights* of the People and the *Obligations* of the government under the money and war provisions of the Constitution. No matter how the Court ruled on the merits of the case, the Plaintiffs were going to be affected by the decision as long as the Plaintiffs continued to live in the United States of America and as long as the Constitution remained in full force and effect. However, both cases were dismissed by the United States Court of Appeals for “lack of standing,” and the United States Supreme Court denied cert.¹

Joseph Banister, William Benson, Lowell Becraft

6. In 1999 I learned about Joseph Banister, William Benson and Lowell Becraft, their research, their efforts to obtain answers to their questions regarding the constitutionality of the origin and application of the federal income tax laws, and government’s pattern of retaliation.

¹ SCHULZ , et al. v. UNITED STATES, et al., NDNY No. 95-cv-133, Judge Cholakis, SUMMARY ORDER issued by the Second Circuit on February 10, 1997,Case No. 96-6184 (A 216-219); SCHULZ, et al. v. UNITED STATES, et al. NDNY No. 99-cv-0845, Judge Scullen, SUMMARY ORDER issued by the Second Circuit on March 6, 2000,Case No. 99-6241(A 223-224).

7. What caught my attention was not the subject matter (taxes), but government's unwillingness to answer legitimate questions and be held accountable to the Constitution, and the lengths the government was apparently willing to go to silence anyone who questioned its power to tax.

Banister and The IRS's "No Answers" Doctrine

8. After five years of service as a highly prized and competent, award-winning Special Agent for the Criminal Investigation Division of the Internal Revenue Service (IRS), Banister had quietly and professionally petitioned his superiors for answers to certain questions regarding the origin and enforcement of the Internal Revenue Code, the law Banister was hired to enforce. In effect, Banister was questioning whether his enforcement of the internal revenue laws and the IRS's day-to-day administration of those laws, were out of step with the taxing clauses of the Constitution and the Fifth Amendment to the Constitution. Rather than answer his questions, the IRS immediately forced Banister to resign. I reviewed Banister's research report, which formed the foundation for the questions he submitted to his superiors at the IRS. I reached the conclusion that Banister's behavior was entirely proper and respectful, that he was entitled to answers to his questions, and that quite possibly the IRS had "fired" Joe Banister because, in fact, the way the federal income tax system was working was in conflict with the law.

9. I decided to help Joseph Banister obtain answers to his questions.

Benson and the Court's “Political Question” Doctrine

10. As a former investigator with the Illinois Department of Revenue, William (“Bill”) Benson undertook a research project in 1983-84 on the facts behind the ratification process of 1909-1913 regarding the 16th Amendment to the Constitution of the United States of America, the so-called income tax amendment. This was a most important undertaking given the fact that the IRS claims it is the 16th Amendment that gives it the power to enforce a direct, un-apportioned tax on the labor of every working man, woman and child in America.
11. In 1999, I learned about William Benson and his research. His report, titled, “The Law That Never Was,” reported on the results of his research undertaken at the national archives and at the archives of all 48 states that were in existence in 1913. Notarized and certified copies of all official documents related to the ratification process were obtained, reviewed and reported on by Benson. Of great interest to me were the overwhelming number of violations of their State Constitutions committed by a great many State Legislatures during the ratification process in those States, as well as Benson’s findings of a falsified vote count and differences in the language between what Congress had approved and sent to the States and what some of the State Legislatures

actually “approved.” He reported that in 1913, the Secretary of State, Philander Knox, committed *fraud* when he declared that the 16th Amendment had been properly and legally ratified by the states.

12. Benson’s findings soon found their way into court, to be used by defendants charged with failing to pay the federal individual income tax. Of profound impact on me was the fact that the judiciary dismissed any and all claims that Knox had fraudulently declared that the 16th Amendment had been properly ratified, without a hearing on the evidence in support of those claims. See *United States v Thomas*, 788 F.2d 1250 (7th Cir. 1986); *United States v Foster*, 789 F.2d 457 (7th Cir. 1986); *United States v Stahl*, 792 F.2d 1438 (9th Cir. 1986); *United States v Ferguson*, 793 F.2d 828 (7th Cir. 1986); *Miller v United States*, 868 F.2d 236 (7th Cir. 1988), and *United States v. Sitka*, 845 F.2d 43 (2nd Cir. 1988). To me, the judiciary showed little to no interest in getting to the truth, and to my dismay, the judiciary declared that the question of fraud committed during the adoption of the 16th Amendment was a *political question* for the Executive and Legislative branches to decide. I did not believe there was a statute of limitations on fraud. I believed fraud to be a legal, not a political question.
13. I decided to help Benson get to the truth of the issue.

Becraft and the Court's "Frivolity" Doctrine

14. In 1999 I also learned about Becraft. As an attorney, Lowell Becraft was closely associated with Benson as Benson was publishing his report, "The Law That Never Was." When Benson was doing his research regarding the non-ratification of the 16th Amendment, Becraft was engaged in the legal research of the question. In addition, Becraft represented the defendants in three of the cases referred to in the preceding paragraph: *United States v Ferguson*, 793 F.2d 828 (7th Cir. 1986), *United States v Stahl*, 792 F.2d 1438 (9th Cir. 1986) and *United States v. Sitka*, 845 F.2d 43 (2nd Cir. 1988). Becraft had also extensively researched the history, meaning, significance and effect of the federal income tax laws, and had published his research at the "Dixieland Law Journal" on his website. Much of Becraft's research suggested that the origin and operation and enforcement of the federal income tax law was repugnant to the tax clauses of the Constitution.
15. In 1999 I was profoundly impacted by what I considered was a disdainful, contemptuous, scornful and arrogant manner in which the judiciary reacted to Becraft's questions regarding the constitutionality of enforcing a direct, un-apportioned tax on the wages and salaries of working men and women, given the meaning of "income" within the meaning of the 16th Amendment as defined by the U.S. Supreme Court in a series of published opinions on the

subject. In *In Re Lowell H. Becraft, Jr.; United States v Nelson* 885 F.2d 547 (9th Cir. 1989) the Ninth Circuit opined that wages and salaries were income and the Court sanctioned Becraft, saying:

“Notwithstanding Becraft’s insistence that his argument regarding the inapplicability of the federal income tax laws to resident United States citizens raises numerous complex issues, his position can fairly be reduced to one elemental proposition: The Sixteenth Amendment does not authorize a direct non-apportioned income tax on resident United States citizens and thus such citizens are not subject to the federal income tax laws. We hardly need comment on the patent absurdity and frivolity of such a proposition. For over 75 years, the Supreme Court and the lower federal courts have both implicitly and explicitly recognized the Sixteenth Amendment’s authorization of a non-apportioned direct income tax on United States citizens residing in the United States and thus the validity of the federal income tax laws as applied to such citizens. *See, e.g., Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1, 12-19, 60 L. Ed. 493, 36 S. Ct. 236 (1916); *Ward*, 833 F.2d at 1539; *Lovell v. United States*, 755 F.2d 517, 519 (7th Cir. 1984); *Parker v. Commissioner*, 724 F.2d 469, 471 (5th Cir. 1984); *United States v. Romero*, 640 F.2d 1014, 1016 (9th Cir. 1981). Indeed, in *Lovell*, one of the more recent cases explicitly rejecting a Sixteenth Amendment argument virtually identical to Becraft’s position in this case, the court sanctioned the *pro se* appellants for raising this and other federal tax exemption claims on appeal. *See Lovell*, 755 F.2d at 520. If a claim is sufficiently frivolous to warrant sanctions against a *pro se* appellant, it unarguably supports the assessment of sanctions against a seasoned attorney with considerable experience in the federal courts.”

16. I questioned the integrity of the Court’s treatment of Becraft. The word “direct” is not in the 16th Amendment, and the decision appeared *not* to be in agreement with *Brushaber*, and did not appear to me to square with a whole host of decisions by the United States Supreme Court regarding the meaning of “income” and the 16th Amendment. In addition, the 11 Circuit Courts were demonstrably split 6-5 on the question of whether the federal individual

income tax is a direct tax or an indirect tax, with 6 courts ruling that the tax is a direct tax and 5 courts defining the tax as an indirect tax. Regarding the meaning of “income” and the 16th Amendment and whether the government had the authority to impose a direct, un-apportioned tax on labor, the Ninth Circuit’s decision, in *In Re Becraft*, was at odds with the Supreme Court’s decisions in the following cases:

The Antelope, 23 U.S. 66, 120 (1825); Citizens' Savings & Loan Ass'n v. City of Topeka, 87 U.S. 655 (1874); Butchers' Union Co. v. Crescent City Co, 111 U.S. 746 (1884); Adair v. United States, 208 U.S. 172; Flint v. Stone Tracy Co, 220 U.S. 107 (1911); Stratton’s Independence LTD. v. Howbert 231 US 399, 414 (1913), Brushaber v. Union Pacific R. Co, 240 U.S. 1 (1916); Peck v Lowe, 247 U.S. 165; Doyle v. Mitchell Bros Co., 247 U.S. 179 (1918); Eisner v. Macomber., 252 U.S. 189 (1920), Truax v. Corrigan., 257 US 312, 331, 338 (1921); Bowers v. Kerbaugh--Empire Co, 271 US 174D (1926); Tyler v. U.S., 281 U.S. 497, at 502; Railroad Retirement Board v. Alton Railroad Co., 295 U.S. 330, 55 S. Ct. 758 (1935); Murdock v. Pennsylvania, 319 U.S. 105 at 113 (1943); James v. United States, 366 US 213, p. 213, 6L Ed 2d 246 (1961); Central Illinois Public Service Co. v. United States, 435 U.S. 21 (1978); South Carolina v. Baker, 485 U.S. 505 (1988).

I Claimed and Began to Exercise The Constitutional Right To Petition for Redress

17. In 1999, I decided to help Banister and Benson obtain answers to their questions by *claiming and exercising the constitutional Right to Petition the Government for Redress of Grievances* regarding the fraudulent origin and illegal operation of the federal individual income tax.
18. For me, the issue was *not* about the subject matter of the Petition, “taxes.” For me, the issue was popular sovereignty, the individual’s natural Right to hold

government accountable to the Constitution by Petitioning the Government for a Redress of Grievances, Government's obligation to provide specific, official answers to the People's Petitions, the Right of the People to enforce their Rights, and the impermissibility of retaliation against those who Petition the Government for Redress.

19. Given what I knew about the federal court's "no standing" doctrine regarding alleged constitutional torts, and what I considered to be the courts' sharp, fiery and passionate application of its "political question" and "frivolous question" doctrines to questions regarding the validity of the individual income tax, I decided the best course of action would be *not* to Petition the judiciary, but to Petition the leaders of the two political branches for Redress.
20. As Chairman of the We The People Foundation for Constitutional Education, Inc., I respectfully invited the leaders of the Executive and Legislative branches of the federal government to identify their most knowledgeable people on the subjects and have them attend a Foundation sponsored academic symposium at the National Press Club in July of 1999, to discuss the issues with Banister, Benson and Becraft. The government did not attend and failed to even acknowledge receipt of the invitation. However, C-Span attended and broadcast the 3½ hour event live, including the remarks of Banister, Benson

and Becraft. C-Span also rebroadcast the event 4 or 5 times during the days following the event.

C-Span Opens Pandora's Box Not Just Banister, Benson and Becraft

21. In 1999, following the C-Span broadcast, I learned that for many years, many American citizens and organizations had been asking the IRS and their elected officials in the federal government to answer questions regarding the apparently fraudulent origin of the 16th Amendment and the apparently illegal operation and enforcement of the individual income tax system. I also learned that the government appeared never to respond to the requests, or if they did, the response was non-responsive.
22. I also learned that citizens were taking government's failure to answer their questions to mean admission, and were then acting on their beliefs by not filing any more tax returns.
23. I also learned that when taken to court for "willful failure to file," these citizens were not being allowed to defend themselves to the extent the language of Supreme Court decisions, the Constitution and the Internal Revenue Law was their defense. Judges were not allowing juries to see the defendant's evidence. In civil trials the citizens' questions regarding the origin and operation of the income tax system were being summarily dismissed as "frivolous."

24. To me, what was happening in America's courtrooms was at odds with what the U.S. Supreme Court has said regarding the definition of "income."
25. Following the C-Span broadcasts, I heard from many People, including tax professionals. I learned that the evidence of the government's lack of authority to impose a direct, un-apportioned tax on labor, and of the IRS' routine violation of individual due process Rights in the IRS' day-to-day administration of the Internal Revenue Laws was substantial and significant. I also learned that the evidence of constitutional torts and illegal behavior by the government regarding the income tax, coupled with the government's refusal to respond to citizens' Petitions for Redress of the grievances had resulted in a growing number of citizens who had decided to enforce their fundamental, constitutionally guaranteed Rights in the only non-violent way possible, by retaining their money until their grievances were redressed and their questions answered.
26. I learned that rather than properly respond to the citizens' Petitions for Redress, which Right appeared to me to include the Right to a response from the government and a Right of enforcement by retaining their money until their Grievances were Redressed, the IRS had been unconstitutionally retaliating against the Citizens, by using the Citizens' "No Answers, No Taxes" Rights-Enforcement actions as grounds for further abuse and the

judiciary appeared to me to be cooperating with the executive branch in a cooperative “zero tolerance” decision to deny People their constitutional Rights, by not allowing defendants to defend themselves. That is, Judges presiding over “willful failure to file” trials were not allowing defendants to present as evidence what they had read in the founding documents including the Constitution, or in decisions by the United States Supreme Court, or in the federal statutes.

The Petition Clause As A Sword

27. Since 1999, I have acted with a single-mindedness of purpose in using the Petition Clause of the First Amendment *as a sword to enforce* the People’s Rights and the Government’s obligations under the Constitution, that is, to hold the government accountable to the prohibitions and restrictions placed on the government by our written Constitution.² I have committed the whole of my being, the WTP Foundation and the WTP Congress to the pursuit of truth and justice and to a recognition by those wielding power in government that they are constitutionally obligated, in the interest of the essential principles underlying our system of self-government, including popular sovereignty and

² In 2002, I prepared three additional Petitions for Redress of Grievances that were signed by thousands of concerned citizens before they were served on every member of Congress and the President. They addressed grievances brought about by the government’s violation of the Constitution’s war powers, “privacy,” money and debt-limiting clauses of the federal Constitution, brought about by the Iraq Resolution, the USA Patriot Act and the Federal Reserve System, respectively. As with the first Petition for Redress of Grievances regarding violations of the taxing clauses of the Constitution, the only Redress sought by the three later Petitions were formal, specific answers to questions.

government based on the consent of the People, to provide formal, specific responses to proper Petitions for Redress of Grievances received by them from the People.

28. I have personally planned and managed the many activities of the WTP Foundation and the WTP Congress that have been designed to provide the government with proper Petitions for Redress of Grievances and opportunities to respond to the Petitions. I have personally planned and managed the many WTP Foundation and WTP Congress programs and projects that were designed to provide the body politic with knowledge about the history, meaning, effect and significance of the Right to Petition the Government for Redress of Grievances, the four outstanding Petitions to the Government for Redress of Grievances regarding the tax, war powers, money and privacy clauses of the Constitution and the Government's unconstitutional response to those Petitions.³

29. The Record of this case includes an Affidavit signed by me on September 16, 2004 that details every pro-active measure planned and managed by me and the WTP Foundation and WTP Congress since 1999 for the purpose of determining and *enforcing* the People's Rights and the Government's obligations under the tax, war, money and privacy clauses of the Constitution and under the Petition Clause of the First Amendment. See my Affidavit,

³ In 2002, three additional Petitions for Redress were added to the income tax Petition for Redress

sworn to on September 16, 2004, with all 65 Exhibits in the Record at Docket

7. The Affidavit with key Exhibits is in the Appendix at pages A 104-134.

30. The WTP Foundation has received and spent more than 2 million dollars since 1999, in pursuit of the activities referred to above. The Congress has received and spent approximately \$100,000. Exhibit C hereto includes copies of all Form 990 tax returns the WTP Foundation has ever been required to file.⁴

Exhibit D hereto includes copies of the Form 990 tax returns the WTP Congress has ever been required to file.⁵

31. All the money received by the WTP Foundation has come from donations from people who have indicated their desire to be associated with the WTP Foundation and its other supporters, and have wanted to see the Foundation's "government accountability" program succeed because they are interested in the *enforcement* of their Rights and the Government's obligations under the tax, war powers, money and privacy clauses of the Constitution, and because they obviously believe the government should be held accountable to the Constitution by responding to the Petitions for Redress of Grievances with formal and specific answers to their questions.

32. On the other hand, all the money received by the WTP Congress (approximately \$100,000) has been from membership fees from People who

⁴ WTP Foundation's Form 990 for 2005 has not yet been filed. Revenue for 2005 was \$322,613. Revenue for the first nine months of 2006 is \$75,000.

⁵ WTP Congress was not required to file a Form 990 until 2003.

have indicated their desire to be associated with the WTP Congress and its other members, and have wanted to see the Congress's "institutionalized vigilance" program succeed because they believe the state and federal Constitutions are all that stand between them and government despotism and tyranny, that eternal vigilance is the price of Freedom, and that organization is the key to institutionalized vigilance.

33. To minimize expenses, I have always managed the business of the Foundation and the Congress from a suite of office space located in my home. I have never charged the Foundation rent. I do recover part of my phone bill and part of my electric bill from the Foundation.
34. I have never asked for nor have I ever received any compensation for my work with the Foundation and the Congress.
35. Neither the Foundation nor the Congress has any employees.
36. Exhibit E annexed hereto is a copy of the only brochure ever published by the We The People organization. It describes the commitment of the WTP Foundation to civic education, the commitment of the WTP Congress to civic action, and the emphasis the WTP organization has been placing on *enforcement* of the People's Rights and the Government's obligations under the Constitution, especially the Petition Clause of the First Amendment.

37. Between 1999 and 2004, I and People associated with the cause of the We The People organization repeatedly petitioned the Executive and Legislative branches of the United States *respectfully and humbly* for Redress of Grievances related to the money, war, tax and privacy clauses of the Constitution. However, there was *no* response from the government. See my Affidavit sworn to on September 16, 2004, with 65 Exhibits, in the Record at Docket 7. The affidavit is included in the Appendix on Appeal at pages A 104-134.
38. Only after the government's refusal to respond to any of the four Petitions for Redress did I begin to promote the *Right of Enforcement* as advocated by the same Continental Congress that adopted the Declaration of Independence and, as later underscored by Thomas Jefferson, by withdrawing my support of the government until I had secured Redress of the *constitutional torts*.⁶

The Petition Clause As A Shield

39. Since early 2003, I have been forced to use the Petition Clause of the First Amendment *as a shield* against Government attempts to undermine and silence the my efforts to obtain answers to our questions.

⁶ "If money is wanted by Rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility." Act passed unanimously by the Continental Congress in 1774. "Continental Congress To The Inhabitants of Quebec." Journals of the Continental Congress. Journals 1:105-113. See also Thomas Jefferson's reply to Lord North, "The privilege of giving or withholding our moneys is an important barrier against the undue exertion of prerogative which if left altogether without control may be exercised to our great oppression; and all history shows how efficacious its intercession for redress of grievances and reestablishment of rights, and how important would be the surrender of so powerful a mediator." Papers 1:225. (A-244)

40. In April 2003, the Government finally responded to the Petitions for Redress. However, the Government's response to me has been through the enforcement division of the IRS. Since April 2003, the Government has been abusing its enforcement powers, including its subpoena and audit powers. Rather than be willing to be held accountable by the People to the Constitution, by answering questions regarding the *Rights* of the People and the *obligations* of the Government under the tax, war, money and privacy clauses of the Constitution and under the First Amendment's Petition clause, the IRS continues to close its eyes to the Constitution and see only its interpretation of the Internal Revenue Code.
41. In April of 2003 the IRS launched an attack against me, the Foundation and the Petition process.
42. To justify its impermissible retaliation, and divert attention away from its unwillingness to be held accountable by setting a modern day precedent of responding to a citizen's Petition for Redress of constitutional torts, the Government labeled the People's campaign in support of the enforcement of the Petition Clause of the First Amendment a "promotion of an abusive tax shelter," a crime under Section 6700 of the Internal Revenue Code.
43. On April 4, 2003, having officially adorned its attack with the label "IRS enforcement program," the IRS sent me a letter that read:

“ We have reviewed certain materials with respect to your *tax shelter promotion*. We are considering possible action under Section 6700 and 7804 of the Internal Revenue Code relating to penalties and an injunction action for *promoting abusive tax shelters*. In addition, we plan to consider issuing ‘pre-filing notification’ letters to the *investors who have invested in this promotion*. You are requested to meet with the examiner at the above date, time and location. Enclosed is a list of documents, books and records that you should have available and questions you should be prepared to reply to at that time.” (my emphasis added).

Exhibit F annexed hereto is a copy of the letter.

44. In fact, I was not and am not in the business of selling any service or product (trusts, tax avoidance products or otherwise). We reported on the website everything we were doing and tried to make it possible for anyone to obtain copies of our educational and research products, free of charge, by downloading it from the website. We requested a nominal donation for those items we had to send through the mail. We would send those items free of charge to anyone who could not afford to make a donation.
45. There had been and is no “tax shelter” scheme. There had been and are no “investors.”
46. Rather, there have been Petitions for Redress of Grievances. There have been petitioners who have been claiming and exercising the constitutional Right and who have been associating with me, the Foundation, the Congress and with other like-minded people. There have been donors who believed in our cause and wanted to help us obtain answers to our questions. There have been providers of professional services to the Foundation and the Congress to help

us develop an Internet presence, a communication capability and our projects.

There has been a Board of Directors of the Foundation and a Board of Directors of the Congress.

47. Beginning with the IRS letter to me on April 4, 2003, the IRS has been attempting to put an end to the Petition for Redress process by silencing me and chilling the enthusiasm of those associated with me and supporting the Petition process. It all began with the IRS announcement that I was “under investigation” under Section 6700 of the Internal Revenue Code, and by serving me with a Summons for my personal and private books, records and other documents, including financial records and the identities of all the people who were supporting the work of the Foundation. In its own words, as we will see below, the IRS has said it wants information so it can contact each of the people who were associating with and supporting the Petition process *for the purpose of examining them.*
48. On May 30, 2003, in response to the IRS’s “6700” enforcement letter, I met with IRS Agent Roundtree. I handed him a letter with approximately 60 exhibits, advising him that his “enforcement action” was impermissible retaliation under the First Amendment and that the IRS was infringing on my Right to Petition, to Free Speech, to Freedom of the Press, to Peaceably

Assemble, to be Secure in Person, House, Papers and Effects, to Due Process and to be left alone. See Exhibit F for a copy of my letter.

49. Agent Roundtree took one look at the letter and immediately said to me, “I am not going to play the constitution game. I have something for you.” Roundtree then handed me a Summons, demanding the same information that he demanded in his “6700” letter. See Exhibit G for a copy of the Summons dated May 30, 2003.⁷
50. On June 23, 2003, IRS Agent Cox served me with another Summons, “for the purpose of inquiring into any offenses connected with the administration or enforcement of the internal revenue laws.” See Exhibit H.
51. Now I had to use the Petition Clause of the First Amendment as a shield against an attack by my government.
52. I responded to the IRS Summonses by petitioning the federal District Court for the Northern District of New York to quash the Summonses on the ground that I had the unalienable, natural Right, guaranteed by the First and Ninth Amendments to hold the government accountable to the Constitution by Petitioning the Government for a Redress of Grievances, especially grievances involving *constitutional torts*, that Government had an obligation to respond, that any Right that is not enforceable is not a Right, that if Government did

⁷ The Summons included an incorrect Social Security Number. On August 15, 2003, IRS Agent Roundtree served me with a corrected Summons.

not respond I had the Right to Enforce my Rights by withdrawing my support from the Government until my grievances were redressed, and that the Summons represented constitutionally impermissible retaliation and interference with my Right to Petition, to Free Speech, to Freedom of the Press, to Peaceably Assemble, to be Secure in Person, House, Papers and Effects, to Due Process, and to be left alone. I argued that any issue and any Branch is petitionable.

53. The Government did not respond to my Motion To Quash. The District Court accepted as true the material facts as set forth in my papers but denied my motions to quash “as a matter of law.”
54. On January 25, 2005, the U.S. Court of Appeals for the Second Circuit ruled that in the interest of my Right to Due Process I was not required to respond to IRS administrative directives and orders, such as the Summonses, without a court order, and if the IRS felt it was entitled to my records it would have to initiate a lawsuit in federal district where, in the interest of my due process there would be a *full adversarial proceeding and a hearing on the charges and on my defenses*. See Exhibit I for a copy of the decision (*Schulz I*).
55. The Government immediately motioned the Second Circuit Court of Appeals to amend its January 25, 2005 decision, on the ground that without an amendment the ruling would make it harder for the IRS to collect taxes.

56. On June 29, 2005, the Second Circuit issued a second opinion in the case, bolstering its earlier Due Process decision. In addition, on page 10 of its decision, the Second Circuit held that the due process principles the Court was applying applied not only to an IRS first-party summons, but to all to all administrative orders and directives (including, presumably, third-party Summonses, liens and levys). Exhibit J hereto is a copy of the Court's decision (*Schulz II*).
57. Instead of doing what the Second Circuit directed the IRS to do if it believed it was legally and properly entitled to the information it was seeking from me, the IRS decided to go around the Second Circuit to obtain the identities of everyone who, in any way at all, was associated with me and supporting the Foundation for the purpose, as we shall see, of severing those associations and cutting off that support, in much the same way as the government apparently goes after domestic terrorists.
58. As we shall see, the Government's WTP 6700 program has been measurably successful. Donations have gone down from 350-400 thousand dollars annually to \$75 thousand for the first nine months of this year, preventing the Foundation from carrying on with key components of its program such as its Operations Plan for 2006 (Exhibit K) and the Liberty Hour (Exhibit L).

59. On June 14, 2005, after the date of the decision in *Schulz I*, and just before the date of the decision in *Schulz II*, IRS agent Roundtree sent me a chilling letter telling me that because I did not provide the information and documentation on funds received “for the promo” that he had summoned from me on May 30 and August 15, 2003, the IRS would be contacting third parties for the information. He made no mention of *Schulz I*. Exhibit M, hereto is a copy of Roundtree’s June 14, 2005 letter.
51. The IRS was obviously angered by the Second Circuit’s ruling in *Schulz I and Schulz II*, and more determined to put an end to the Petition for Redress process, which is obviously an embarrassment to the government, especially as more time passes without a response from the Government and more People associate with and support the Foundation and the Petition process.
52. In July of 2005, IRS Agents Roundtree and Cox, the same two agents who had served me with the summonses in 2003, served two third-party summonses on the PayPal corporation, one on PayPal in San Jose and one on PayPal in Omaha (Exhibit N hereto). *Between them, the two new summonses sought the same information sought by the two 2003 summonses and that the Second Circuit said the IRS was not entitled to receive absent a full adversarial proceeding and hearing.*

53. I filed two lawsuits to quash the Summonses, one in the northern district of California (Ninth Circuit) and another in the district of Nebraska (Eighth Circuit). My claims were similar to those I presented to the court in the Second Circuit in *Schulz v IRS*.
54. **The Government's pleading included an admission from the IRS that it wanted the identities of the people who had been sending money to the Foundation so the IRS could examine them.** Exhibit O, pg. 4, last sentence.
55. Without a full adversarial proceeding and hearing, both District Courts denied my Petitions to Quash. Neither Court addressed the constitutional issues I presented except to say, "There is no First Amendment Right to violate a constitutional statute." On information and belief, PayPal has given the IRS a CD-Rom(s) containing every bit of data in PayPal's possession regarding the We The People organization, including the identity of all People who had been associating financially, through their PayPal accounts, with the We The People organization. A copy of the decision from the District Court in San Jose is attached as Exhibit P. The Omaha Decision is Exhibit Q.
56. Both rulings are on appeal. The case number for the appeal to the Eighth Circuit is 06-2891, and the matter is being briefed. The case number for the appeal to the Ninth Circuit is 05-17338, and the matter is awaiting oral argument.

57. No Appeals Court, other than the Second Circuit has issued a decision in any of the current Schulz cases that also involve the question of the Right to Petition.
58. On September 2, 2006, following the filing of my Petitions to Quash the two PayPal summonses in California and Nebraska, the IRS served two more third-party summons that named me as their target. These were served on a former Board member of the We The People Foundation (attorney Christopher Garvey), and a son of a former Board member by the same name (Peter Candela). The IRS confused Candela the father (who was deceased) with the son. I filed a motion to quash the summonses in the District Court for the Eastern District of NY. My claims were similar to those I presented to the court in the Second Circuit in *Schulz v IRS*. The IRS provided Declarations by agent Roundtree as justification for the Summonses. Garvey (Exhibit R) and Candela (Exhibit S) provided sworn affidavits attacking the veracity of the Declarations by Roundtree and the Summonses. **Attorney Garvey's affidavit included the following statement: "IRS Revenue Officer Lawrence Engel, during the ensuing discussion, told me that the IRS had targeted me because of my affiliation with Bob Schulz. Engel told me at that time that his supervisor, David Smith, located in Buffalo, went on Schulz's website and decided to target all the Board Members of Schulz's organization."**

See Exhibit R, paragraph 16. See also the Declaration by Christopher Garvey filed with the instant motion.

59. The District Court dismissed my Petition to Quash the Garvey and Candela summonses for being out of time, acknowledging in a footnote, however, that the IRS Summons may not be valid because they were served on me out of time. Exhibit T is a copy of the court's decision. The matter is now before the Second Circuit where it has been fully briefed and is awaiting oral argument.
60. Burr Deitz was the incorporator of the Foundation and Congress. He has been a member of the Board of Directors since incorporation. He too has been abused by the IRS. He is 77 years old. Prior to April 2, 2004, Deitz had never heard from the IRS. Since then the IRS has sent a Notice of Levy to his bank, who took the \$350 that he had in his account. The IRS also sent a Notice of Levy to the company that he worked for, who took 100% of his earnings and sent it to the IRS. The IRS has also been taking 15% of his monthly social security check. See Affidavit by Burr Deitz, sworn to September 30, 2006 filed in support of the instant motion.
61. On February 28, 2006, the IRS notified me that it was initiating an audit of the We The People Foundation. The auditor, agent Michael Sciame, told me that he was handed a note by a superior and told to audit the We The People Foundation. The audit is on-going as of today, requiring hundreds of man

hours of my time and that of our paid bookkeeper and accountant. See Exhibit U for a copy of the notification of the audit and agent Sciame's requests for information.

62. The audit is being conducted at the offices of the Foundation's accountant, Dievendorf and Company. At the onset of the audit, Sciame asked for the 1099's for all the people who assist the Foundation with things like website design and maintenance and Internet software development services. Sciame gave the impression that something was going on at the IRS where there appeared to be special attention being paid to Schulz and the Foundation. See the Affidavit sworn to by Judith Dievendorf on September 30, 2006 in support of the instant motion.
63. On December 7, 2005, I received a letter from IRS agent David Gordon notifying me that the IRS's investigation of me as a promoter of "abusive tax shelters" has been transferred from agent Roundtree to him. See Exhibit V.
64. Gordon is sending letters to Plaintiffs in the present case asking the Plaintiffs to cooperate with the IRS who is conducting a "6700" investigation of me and the We The People organization regarding "abusive activities as a promoter of tax products and services." Gordon is telling the Plaintiffs that his contact with the Plaintiff will be kept a secret if the Plaintiff wants it that way. This is having an adverse consequence on the continued funding of the

- Petition process. For instance, see the Affidavits filed in support of the instant motion by Plaintiffs Stephen Albright, Kathleen Little, Kimberly Owen, David Sharp, Clyde Shaulis and Richard McFarland.
65. Gordon is sending a *second letter* to the Plaintiffs who have not complied with Gordon's request, saying that the IRS will be initiating an investigation of that Plaintiff's tax returns by serving summonses on "other parties," suggesting this is punishment for not complying. For instance, see the Affidavit filed in support of the instant motion by Plaintiff John Q. Little.
 66. Plaintiffs, after receiving Gordon's first and second letter, are having their wages, bank accounts, retirement and social security payments taken by the IRS, liens placed on their homes and third party summonses issued to other parties. According to the Plaintiffs, this is being done by the IRS administratively without a court order and without following the appropriate procedures spelled out in the Internal Revenue Code. This is having an adverse consequence on the continued funding of the Petition process. For instance, see the Affidavit filed in support of the instant motion by Plaintiff Douglas Allsup.
 67. Gordon has also been sending his letters to people who are not Plaintiffs in this matter but who have donated money to the Foundation. See Exhibit W for copies of Gordon's letters to Robert Helveston and Sharon Harper.

68. Other Plaintiffs, without receiving any letter from Gordon, are also having their wages, bank accounts, retirement and social security payments taken by the IRS, liens placed on their homes and third party summonses issued to other parties. According to the Plaintiffs, this is being done by the IRS administratively without a court order and without following the appropriate procedures spelled out in the Internal Revenue Code. This is having an adverse consequence on the continued funding of the Petition process. For instance, see the Affidavits filed in support of the instant motion by Plaintiffs Charles and Catherine Cartier, Frank Grieser, C. Gene Johnson, Scot Johnson, John Korman, Dan Hanna and Julie Daube.
69. Word about IRS's investigation of me and the We The People Foundation regarding my "*potentially* abusive activities as a promoter of tax products and services" is being passed around among the Foundation's supporters and donors and other People via the Internet. Exhibit X is a copy of one such e-mail.
70. Following the mailing of Gordon's letters to Plaintiffs and non-plaintiffs alike, the enforcement actions being initiated against Plaintiffs and the general publicity about the IRS's ongoing "6700" investigation, Plaintiffs have asked to be removed from the lawsuit and from our e-mail list. Exhibit Y is a copy

of one such letter. In addition, correspondence with and Donations to the Foundation have dropped significantly in 2006 as follows:

	Donations
2001	375,731
2002	427,129
2003	360,475
2004	392,919
2005	322,613
2006	75,000 (1 st 9 months)

71. On March 6, 2006, IRS agent Elsie Addington sent me a letter asking for a copy of my 2003 and 2004 tax returns. Exhibit Z is a copy of Addington's letter.
72. On April 17, 2006, Agent Addington telephoned me. Addington told me that one of her superiors told her to audit me for 2003 and 2004. She asked me why I had not filed tax returns for 2003 and 2004. I told her about the Petition for Redress, about my June 22, 2002 letter to the IRS Commissioner. I also told Addington that not everyone was required to file a return if they did not receive any taxable income, and that I was one of those people. She asked where I got the money to eat and keep a roof over my head. I told her I never received any money for the work I have done for the We The People organization and that I was receiving personal gifts from family and friends or money from the sale of my homestead two acres at a time. I told her that when I sell my land I send both the IRS and the State of NY 5% as required by law.

She requested a copy of the Second Circuit rulings in *Schulz I* and *Schulz II*, and a copy of the latest Petition for Redress of Grievances with the questions the Government has refused to answer. I mailed her the information she requested.

73. During subsequent phone conversations with agent Addington, she told me she wanted copies of all my bank statements, and all items deposited and withdrawn from my bank account. I reminded her that the items deposited in my account were personal gifts from family and friends and not for any services rendered. I also told her that unless the IRS had a good and sufficient reason for knowing, I did not want the IRS or anyone else to know how I was supporting my life and keeping a roof over my head, who my friends and associates were, whether or not I had any health issues and who my doctors were, whether and why I paid money to hospitals, who my telephone and IT service providers were, how much I paid to heat my home, whether or not I insured my house and car, and where I shopped for food and how much I spent, etc. I told her those records were personal and private. Addington said she was after the identities of my family, friends and associates who were giving me any money *so the IRS could audit the tax returns of those people.*

74. On August 18, 2006, Addington sent a letter directing me to send her my personal and private bank records by September 21, 2006. See Exhibit Z for a copy of the request.
75. *On or about August 20, 2006, Addington telephoned me to say that if I did not provide the information in her written request she would be serving my bank with a third party summons, requiring the Bank to provide the information requested.*

I make this Declaration in support of the Appellants' motion for injunctive relief.

28 USC 1746 Unsworn Declarations

I declare under of penalty of perjury that the foregoing is true and correct.

Executed on Tuesday, October 3, 2006.

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