

CV

1600

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ

Plaintiff

AFFIDAVIT  
IN SUPPORT OF  
PETITION TO QUASH  
IRS SUMMONS

-against-

RECEIVED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ SEP 28 2005 ★

Case No.

UNITED STATES; INTERNAL REVENUE SERVICE; and ANTHONY ROUNDTREE

LONG ISLAND OFFICE

FEUERSTEIN, S

Defendants

BOYLE, M.

AFFIDAVIT OF CHRISTOPHER GARVEY

I, Christopher Garvey, being duly sworn, declare under penalty of perjury:

1. I reside at 16 Nicoll Avenue, Amityville, NY 11701. I am a practicing attorney in good standing. Since 1972 I have supported the Libertarian Party, and since 1994, I have been an active member of the Libertarian Party of New York State, often serving as a Board Member of the organization; an officer of its Suffolk County subsidiary, a candidate for public office, and lately as its attorney in *GREEN PARTY OF NEW YORK STATE et al v. NEW YORK STATE BOARD OF ELECTIONS, et al*, Docket No. 03-7679 (2<sup>nd</sup> Cir. 2004), which changed New York State's unconstitutional election laws.

2. In 1994 I met Robert Schulz, who, as the Libertarian candidate for Governor in 1994, was successful at changing New York State's unconstitutional

election laws in court. See *Schulz v. Williams*, 44 F. 3d 48 (2<sup>nd</sup> Cir. 1994), which was repeatedly cited by both the Federal District and Appeals Courts in my case: *Green Party of NY et al v. NYS Bd. Of Elections*, supra.

3. In November 1997, Robert Schulz incorporated the **We The People Foundation for Constitutional Education**. I was a member of the Board of Directors.

4. On September 2, 2005, IRS Agent Anthony Roundtree served me with a third party administrative Summons, a copy of which is attached as Exhibit A hereto.

5. 26 USC Section 6065 reads:

“Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws, or regulations shall contain or be verified by a written declaration that it is made under penalties of perjury.”

6. Section 6065 applies to a Summons issued by the IRS, required under Section 7602 for the production of books, records, papers and other data.

7. Immediately above Roundtree’s signature, on the Summons I received from him, is the following written declaration:

“Issued under the authority of the Internal Revenue Code this 2<sup>nd</sup> day of September, 2005.”

8. The Summons Roundtree served on me was made under penalty of perjury if it was made under the authority of the Internal Revenue Code.

9. Attachment A to the Summons reads:

**Robert L. Schulz**

The Internal Revenue Service is currently conducting an investigation relating to the above-referenced taxpayer/promoter. We are currently soliciting information from individuals for who [sic] have recently filed returns using information and/or forms provided by We The People Foundation For Constitutional Education ("WTP") and/or Robert Schulz as part of a promotion that promises to remove individuals from the Federal tax system via a de-taxation package. A review of your Form 1040 Federal income tax return for taxable years ended December 31, 1984, December 31, 2001 and December 31, 2002 shows that you may have used information and/or were assisted by WTP or Robert Schulz in preparing your Federal income return and Forms W-4 supplied to your employer. You are hereby summoned to appear before Internal Revenue Agent Anthony Roundtree on September 28<sup>th</sup> 2005 at 10:00 AM to answer questions of [sic] the above subject matter.

10. Roundtree committed perjury in making the Summons.

11. On information and belief: Agent Roundtree knows that WTP did not come into existence until 1997, thirteen years after 1984, and therefore, Roundtree's statement that I filed a return for 1984 using information from WTP is a falsehood.

12. On information and belief: Agent Roundtree knows that Robert Schulz was not active in questioning the IRS until 1999, and therefore, Roundtree's statement that I filed a return for 1984 using information from Robert Schulz is a falsehood.

13. On November 20, 2003, IRS Revenue Officer Lawrence Engel interviewed me about my taxes at his IRS office at "SBSE Area 2 Group 27", 107 Charles Lindbergh Blvd., Garden City, NY 11530.

14. In that interview, Lawrence Engel advised me that the IRS has no records of any sort about my income or taxes in 1984. If agent Roundtree had attempted

to review my 1984 tax return, Agent Roundtree would know the IRS has no record of my 1984 tax return, and therefore, Roundtree's statement that he reviewed my Form 1040 Federal income tax return for 1984 is a falsehood.

14. Agent Roundtree knows that I am not an "individual who has recently filed returns using information and/or forms provided by We The People Foundation for Constitutional Education and/or Robert Schulz..." If Roundtree had reviewed my returns for 2001 and 2002, as he declared, he would have noticed that the returns were prepared and printed using common commercially available software. I used TurboTax 2001 and TaxCut 2002.

15. Roundtree's Attachment "A" statement, that a review my Form 1040 for 2001 and 2002:

**"shows that you may have used information and/or were assisted by WTP or Robert Schulz in preparing your Federal income return and/or Form W-4 supplied to your employer",**

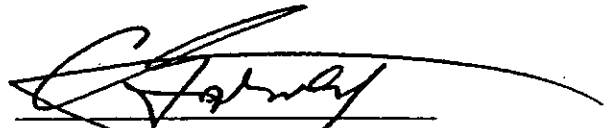
**is a falsehood. I have never used information and/or forms provided by We The People Foundation for Constitutional Education and/or Robert Schulz in preparing my Federal income return and/or Form W-4 supplied to my employer.**

16. At said November 20, 2003 interview, 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 to Schulz's website and decided to target all the Board Members of Schulz's organization.

17. The above statements are on personal knowledge, information, and belief.

18. I make this affidavit in support of the Petition by Robert Schulz to Quash the IRS "Summons" served on me by IRS Agent Anthony Roundtree on September 2, 2005.



Christopher B. Garvey  
16 Nicoll Ave.  
Amityville, NY 11701  
631 598 0752

Sworn to before me  
this 14th day of September, 2005



Notary

Reg. No. 01P15039576

expires 2/21/07 Suffolk County, N.Y.