

1 DANIEL G. BOGDEN  
 United States Attorney  
 2 MELISSA SCHRAIBMAN  
 LARRY WSZALEK  
 3 JEFFREY A. NEIMAN  
 Trial Attorneys  
 4 U.S. Department of Justice  
 Tax Division  
 5 DANIEL R. SCHIESS  
 Assistant United States Attorney  
 6 333 Las Vegas Boulevard South  
 Fifth Floor  
 7 Las Vegas, NV 89101  
 Telephone: (702) 388-6336  
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9 **UNITED STATES DISTRICT COURT**  
 10 **DISTRICT OF NEVADA**

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12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 vs.

15 IRWIN SCHIFF, CYNTHIA NEUN and  
 16 LAWRENCE N. COHEN,

17 Defendants.

CR-S-04-0119-KJD-LRL

GOVERNMENT'S OPPOSITION TO  
 DEFENDANT SCHIFF'S MOTION TO  
 DISMISS COUNTS 1 AND 17 FOR  
 LACK OF JURISDICTION, SINCE  
 BOTH COUNTS ARE STEEPED IN  
 FRAUD (Docket #136)

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 19 COMES NOW the United States of America, through DANIEL G. BOGDEN, United  
 20 States Attorney, by MELISSA SCHRAIBMAN, LARRY WSZALEK, and JEFFREY A. NEIMAN,  
 21 Trial Attorneys, United States Department of Justice, Tax Division, and DANIEL R. SCHIESS,  
 22 Assistant United States Attorney, and submits this opposition to defendant Irwin Schiff's Motion to  
 23 Dismiss Counts 1 and 17 for Lack of Jurisdiction, Since Both Counts are Steeped in Fraud.

24 First, defendant Schiff's motion should be disregarded as untimely. The motion was  
 25 filed almost four months after it was due. According to the court's order dated 11/30/04, "any and all  
 26 pretrial motions and notice of defense" were due on December 3, 2004, with responses due December

1 14 and replies due on December 21. Mr. Schiff filed numerous pretrial motions before December 3,  
 2 which the government timely answered. Magistrate Judge Leavitt has written a report and  
 3 recommendation for each of the motions. Mr. Schiff has put forth no reason why his most recent  
 4 motion to dismiss was filed late, nor did he request permission from the court to file the motion after  
 5 the due date.


6 Second, defendant Schiff's current motion to dismiss appears to be redundant with  
 7 several other motions he previously filed in which he rejected the court's jurisdiction over criminal  
 8 tax matters and questioned IRS authority. (See Docket #13, #14, and #80). The current motion is  
 9 similarly frivolous and unsupported by law, and therefore should be denied.

10 Mr. Schiff's motion is untimely, redundant and frivolous. Therefore, the government  
 11 has not addressed the arguments in his motion point by point. If the court wishes a more detailed  
 12 response, the government would request a reasonable opportunity to respond.

13 Respectfully submitted,

14 DANIEL G. BOGDEN  
 15 United States Attorney

16 by:

  
 17 MELISSA SCHRAIBMAN  
 18 LARRY WSZALEK  
 19 JEFFREY A. NEIMAN  
 20 Trial Attorneys  
 21 U.S. Department of Justice  
 22 Tax Division  
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 24  
 25  
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