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Certified Mail No. P 728-337-077

October 23, 1988

Mr. Mark Tate
Northstar Fire of Texas
3010 L.B.J. Frwy.
Suite 1360
Dallas, Texas 75234

PETITION TO QUASH IRS SUMMONS

Dear Mr. Tate,

Thank you for providing me a copy of the Summons served on you by Mr. Edwin Swales of the Internal Revenue Service. The Summons is dated October 12, 1988. According to the Summons you are "required" to produce records and papers and testimony on October 26, 1988. I have very carefully examined the Summons, and researched the appropriate sections of the Internal Revenue Code which regulate and give foundation to the Summons, if it has any foundation. In order for a Summons to be effective and lawful it must rely solely on the statute it is trying to enforce. The IRS cannot take a "section" of the Internal Revenue Code out of context, for the purpose of raising revenue and intimidating the Sovereign Citizens of the United States. I am hopeful that I can establish in your mind the unlawfulness of this Summons.

In this document, I will prove that this Summons is unlawful in many ways. I would solicit your un-divided attention for approximately one hour to discover that you are not "required" to do anything with this Summons except ignore it. Unlike Mr. Swales, I'll notify him, as I'm required to do, according to IRC Section 7609; (b) (2) (B).

I would remind you of my previous correspondence with you dated April 2, 1988. In that correspondence I warned you of my intention to safe-guard my constitutionally guaranteed rights at whatever the cost. If that includes prosecuting you, as well as Mr. Swales, then so be it.

WARNING. The purpose of a "warning" is to apprise a party of the existence of danger of which he is not aware to enable him to protect himself against it, and where the party is aware of the danger, the warning will serve no useful purpose and is unnecessary, and there is no duty to warn against risks which are open and obvious. Wiseman v. Northern Pac. Ry. Co., 214 Minn. 101, 7 N.W. 2D 672, 675. Blacks Law Dictionary 4th., page 1756.

I apologize for the length of this document. However, it is necessary to explain in detail the reasons you are not "required" to obey this Summons. It is my suggestion that you have your lawyer or legal counselor review this document before you do anything. I don't want to "put you in the middle" of my disagreement with the Internal Revenue Service, but time marches on and you are already "center stage", holding the basket with the "goodies". What you do with the "goodies" is your personal decision.

What you are about to read is the result of many hours of research and study and this is the truth, as described in the Internal Revenue Code. At great length I sifted through the maze to uncover the following facts. I'll try to correlate each and every facet of the sections so they make sense, as I've discovered it. Some of the following information will seem impossible for you to understand at first. However, if you will allow yourself, you can understand the confusion initiated by the IRS.

See page 16 of photo copies. **Sec. 7609. (5) (c) Summons to which section applies.**

[**.CAUTION:** Para. (c) (1), following, is effective for gasoline removed before 1/1/88. For para. (c) (1) effective for gasoline removed after 12/31/87, see below.]

(1) In general. Except as provided in paragraph (2), a summons is described in this subsection if it is issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(f)(2) or 6427(i)(2) and requires the production of records.

Comment: Section 6420(e)(2) Gasoline used on farms; Section 6421(f)(2) Gasoline used for certain nonhighway purposes or by local transit systems; and section 6427(i)(2) Fuels not used for taxable purposes. These three sections of the IRC, as well as the 7609(5)(c) listed above, are devoted to the collection of tax on gasoline. If you are a farmer or a gas station owner or any other person who bought and sold or used gasoline in your business and you are required to collect the tax on the gasoline and you refused to send the collected tax money to the Internal Revenue Service, you are in violation of the above mentioned IRC sections. Therefore, a Summons can be issued to your bank or other institution for your "...books of account containing entries relating to the business of the person liable for tax ..." [Section 7602(a)(2) in part.] The farmer, the station owner, or the supplier of the gasoline is the person liable to pay the tax to the IRS. This is the individual, as outlined within these sections, as I'll try to reinforce as we move forward.

The Internal Revenue Code is replete with definitions. This subchapter is not without definitions. We must consider what the IRC has to say about "third-party record keepers". We also must decide if your organization is defined within the statutory guidelines of this subsection. If your organization is not defined within the established guidelines, how, on this side of God's green earth can you determine this section applies to you. Lets examine the appropriate section of the code.

See page 16 of photo copies. **Sec. 7609(a)(3) Third party recordkeeper defined.**

For purposes of this subsection, the term "third-party record keeper" means -
(A) any mutual savings **bank**, cooperative **bank**, domestic building and **loan association**, or other **savings institution** chartered and supervised as a **savings and loan** or similar association under Federal or State law, any **bank** ... or any **credit union** ...

(B) Any **consumer reporting agency** ...

(C) Any person extending **credit** through the use of **credit cards** or **similar devices**;

(D) any **broker**...

(E) any **attorney**;

(F) any **accountant**;

(G) any **barter exchange** ...

(H) any **regulated investment company** ... and any **agent of such regulated investment company** when acting as an agent thereof.
(emphasis mine)

Comment: Section 7609(a)(3)(A)-(H) identifies by proper designation, the organizations and individuals who are liable to obey the Summons served upon them by the IRS. Northstar Fire Protection of Texas does not qualify as an organization under the guidelines of this statute. Thus, Northstar is not required to obey a frivolous Summons as it does not apply to you. It is my opinion that Northstar is not within the scope of enforcement for this summons. How can you disobey a law that does not apply to you? Simply put, you can't.

I have reasonably established the prima facie evidence that the Summons is defective on it's face. First, the Summons referred to in this section is for the exclusive use of collecting a tax on gasoline. Secondly, the "third-party record keepers", as defined above, do not include your organization. With this established, let us consider the idea that the Summons is lawful and enforceable. I'll now prove that Mr. Swales, in cooperation with the IRS, has violated his own code in serving this Summons.

See page **Sec. 7603. Service of summons.**

14 of A summons issued under section 6420(e)(2), 6421(f)(2), 6427(i)(2)
photo or 7602 shall be served by the Secretary, by an attested copy de-
copies. livered in hand to the person to whom it is directed, or left at
his last and usual place of abode; and the certificate of service
signed by the person serving the summons shall be evidence of the
facts it states on the hearing of an application for the enforce-
ment of the summons. When the summons requires the production of
books, papers, records, or other data are described with reason-
able certainty. (Emphasis mine.)

Comment: Mr. Swales did not leave an attested copy, (definition below) nor was there a certificate of service left with you. This is how the IRS intimidates the American public by violating the very rules and regulations they are mandated to follow.

Attested, To bear witness; to bear witness to a fact; to affirm to be true or genuine; to act as a witness to; to certify; to certify to the verity of a copy of a public document; formally by signature to signify by subscription of his name that the signer has witnessed the execution of the particular instrument. Lindsey v. Realty Trust Co. Tex. Civ. App., 75 S.W. 2d, 322, 324,

Also the technical word by which, in the practice in many of the states, a certifying officer gives assurance of the genuineness and correctness of a copy. Thus, an "attested" copy of a document is one which has been examined and compared with the original, with a certificate or memorandum of its correctness, signed by the person or persons who have examined it. Gerner v. Mosher, 58 Neb. 135, 78 N.W. 384, 46 L.R.A. 244. Black's Law Dict. 4th., page 163

Service of process. service of process, the service of writs, summonses, rules, etc., signifies the delivering to or leaving them with the party to whom or with whom they ought to be delivered or left; and, when they are so delivered, they are then said to have been served. Usually a copy only is served and the original is shown. Brown. Black's Law Dictionary 4th., page 1534.

Certificate. a written assurance, or official representation, that some act has or has not been done, or some event occurred, or some legal formality been complied with. A "certificate" by a public officer is a statement written and signed, but not necessarily or customarily sworn to, which is by law made evidence of the truth of the facts stated for all or for certain purposes. State v. Abernethy, 190 N.C.768, 130 S.E., 619, 620. Black's Law Dictionary 4th., page 285.

Comment: I might be persuaded to agree that the summons served by Mr. Swales is in fact the "certificate of service", as outlined in ¶7603(A). However, this Summons cannot be mistaken for "an attested copy", as there is no other signature on the document attesting to its contents. I don't make the rules for the IRS to follow, I'm just trying to make them obey what the law mandates. Perhaps you are not yet convinced of my position that the IRS is wholly outside the law in serving this Summons on you. Please read on, and read what is being said as well as what is not being said. In statutes, sometimes what isn't said is more eloquent, than what is said.

See page **Sec.7602. Examination of books and witnesses.**

13 of **(a) Authority to summon, etc.**

photo (1) To examine any books, papers, records, or other data which
copies. may be relevant or material to such inquiry;

(2) To summon the person liable for tax **(gasoline dealer, retailer, etc)** to perform the act, or any person having possession, custody, or care of **books of account containing entries** relating to the business of the person liable for tax **(gasoline dealer, retailer, etc.)** or required to perform the act, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, and records, or other data, and and to give such testimony, under oath, as may be relevant or material to to such inquiry ... (emphasis mine)

Comment: I am not a gasoline dealer or retailer by any stretch of the imagination, nor are you "any person having custody, care of books of account containing entries relating to the business of the person (gasoline dealer, retailer, etc.) liable for tax." Notice carefully the wording "books of account containing entries". This is very significant. On page two of this document I recorded ¶7609(a)(3) "third-party recordkeepers defined." Within the scope of this section of the IRC you do not qualify as a third-party recordkeeper, nor can you be required to obey a law that does not apply to you. [Please allow this simple illustration.] Have you registered as a non-resident alien this year? All non-resident aliens are required to register in the month of January each year. If you have not registered, are you required to do so? The answer is no! You are not required to obey this law, as it does not apply to you. The same idea must be applied to this section of the IRC.

As if the above is not enough to convince you, I'll continue to present the defects of this summons. Please bear with me.

Comment: This subsection of the IRC has a provision for an individual to "quash the Summons" served on the "third-party recordkeeper". Mr. Swales has failed miserably to stay within the guidelines of the statute he is mandated to follow, as shown below.

See page 16 of photo copies **Sec. 7609. Special procedures for third-party summonses.**

(a) Notice.

(1) In general. If -

(A) any summons described in subsection (c) is served on any person who is a third-party recordkeeper, and
 (B) the summons requires the production of any portion of records made or kept of the business transactions or affairs of any person (Mike, emphasis mine)(other than the person summoned) (Mark Tate, emphasis mine) who is identified in the description (Mike, emphasis mine) of the records contained in the summons, then **notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 23rd day before the day fixed in the summons as the day upon which such records are to be examined.** Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the **right** under subsection (b)(2) to bring a proceeding to **quash the summons.** (emphasis mine)

(2) Sufficiency of notice. Such notice shall be sufficient if, on or **before such third day**, such notice is served in the manner provided in section 7603 (relating to the service of summons) upon the person entitled to notice, (Mike, emphasis mine) or is mailed by certified or registered mail to the last known address of such person, or in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice...

Comment: Within the statutory guidelines of the above mentioned sections, you are not a statutory "third-party record keeper". If you are not a "third-party record keeper" then the summons served on you was served in error. Secondly, I am identified in the summons as "any person who is identified in the description of the records contained in the summons". I am a "person who is entitled to notice" ... ¶7609 (b)(1). Thirdly, Mr. Swales is **required** to notify me within three days of the day he serves you, and my notice must be served at least (23) twenty-three days before the date fixed in the summons for the examination of the records, etc. Also, my notice must contain an explanation of my **right** to quash the summons. As of this date the only information I have is the photo copy of the summons you provided me. Fourthly, as required under section 7609 (A)(2) "Sufficiency of Notice", Mr. Swales is again **required by statutory law**, to give me notice and such notice is served "in the manner provided in 7603. Section 7609(A)(2) also allows for three other possible methods of notifying the "person entitled to notice". Namely, they are Certified mail, Registered mail, and /or ... "in the absence of a last known address, is left with the person summoned."

Mr. Swales has not used any of the statutory options available for his use. Apparently he has no intention of doing so at this time. The date on the summons you received is October 12, 1988. This is probably the day it was served also. The "date fixed for" examination is October 26, 1988. Simple addition tells me that Mr. Swales is allowing you (14) fourteen days to provide him access to some very private documents. The documents do not fall within the statutory scope of Mr. Swales' "fishing expedition".

If you provide him access to these documents without challenging his authority as I'm doing, you will be violating my "right to privacy" and "due process of law", just to name a couple of rights I would mention in a suit against you.

Comment: Just as this subsection addresses every facet of the procedures for enforcement and notice of summons, it also addresses the "restriction on examination of records". We shall discuss this area next.

See page 17 of photo copies. **Sec. 7609. Special procedures for third-party summonses.**

(d) Restriction on examination of record. No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made -
(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2) or (Sufficiency of Notice) mentioned on page 5 of this document.

(2) where a proceeding under subsection (b)(2)(A) was begun with in the 20 day period referred to in such subsection and the requirements of subsection (b) (2) (B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash. (Sections (b)(2)(A) and (b)(2)(B) will be explained later in this document. Emphasis mine)

Comment: The subsections described above tell us there can be **absolutely NO EXAMINATION of ANY RECORDS ... before the CLOSE OF THE 23rd DAY** after the day notice ... is given ... Mr. Swales has tried to make you believe that you are "required" to produce records and provide testimony on October 26, 1988. This document is my proceeding to quash his Summons as outlined in sections (b)(2)(A) and (b)(2)(B) as explained hereinafter. Perhaps this is not sufficient evidence to convince you to withhold the records and testimony from him. If that is the case, I'm requesting that you at least allow me 20-30 days to prepare a Motion to Quash and have it filed in the Federal District Court in Ft. Worth or Dallas.

Let's assume that Mr. Swales did in fact notify me on the 3rd day after notifying you. With that assumption let's carefully calculate the day on which you could be "required" to produce records and testimony; assuming the statute would allow this Summons to stand on its face. If I were served on October 15, 1988, we would then add 23 days to this date. The new date is November 7, 1988, however, the records cannot be examined "before the close of the 23rd day after the day notice ... is given." ¶7609 (d) (1) Statutorily, you could not possibly be "required to appear before Mr. Swales before November 8, 1988. I do not consent to the examination of the "books, records, and other data" he is requesting. **I am contesting his entire authority to even issue this Summons!**

Comment: I will now undertake the examination of the code sections which relate to my "right to intervene; right to proceeding to quash."

See page 17 of photo copies. **Sec. 7609.**

(b) Right to intervene; right to proceeding to quash.

(1) Intervention. Notwithstanding any other law or rule of law, any person who is entitled to notice of summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604

(2) Proceeding to quash.

(A) In general. Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). ...

(B) Requirement of notice to person summoned and to secretary. If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20 day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

Comment: As I've stated before Mr. Swales is in violation of all statutes we've looked at thus far. Mr. Swales could have complied with the ¶7603 Service of Summons, if he had wanted to. Had he even complied with this section, the Summons would still be defective. Mr. Swales has not complied with the mandate of ¶7609 (a)(2) wherein he is required to give me notice. As of this writing I still have not been given official notice. Section (2)(B) above mandates "if any person who begins a proceeding ... not later than the close of the 20th day period referred to ... such person shall mail by registered mail or certified mail a copy of the petition to the person summonsed (Mark Tate) and to such office as the Secretary may direct ... in subsection (a) (1)." Subsection (a)(1) does not identify an office, however I'll provide Mr. Swales with a Petition to Quash his Summons.

This should be sufficient evidence to prove beyond a shadow of a doubt that you are not, and cannot be "required" to obey this Summons. Mr. Swales must file another summons in the future. It would be in his best interest to find the appropriate section of the code to enforce his actions.

IN CONCLUSION:

Let us review this document.

1. I've established the idea that you are not "required to do anything". Pg. 1.
2. The summons was issued to gather information about my books, papers, and records. However, I'm not a dealer in gasoline and neither are you. Mr. Swales has taken the entire section out of context. Pg. 2.
3. Your organization is not defined within the scope of this statute as being a third-party recordkeeper. Pg. 3.
4. I've established prima facie evidence of the illegality of this unenforceable summons. Pg. 3
5. Service of summons was not complied with as mandated in Sec. 7603. No attested copy and no certificate of service were delivered. Pg. 3.
6. I've established the fact that this law does not apply to you, so it is impossible for you to obey it. Pg. 4.
7. The summons was served in error. Pg. 5.
8. I'm identified as a "person entitled to service". Pg. 5.

9. Mr. Swales is required to notify me. Pg. 5.
10. Three alternative methods are available to notify me. However none were utilized. Pg. 5.
11. The documents requested are without the scope of the statutes. Pg 5.
12. Mr. Swales has not allowed you or me sufficient time to prepare. Pg. 5.
13. Mr. Swales has tried to violate my right to intervene and my right to petition to quash. Pg. 6.
14. No examination can be made before the close of the 23 day. Pg. 6.
15. I'm contesting Mr. Swales authority to even issue this summons. Pg. 6.
16. Mr. Swales is in violation of all statutes involved herein. He could have complied with the statutes, but he refused to do so. Pg. 7
17. I plan to follow the mandate of the statutes to file my petition to quash. Pg. 7.

It is my prayer that you have learned from this document, and that you will not succumb to the nature of this beast until I've had time to sharpen my paper sword, which I will use to slay this paper dragon.

Sincerely,

Paul M. Walters
SOVEREIGN CITIZEN

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