

LIBERTY TREE

Vol. 10, No. 5 — April, 2008

NEITHER SNOW NOR RAIN ...

Neither snow, nor rain, nor heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds. — Herodotus, 484-430 B.C.

Although this familiar quote was actually written about the courier service of the Persian empire, most people mistakenly believe it's the motto of the United States Postal Service. While the USPS has no official motto, the quote *was* inscribed on the New York City's General Post Office building in 1912, which probably contributed to this mistake. And even as private couriers eat away at their near-monopoly, USPS delivery is still generally taken for granted; no matter how inclement the weather, the mail gets through.

But however true that may be for natural weather, it is certainly **not** true when it comes to the foul winds of oppression blowing across the land. From the west coast comes news of how the Postal Service is being used as another way to attack those who would expose our government's treachery.

Steve Hempfling, founder and director of Free Enterprise Society (FES)¹ is one of the latest victims of the government's war against free speech through the abuse of IRC § 6700, the penalty statute for abusive tax shelters. On March 13, 2008, the U.S. District Court for the Eastern District of California issued a permanent injunction order against Hempfling and FES to prohibit them from selling four specific tax-related packages they offered.²

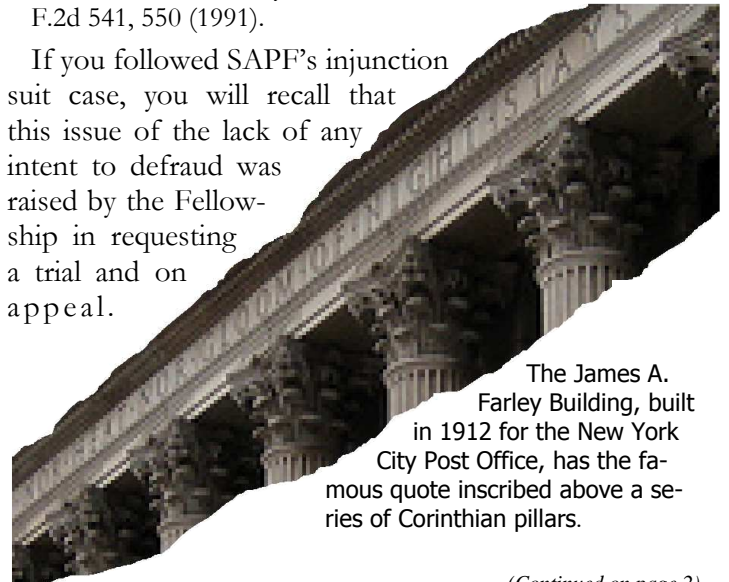
A few weeks later, Hempfling received a letter from the U.S. Postal Inspection Service, notifying him that the assistant inspector, Sally Diaz, had caused mail addressed to "Free Enterprise Society," "F.E.S" and "Society" — at the address FES has been using for many years — to be withheld from delivery. Diaz claimed her authority to take this action comes from §§ 3003 and 3004 of Title 39, which deal with using fictitious names in carrying on mail fraud and addressing mail to someplace not the

residence or regular business address of a person to enable that person to escape identification. Of course, the statutes require satisfactory evidence of such violations before mail can be withheld, but the letter gave no explanation as to what that evidence might be.

Coming right on the heels of the injunction against FES, it's a pretty safe bet that the Postal Inspection Service has nothing other than the injunction to "prove" that any mail fraud has taken place, despite the fact that the law requires proof of an intent to defraud. According to the Second Circuit:

Since an essential element of the crime charged [mail fraud] is intent to defraud, it follows that good faith on the part of a defendant is a complete defense to a charge of fraud. ... Under the anti-fraud statutes, even false representations or statements or omissions of material facts do not amount to a fraud unless done with fraudulent intent. However misleading or deceptive a plan may be, still it is not fraudulent if it was devised or carried out in good faith. An honest belief in the truth of the representations made by a defendant is a good defense, however inaccurate the statement may turn out to be. *U.S. V. Atkins*, 925 F.2d 541, 550 (1991).

If you followed SAPF's injunction suit case, you will recall that this issue of the lack of any intent to defraud was raised by the Fellowship in requesting a trial and on appeal.



The James A. Farley Building, built in 1912 for the New York City Post Office, has the famous quote inscribed above a series of Corinthian pillars.

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¹ Free Enterprise Society, 2037 W. Bullard #353, Fresno, California 93711, www.FreeEnterpriseSociety.com.

² In that respect, the order from the California judge differed from the one issued by his seditious comrade in SAPF's case, because our injunction gave no such particulars, forcing the Fellowship to guess at what we are prohibited from distributing.

... BUT TYRANNY

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SAPF itself introduced the only evidence bearing on intent — District Court Judge Marvin Garbis' admission during the Fellowship's 1996 law suit: "I don't think anybody can deny the sincerity of Mr. Kotmair. I mean we can only disagree with him of course. We can't deny his sincerity." Nevertheless, throughout the injunction case, the government continually alleged fraud by SAPF despite their lack of any evidence of intent, and the judge ultimately (and wrongly) decided in their favor.³

The government loves to distort the meanings of words to suit their purposes. In the injunction suit, *false* was always equated with *fraudulent*, and *frivolous* essentially meant *disagreement with the government*. By this method, any disagreement with the decisions of any court, even a lower level court, is always construed as frivolous, and therefore false, and therefore fraudulent. It doesn't matter if a logical argument demonstrates that the prior decision was in error. In fact, in the topsy-turvy world of the American "just-us" system, making such an argument *proves* that you knew you were wrong. At least that's what the government argued in its motion for summary judgment:

Defendants' conduct clearly meets the 'know or had reason to know' standard within the meaning of I.R.C. §6700. ... Defendants are clearly sophisticated enough to locate relevant court decisions. In fact, defendants' materials routinely criticize court decisions, correspondence from the IRS, and other document opposing their position.

The court in the FES injunction case followed that same basic pattern. If something is said by the courts to be false,⁴ then saying it is automatically fraudulent, even if you whole-heartedly believe it to be true. And if you use the mail system to distribute such "false" views, then the Postal Inspection Service might consider it mail fraud, and stop delivery. When an organization can't receive mail in its name — which, as an artificial entity, is always a *fictitious* name — then its financial support can be interrupted, threatening its ability to continue functioning. In the end, it's just one more way for an oppressive government to

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³ Showing that justice is not only blind, but deaf and dumb, too!

⁴ And that's all it really amounts to, a judge saying that it is false.

⁵ We're confident that this tactic wouldn't work against the Fellowship, since the court has already established that Save-A-Patriot Fellowship is an unincorporated association. In fact, the U.S. District Court for Maryland recently used that 1996 decision as precedent for the principle that an unincorporated association is a valid form of organization. See *IFAST, Ltd. v. Alliance for Telecommunications Industry Solutions, Inc.*, 2007 WL 3224582 (D.Md., Sep 27, 2007).

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Operation Stop Thief gets local coverage in Texas

Jackie and Zoe Walker
At the Tyler Public Library

Shawn Rhodes
Connie Russell
Bill Seronello
Rod Fletcher
The Brook Hill School Administrators

Posted on Wednesday, April 16, 2008

SHARE Email This Print

A Taxing Day

...

Tyler police officers check on several protesters outside the Azalea Post Office after receiving a report they were causing traffic problems Tuesday. The protest was part of **“Operation Stop Thief,”** sponsored by **TruthAttack.org**, a nationwide coalition of tax honesty and freedom movement organizations and supporters. The protesters passed out flyers and held signs asking the public to “read the law” and that there is no law making working Americans liable for the federal income tax.

News from
Truth Attack

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drive dissenters out of existence.⁵

These tyrannical developments highlight the need to do all we can to make sure dissenters have an outlet for their views, by encouraging all concerned citizens to join with us in the Liberty Works Radio Network Fellowship. Once Americans can tune their radios into LWRN and start hearing the unvarnished truth, we will be on our way to reaching the critical mass necessary for real change. Not the vague, meaningless sort of change mouthed by Obama, Clinton and McCain, but the kind of change championed by Ron Paul — the restoration of our Constitution and God-given liberties.



(Liberty Tree note: The above is an excerpt from the website www.tylerpaper.com. Predictably, the photograph used by the Tyler Morning Telegraph highlights the police but obscures the protestors’ signs. The signs say “the income tax is illegal.”)

Exceptional Opportunity for Members!

If interested, please send a self address stamped envelope to SAPF HQ, P.O. Box 91, Westminster, MD 21158, and you will receive the information in the return mail. **Mark your envelope “Attention: Opportunity.”**

BREAKING NEWS

On April 11, 2008, the United States Supreme Court *denied* Save-A-Patriot Fellowship’s petition for certiorari in the matter of the court-ordered injunction against the Fellowship. As expected, the Court refuses to uphold the First Amendment’s guarantee of freedom of speech.



TAXDEF?

THE DOJ WANTS YOU DUMB TOO — IN EVERY SENSE OF THE WORD.

Opinion by Deborah Stalwart

An appointee to DOJ's Tax Division is out to make a name for himself by renaming others. On April 8, Nathan J. Hochman, an assistant attorney general, launched the "National Tax Defier Initiative," also known as TAXDEF.

What's a "tax defier"? Just another word for "tax protestor." TAXDEF is merely a revamp of the IRS and DOJ's yearly April fear campaign, accompanied this year by rolling out three newly filed injunction suits, one against Pinnacle Quest International.

For Hochman, the term protestor is problematic, because it can be associated with "conduct that [is] legitimate." The new phrase "tax defier" describes those, he said, who "defy and deny the fundamental validity of the tax laws" and "reject[] the legal foundation of the tax system, despite decades of legal precedent upholding the system's constitutional and statutory validity." Those familiar with the American justice system will recognize that by "the law," Hochman means only lower-court case law built by decades of judges beholden to the current tax system.

Could the IRS and the DOJ be nervous that too many people are being told about the limited application of the income tax laws? It seems so, from comments made by Hochman: "The explosion of the internet in the last decade has greatly facilitated tax defier activity. It turned what was once a paper based, local, or regional enterprise into a click and download national operation." Hochman says the DOJ's "response must equally take advantage of the powerful resources of the internet and similar media ... to bring our enforcement efforts directly to the door of the tax defiers."

As in SAPF's case, civil injunctions to shut the mouths of those who want to exercise their First-Amendment rights are a huge aspect of the plan to crush dissent. "Since 2001 the Tax Division has obtained over 300 civil injunctions against tax promoters and preparers, over a third of which directly involved tax defier activity. Injunctions are a powerful method of stopping the promotion of tax defier activity at the earliest possible moment," boasted

Hochman.

Another powerful method is publicizing "the consequences of tax defier conduct." For this purpose, the roll-out of TAXDEF coincides nicely — for the IRS, anyway — with the April 24th sentencing of Wesley Snipes, star of the *Blade* trilogy and *White Men Can't Jump*, to three years in prison for failure to file.

If Snipes had walked free, the youthful demographic he appeals to might cause trouble for the IRS and DOJ. That younger set is growing more aware, according to J.J. MacNab, a Maryland analyst who maintains a web site tracking "tax protestors." Since MySpace and YouTube are now being utilized to promote "tax defier" beliefs, the demographics of tax "defiers" are shifting too, she said: "I've watched it go from middle-aged white guys meeting in hotels and Denny's to all races, both sexes and younger, and they're meeting online."

While the government didn't *lose* the Snipes case, a jury *did* acquit him in February of several felony and other misdemeanor charges. Likely thinking they were doing him a favor (such is the ignorance of juries these days), they found him guilty only of failing to file for 1999, 2000, and 2001. Nevertheless, reports that Snipes was acquitted on major charges are not favorable PR for the IRS and DOJ. So in spite of letters from high-profile friends such as Denzel Washington attesting to Snipes' character, and a public apology by Snipes,¹ Judge William Hodges had to kill the chicken to scare the monkeys.²

"One of the main purposes which drives selective prosecution in tax cases is deterrence," the judge said, at the same time denying that deterrence had anything to do with the sentence, or that Snipes' celebrity influenced it (!). Hochman, however, openly admits the harsh sentence is to "send a loud and crystal clear message to all tax defiers that if they engage in similar tax defier conduct, they face joining [Snipes]."

"[I]hose of celebrity stand greater risk of prosecution," but never fear, "It's the way the system works," said the judge. The system IS the problem, and its propaganda war continues against any airing of illegalities in IRS income tax enforcement, using FEAR and the courts to ensure that only one voice is heard, that of the seditionists and parasites in government. The need for our own media outlet has never been more acute.



Wesley Snipes.

Sources: "Wesley Snipes And The TaxDef War," http://www.forbes.com/home/2008/04/22/snipes-taxes-irs-biz-beltway-cz_jn_0423beltway.html; http://www.usdoj.gov/opa/pr/2008/April/08_tax_275.html; <http://www.theaustralian.news.com.au/story/0,25197,23598522-26397,00.html> (Reuters); http://www.usatoday.com/life/people/2008-04-24-snipes_N.htm (AP).

¹Giving new depths to the phrase "petty tyrant," the judge pointed out that "[Snipes] never mentioned the words tax or taxes in his apology" as if that justified the sentence. (April 24, 2008, wesh.com).

²From an old Chinese proverb.

