

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA)	
)	Case No. 1:07-CV-0352
)	TJM/RFT
Plaintiff)	
)	DECLARATION # 13
v.)	BY DEFENDANT SCHULZ
)	
)	
)	
ROBERT L. SCHULZ;)	
WE THE PEOPLE FOUNDATION FOR)	Date: October 8, 2007
CONSTITUTIONAL EDUCATION, INC.; and)	Time: 10:00 A.M.
WE THE PEOPLE CONGRESS, INC.)	Ctrlm:
)	
Defendants)	

I, ROBERT L. SCHULZ, declare under penalty of perjury:

1. I am a Defendant in the matter captioned above and I make this Declaration in support of the alternative post-judgment motion for a modification of the injunction.
2. I make this Declaration in my individual capacity and as Chairman of Defendant We The People Foundation for Constitutional Education, Inc. (“WTP Foundation”), and as Chairman of Defendant We The People Congress, Inc. (“WTP Congress”).
3. Since I am unable to determine with any certainty what specific acts, speech, and portions of any communication materials are prohibited by the Order, or mandated to be removed by the Order, I do not know what acts, speech, or specific literature or audio/visual materials distributed by Defendants would place Defendants in danger of contempt.
4. The Court has found certain elements of Defendant's speech objectionable and in violation of the IRC. The Court has also ruled that much of Defendant's Speech is clearly protected by the Speech clause of the First Amendment. Complicating the matter

significantly is that virtually all of Defendant's Speech has been an actual exercise of the First Amendment Right to Petition the government for Redress of Grievances, including Grievances regarding the tax system itself.

5. Unfortunately, because the Court's Order is so vague and ambiguous and appears to go well beyond enjoining the distribution of the instructive withholding Forms at the core of the Complaint, Defendants are largely left in a legal quandary and are unable to determine which precise Speech the Court has enjoined. This puts Defendants in a constitutionally impermissible situation: Defendants can continue aspects of their Speech and risk violating the Order inadvertently, or Defendants will be forced, as a practical matter to cease all their Speech, effectively losing all their Rights to Speak about the tax system.

6. Beyond this, the Court's failure to directly address the key constitutional question raised as the primary affirmative defense of the Defendants, i.e., the First Amendment Right to Petition, raises significant and unavoidable questions regarding how this Court's Order will impact the Defendant's exercise of the Right to Petition, and to what extent this Court even enjoys authority to enjoin the exercise of that fundamental Right.

7. As examples of this dilemma Defendant's offer these questions to the Court:

1. Are Defendants barred from urging the People to "withhold their taxes to secure Redress" even though those are the very words of the Continental Congress?

"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." *Continental Congress To The Inhabitants Of The Province Of Quebec.* Journals of the Continental Congress 1774, Journals 1: 105-13

2. Is this Court enjoining the sale and/or distribution of materials that are actual copies of the Defendant's Petitions for Redress of Grievances, of which there are now seven?

3. Is this Court enjoining the practical exercise of the Right to Petition even if that process inherently *requires* public debate regarding the actual Grievance?
4. Is this Court ruling that there is a "tax exception" to the First Amendment Right to Petition, effectively barring Defendants from Petitioning for Redress regarding the nation's tax laws?
5. Is this Court ruling that Defendants do have a Right to Petition for Redress regarding the nation's tax laws but do not have a Right to Speech that conveys the details of that Grievance?
8. In section a(1) of its Order, the Court permanently enjoins Defendants from:

"engaging in activity subject to penalty under 26 U.S.C. § 6700, including the organizing, selling, participation in the organization, or participation in the sale of any plan or arrangement and making a statement regarding the securing of any tax benefit that they know or have reason to know is false or fraudulent as to any material matter;"
9. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. Despite the Court's ruling, Defendants still do not know what precise statements they have made are false. This Court quotes the decisions of other Courts and makes generalized statements that Defendants Speech is false but does not specifically document the precise statutes or regulations that make Defendant's Speech false.
10. In section a(2) of its Order, the Court permanently enjoins Defendants from:

"engaging in activity subject to penalty under § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that they know will, if used, result in an understatement of tax liability;"

11. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. By failing to specifically articulate which elements of Defendant's Speech are false and why they are false under the law, Defendant's are unable to know what Speech will result in an (false) understatement of tax liabilities.

12. In section a(3) of its Order, the Court permanently enjoins Defendants from:

"3. promoting, marketing, organizing, selling, or receiving payment for any plan or arrangement regarding the securing of any tax benefit that they know or have reason to know is false or fraudulent as to any material matter;"

13. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. By failing to specifically articulate which elements of Defendant's Speech are false and why they are false under the law, Defendant's are unable to know what Speech will violate the Order.

14. In section a(4) of its Order, the Court permanently enjoins Defendants from:

"engaging in any other activity subject to penalty under IRC §§ 6700 or 6701 or other penalty provision of the Internal Revenue Code";

15. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. By failing to specifically articulate which elements of Defendant's Speech are false and why they are false under the law, Defendant's are unable to know what specific Speech or acts will violate the Order.

16. In section a(5) of its Order, the Court permanently enjoins Defendants from:

"advising or instructing persons and/or entities that they are not required to file federal tax returns or pay federal taxes;"

17. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. Certainly, not everyone is required to file returns and all people are

not required to pay all federal taxes. By failing to specifically articulate which elements of Defendant's Speech are false and precisely why they are false under the law, Defendant's are unable to know what specific Speech or acts will violate the Order.

18. In section a(6) of its Order, the Court permanently enjoins Defendants from:

"selling, distributing or furnishing any document, newsletter, book, manual, videotape, audiotape, or other material purporting to enable individuals to discontinue or stop withholding, or payment of, federal taxes;"

19. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. By failing to specifically articulate which elements of Defendant's Speech are false and precisely why they are false under the law, Defendant's are unable to know what specific Speech or acts will violate the Order or identify precisely which materials, or portions thereof, the Court is specifically enjoining.

20. In section a(7) of its Order, the Court permanently enjoins Defendants from:

"instructing, advising, or assisting anyone to stop withholding or paying of federal employment or income taxes;"

21. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. By failing to specifically articulate which elements of Defendant's Speech are false and precisely why they are false under the law, Defendant's are unable to know what specific Speech or acts will violate the Order. This is particularly troubling because the law explicitly provides for workers to terminate their withholding agreements, the Government routinely claims compliance with the income tax laws is voluntary, and this Court has, like so many others, failed to specifically articulate in its ruling where any liability for income taxes is explicitly imposed in the law for ordinary American workers to pay the tax.

22. In section a(8) of its Order, the Court permanently enjoins Defendants from:

" obstructing or advising or assisting anyone to obstruct IRS examinations, collections, or other IRS proceedings."

23. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. By failing to specifically articulate which elements of Defendant's Speech are false and precisely why they are false under the law, Defendant's are unable to know what specific Speech or acts will violate the Order or how they will obstruct the IRS in its limited, lawful exercise of its authority to collect taxes.

24. In section "b" of its Order, the Court orders the Defendants to:

"Defendants shall, at their own expense, notify all persons who have purchased or otherwise obtained their tax plans, arrangements, and materials of this Memorandum, Decision and Order and provide them with a copy of this Memorandum, Decision and Order;"

25. Because the Order is impermissibly vague and ambiguous, Defendants do not now how obey the Order. As previously detailed, Defendants distributed literally thousands of the "Blue Folders" in public meetings to anonymous individuals and over the Internet to untold anonymous people. It is not practical, nor possible for Defendants to fully comply with this part of the order.

26. In section "c" of its Order, the Court orders the Defendants to:

"Defendants shall produce to counsel for the United States a list identifying by name, address, e-mail address, telephone number, and Social Security number, all persons and entities who have been provided Defendants' tax preparation materials, forms, and other materials containing false information and otherwise likely to cause others to violate the tax laws of the United States;"

27. Because the Order is impermissibly vague and ambiguous, Defendants do not now how obey the Order. As previously detailed, Defendants distributed literally thousands of the "Blue Folders" in public meetings to anonymous individuals and over the Internet to

untold anonymous people. Beyond this, because the Court has failed specifically and precisely identify which specific Speech of Defendants is false, or why it is false, and furthermore which precise Speech and/or materials are covered by this Order, it is not practical, nor possible, for Defendants to comply with this part of the order.

28. In section "d" of its Order, the Court orders the Defendants to:

"Defendants, and anyone in active concert or participation with them, shall remove from their websites and all other websites over which they have control, all tax-fraud scheme promotional materials, false commercial speech concerning the internal revenue laws, and speech likely to incite others imminently to violate the internal revenue laws;"

29. Because the Order is impermissibly vague and ambiguous, Defendants do not now how obey the Order. Defendants do not know precisely what Speech this Court is ruling false, Defendants do not know what Speech constitutes commercial speech, (much less *false* commercial Speech), Defendants do not know precisely what materials are considered by this Court to be part of the offensive "abusive tax shelter", and Defendants certainly do not know which Speech would be considered to "imminently" incite a tax crime considering the fact that US Supreme Court specifically held in *United States v. Habig*, 390 U.S. 222, 19 L. Ed. 2d 1055, 88 S. Ct. 926 (1968), that the crime of fraudulent preparation of a tax return is "committed at the time the return is filed", leaving Defendants to ponder deeply how *any* of their Speech or materials, commercial or not, can *imminently* incite any violation of any internal revenue law.

30. In section "e" of its Order, the Court orders the Defendants to:

"Defendants shall remove from its websites all abusive tax shelter promotional materials, false commercial speech, and materials designed to incite others to violate the law (including tax laws), and, for a period of one year from the date of this Memorandum, Decision & Order, display prominently on the first page of the website an attachment of this Memorandum, Decision and Order;"

31. Because the Order is impermissibly vague and ambiguous, Defendants do not know how obey the Order. Defendants do not know which precisely speech is included in its "abusive tax shelter", Defendants do not know which Speech or materials are considered promotional materials, do no know which Speech or materials are false, and again do not know which Speech or materials could possibly *imminently* incite a violation of the revenue laws or any other law.

Dated: August 22, 2007

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