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JUDGMENT OF THE THIRD CIRCUIT COURT OF APPEALS (JANUARY 30, 2019)

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

UNITED STATES OF AMERICA,

v.

JAMES KERR SCHLOSSER,

Appellant.

No. 17-2872

Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Criminal Action No. 5-16-cr-00178-001)
District Judge: Honorable Jeffrey L. Schmehl

Submitted Under Third Circuit L.A.R. 34.1(a)
January 8, 2019

Before: AMBRO, KRAUSE, and FUENTES,
Circuit Judges.

This cause came on to be heard on the record before the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit L.A.R. 34.1(a) on January 8, 2019.

On consideration whereof, IT IS ORDERED AND ADJUDGED by this Court that the judgment of the District Court dated August 15, 2017, is hereby affirmed

in part and vacated and remanded in part. All of the above in accordance with the opinion of this Court.

ATTEST:

/s/ Patricia S. Dodszuweit
Clerk

OPINION* OF THE THIRD CIRCUIT COURT OF APPEALS (JANUARY 30, 2019)

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

UNITED STATES OF AMERICA,

v.

JAMES KERR SCHLOSSER,

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AMBRO, Circuit Judge

James Kerr Schlosser appeals his convictions for several tax offenses. His defense at trial was that he was misled to believe he could avoid his tax obligations

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

by renouncing his federal citizenship. Although we vacate one conviction in light of a superseding decision of the Supreme Court, we affirm the District Court's decision to limit the admission of documentary evidence to support Schlosser's beliefs about the tax system.

BACKGROUND

In 1994, Schlosser attended a tax seminar run by one Jeffrey Thayer, who held himself out as a lawyer. At the seminar, Schlosser learned of the distinction between "federal citizenship" and "state citizenship," and he discovered that by renouncing the former he would purportedly relieve himself of the obligation to pay federal income taxes. Armed with this newfound information, Schlosser filed a document with a county official in New Jersey purporting to repudiate his Social Security number in order to reject his federal citizenship. He has not paid federal income taxes since.

The IRS uncovered Schlosser's tax deficiency in 2006 and ordered him to pay back taxes. When he disputed his tax obligations, both the Tax Court and our Court rejected his arguments as "frivolous." *See Schlosser v. Comm'r of Internal Revenue,* 94 T.C.M. (CCH) 346, at *3 (T.C. 2007); *Schlosser v. Comm'r of Internal Revenue,* 287 F. App'x 169, 171 (3d Cir. 2008). He nonetheless persisted in refusing to pay taxes.

Schlosser's persistence ultimately led to criminal action in 2016. He faced charges of "corruptly" impeding the "due administration" of the tax laws, *see* 26 U.S.C. § 7212(a), and of "willfully" failing to pay taxes for 2012 and 2013, *see id §* 7203. At trial, his principal defense was good faith—that is, Schlosser genuinely believed that he had no legal obligation to pay taxes

because of what he had learned at the Thayer seminar. He testified in detail about the seminar, but the District Court excluded from evidence certain materials from the seminar that had informed Schlosser's beliefs about the tax laws. As the Court later explained in a post-trial decision, the seminar materials were "duplicative" of Schlosser's testimony and their presentation to the jury would have been "a poor use of judicial resources." App. 13.

The jury convicted Schlosser on all counts, and he was sentenced to nearly four years in prison and ordered to pay over $400,000 in restitution. His appeal centers on the District Court's decision to exclude the seminar materials from evidence.

DISCUSSION

We begin with one point that is not in dispute. The Government concedes that the evidence was insufficient to convict Schlosser for "corruptly" impeding the "due administration" of the tax laws under 26 U.S.C. § 7212(a). After the trial, the Supreme Court held that a conviction under § 7212(a) requires interference with "a particular administrative proceeding" that was either "pending" or "reasonably foreseeable by the defendant." *Marinello v. United States,* 138 S. Ct. 1101, 1109-10 (2018). Because the jury was not instructed about this requirement, we vacate Schlosser's conviction under 26 U.S.C. § 7212(a). and because we vacate the conviction under § 7212(a), we must remand for a revision of the loss calculation and restitution order and for resentencing on Schlosser's remaining counts of conviction.

All that remains in dispute is the District Court's decision to exclude from evidence certain materials

from the Thayer seminar. The statute of conviction required the Government to prove that Schlosser "willfully" failed to pay his taxes in 2012 and 2013. *See* 26 U.S.C. § 7203. In this context, "willfulness" means "a voluntary, intentional violation of a known legal duty." *Cheek v. United States,* 498 U.S. 192, 200 (1991) (quoting *United States v. Pomponio,* 429 U.S. 10, 12 (1976)). Thus if a jury believes that a defendant had a "good-faith misunderstanding" about the law he disobeyed—even a misunderstanding that was not "objectively reasonable"—then the Government has failed to carry its burden as to willfulness. *Id* at 202. Schlosser's defense at trial was exactly this: his failure to pay his taxes was not willful because he believed, per Thayer's seminar, that he had renounced his federal citizenship. As a result, the key decision facing the jury was whether this belief constituted a good-faith misunderstanding of the law. Given the task before the jury, we must decide whether the District Court acted within its discretion in allowing Schlosser to testify extensively as to the content of the seminar while excluding from evidence the actual materials Schlosser received at the seminar.

We discern no abuse of discretion. The District Court allowed Schlosser to testify comprehensively about the Thayer seminar. The admission of seminar materials, therefore, would have been piling on. This is especially true in light of the intervening tax litigation in which Schlosser was told that the theories espoused at the Thayer seminar were nonsense. In 2008, our Court rejected as "baseless" and "patently frivolous" Schlosser's argument that he was not a federal citizen subject to federal taxation. *Schlosser,* 287 F. App'x at 170-71. This echoed the statement of the

Tax Court that Schlosser had "advanced nothing but frivolous and meritless arguments with respect to his underlying tax liability." *Schlosser,* 94 T.C.M. (CCH) 346, at *3. Whatever Schlosser thought he learned at Thayer's 1994 seminar, these decisions should have set him straight. At the very least, they justified the District Court's decision not to let him needlessly pile seminar materials on top of his extensive testimony about that seminar.

In other words, the litigation culminating in our 2008 decision makes the value of the 1994 Thayer seminar slim at best. This sets Schlosser's case apart from those in which excluded evidence was central to a tax protestor's good-faith misunderstanding of the law. *See, e.g., United States v. Lankford,* 955 F.2d 1545, 1551 (11th Cir. 1992) (holding that tax expert should have been allowed to testify about the reasonableness of a defendant's good-faith belief that certain payment was a non-taxable gift). As the entity charged with ensuring that the evidence presented at trial does not waste time, *see* Fed. R. Evid. 611(a)(2), the District Court did not abuse its discretion in cutting off evidence about the Thayer seminar after extensive testimony on the issue, *see* Fed. R. Evid. 403(b).

Nor were the excluded materials from the Thayer seminar relevant to any of Schlosser's other reasons for thinking he was free from federal taxation. First, he thought his Social Security number was invalid because he obtained it before he turned eighteen. Without a valid Social Security number, he concluded he owed no federal taxes. Second, he believed that several mailings from the IRS waived the Government's right to collect taxes from him. *See, e.g.,* App. 850

(mail from IRS with code MFR-01, meaning "not required to be mailed or filed"); App. 1165 (mail from IRS invalid because it was not signed in ink); App. 1168-73 (IRS failed to respond to 2012 letter from Schlosser and thus waived its right to collect taxes). Finally, Schlosser believed that the Social Security Act corresponded with the "mark of the beast" in Christian eschatology. *Compare* 42 U.S.C. § 666 (a portion of the Social Security Act), *with* Revelation 13:16-18 (the number of the beast is 666). As a result, he felt he could not pay taxes consistent with his religious beliefs. *See, e.g.,* App. 184:1-13; App. 1021:14-20. Materials from the Thayer seminar have no bearing on Schiosser's views on these topics.

In sum, we affirm the convictions for willfully failing to pay taxes under 26 U.S.C. § 7203 and vacate the conviction for corruptly impeding the collection of taxes under 26 U.S.C. § 7212(a). As a result, we remand to the District Court to recalculate the loss amount for sentencing purposes and to correct the restitution award. *See United States v. Diaz,* 639 F.3d 616,619-20 (3d Cir. 2011). This will result in resentencing.

ORDER OF THE THIRD CIRCUIT GRANTING APPELLANT MOTION TO FILE SUPPLEMENTAL APPENDIX (MAY 10, 2019)

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

UNITED STATES OF AMERICA,

v.

JAMES KERR SCHLOSSER,

Appellant.

No. 17-2872
(E.D. Pa. No. 5-16-cr-00178-001)

Before: Thomas L. AMBRO, Circuit Judge.

1. Motion by Appellant to File Supplemental Appendix in support of Petition for Rehearing.

The foregoing Motion by Appellant to file Supplemental Appendix is granted.

By the Court

/s/ Thomas L. Ambro
Circuit Judge

Dated: May 10, 2019

MEMORANDUM OPINION OF THE DISTRICT COURT OF PENNSYLVANIA (MAY 12, 2017)

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

JAMES KERR SCHLOSSER

Criminal No. 16-0178

Before: Jeffrey L. SCHMEHL, Judge.

SCHMEHL, J.

Before this Court is Defendant James Kerr Schlosser's ("Schlosser") post-trial Motion to Arrest Judgment pursuant to Fed. R. Crim. P. 34, Motion for a New Trial pursuant to Fed. R. Crim. P. 33, and Motion for Judgment of Acquittal pursuant to Fed. R. Crim. P. 29. The government filed opposition to the motions. Having read the parties' briefing, the Court will deny Schlosser's motions (Docket No. 61) (Docket No. 62) (Docket No. 64). Additionally, the Court orders Schlosser to cease and desist from filing any further *pro se* motions, as he is represented by counsel.

I. Statement of Facts

On March 6, 2017, Defendant James Kerr Schlosser was found guilty of interfering with the

administration of the internal revenue laws in violation of 26 U.S.C. § 7212(a) and willful failure to file a tax return for the year 2012 and 2013 in violation of 26 U.S.C. § 7203.

On March 20, 2017 Schlosser filed a *pro se* post-trial Rule 34 motion to arrest judgment for lack of subject-matter jurisdiction. On April 3, 2017, and before this Court's ruling on Schlosser's Rule 34 motion, Schlosser's counsel filed a Rule 29 motion for judgment of acquittal and a Rule 33 motion for a new trial. Following the government's response to Schlosser's counseled post-trial motions, Schlosser filed a *pro se* reply to the government's response on April 19, 2017.[1] This Court will now address all three motions separately.

II. Discussion

Defendant Schlosser moves to arrest the judgment of his criminal jury trial that concluded on March 6, 2017, which found him guilty on all three counts of the indictment: 1) interfering with the administration of the internal revenue laws in violation of 26 U.S.C. § 7212(a); 2) willful failure to file a tax return for the tax year 2012 in violation of 26 U.S.C. § 7203; and 3) willful failure to file a tax return for the tax year 2013 in violation of 26 U.S.C. § 7203.

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[1] Defendant Schlosser continues to submit a number of written *pro se* submissions although he is, and has been, represented by Lowell H. Becraft, Jr. This Court orders Mr. Schlosser to cease and desist from filing any further *pro se* motions, as he is represented by counsel.

Additionally, Schlosser moves this Court to grant a new trial and render a judgment of acquittal regarding Count I, violation of 26 U.S.C. § 7212(a). For the reasons stated below, this Court will deny Schlosser's *pro se* motion to arrest judgment (Docket No. 61) (Docket No. 64), as well as his counseled motion for new trial and judgment of acquittal on Count I (Docket No. 62).

A. Motion to Arrest Judgment

Rule 34 of the Federal Rules of Criminal Procedure states that the court must arrest judgment if it does not have jurisdiction over the charged offense. Fed. R. Crim 34. However, this Court need not determine the validity of Schlosser's present motion to arrest judgment because his motion was filed *pro se* although he is currently represented by counsel. It is a long standing rule that motions filed by *pro se* litigants need not be considered in light of representation. "Issues that counseled parties attempt to raise *pro se* need not be considered except on direct appeal in which counsel has filed an Anders brief." *U.S. v. Essig*, 10 F.3d 968, 973 (3d Cir. 1993). Therefore, because the constitution does not confer the right to proceed simultaneously by counsel and *pro se*, Schlosser's motion to arrest judgment is denied.

B. Motion for New Trial

Schlosser moves for a new trial arguing his constitutional rights to present a defense were violated. Because Schlosser's motion (Docket No. 62) was filed by his counsel, the Court will address its validity below.

A Motion for New Trial is governed by Rule 33 of the Federal Rules of Criminal Procedure, which states:

> (a) Defendant's Motion. Upon the defendant's motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires. If the case was tried without a jury, the court may take additional testimony and enter a new judgment.

Fed. R. Crim. 33 (emphasis added). A district court "can order a new trial on the ground that the jury's verdict is contrary to the weight of the evidence only if it believes that there is a serious danger that a miscarriage of justice has occurred—that is, that an innocent person has been convicted." *United States v. Johnson*, 302 F.3d 139, 150 (3d Cir. 2002).

Under Federal Rule of Evidence 611, the court has full discretion to control the "mode and order" of examining witnesses and presenting evidence: 1) to avoid wasting time; 2) to make procedures effective for determining the truth; and 3) to protect the witnesses from harassment and undue embarrassment. FRE Rule 611; *see also United States v. Johnson*, 496 F.2d 1131, 1135-36 (5th Cir. 1974) (finding trial court did not abuse its discretion because the evidence being introduced was cumulative and did not shed light on new facts not previously disclosed).

Furthermore, violating a defendant's right to introduce evidence could also violate the compulsory process clause which allows criminal defendants to secure favorable witnesses. U.S. Const. Amend. VI; *see also Government of Virgin Islands v. Mills*, 956 F.2d 443, 445 (3d Cir. 1992) (finding the compulsory process clause of the Sixth Amendment not absolute and requires a showing that the testimony would have been both material and favorable to the defense).

Here, Schlosser argues his constitutional rights were violated when he was denied the opportunity to defend himself and explain to the jury how and why he decided to "renounce" his United States citizenship, declare himself a "Sovereign Human Being," and ultimately skirt the federal tax laws. (ECF No. 62, at 7.) Schlosser's argument centers on the 1994 seminar, which was comprehensively analyzed at trial, and the fact that he was "denied the opportunity to tell the jury what others told him and was further prevented from showing the jury some of the relevant documents [relied upon]." (*Id.* at 1-6.) Schlosser claims he intended to testify as to what the other presenters told him at the various meetings he attended and was further prepared to produce documents detailing the information provided at these meetings. (*Id.* at 7.) Schlosser contends that this evidence would have persuaded the jury, beyond a reasonable doubt, that he did not willfully defraud the Government.

Schlosser cites a number of cases from several circuits relating to a defendant's right to offer the testimony of witnesses and compel their attendance if necessary, *i.e.* compulsory process. (*Id.* at 8-13.) However, the compulsory process clause of the Sixth Amendment is not applicable in the instant case because Schlosser was not prevented from presenting a defense or calling witnesses, and he was clearly not prevented from admitting testimonial evidence regarding the 1994 seminar. The jury clearly understood the facts surrounding the seminar and what he was told there. The Court did not allow Schlosser to read to the jury voluminous information from the seminar, as it would have been duplicative and a poor use of judicial resources. In fact, Schlosser was only precluded from

providing duplicative testimony in the form of the materials distributed at the 1994 seminar which were provided to the Court in Schlosser's motion for new trial.

The Eleventh Circuit in *Hurn*, cited by Schlosser, found that a court's exclusion of defendant's evidence could violate the Compulsory Process and Due Process guarantees in four different circumstances.[2] *U.S. v. Hurn*, F.3d 1359, 1362-65 (11th Cir. 2004). One such circumstance occurs when a defendant is precluded from introducing evidence that is not directly relevant to an element of the offense, "but makes the existence or non-existence of some collateral matter somewhat more or less likely, where that collateral matter bears a sufficiently close relationship to an element of the offense." *Id.* at1364 (emphasis added).

The court in *Hurn* relied on *United States v. Lankford*, a tax fraud case, where the district court prevented the introduction of defendant's expert

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[2] The four circumstances in *Hurn* are: 1) a defendant must generally be permitted to introduce evidence directly pertaining to any of the actual elements of the charged offense or an affirmative defense; 2) a defendant must generally be permitted to introduce evidence pertaining to collateral matters that, through a reasonable chain of inferences, could make the existence of one or more of the elements of the charged offense or an affirmative defense more or less certain; 3) a defendant generally has the right to introduce evidence that is not itself tied to any of the elements of a crime or affirmative defense, but that could have substantial impact on the credibility of an important government witness; and 4) a defendant must generally be permitted to introduce evidence that, while not directly or indirectly relevant to any of the elements of the charged events, nevertheless tends to place the story presented by the prosecution in a significantly different light, such that a reasonable jury might receive it differently. *U.S. v. Hurn*, F.3d 1359, 1362-63 (11th Cir. 2004).

testimony as to defendant's reasonable belief—which was not directly relevant to the offense, but the collateral matter bore a sufficiently close relationship to an element.[3] *United States v. Lankford*, 955 F.2d 1545 (11th Cir. 1992). Because the defendant in *Lankford* believed he was acting reasonable, and because the trial court allowed the government to offer expert testimony, the Eleventh Circuit found the trial court abused its discretion by "exclude[ing] otherwise admissible opinion of a party's expert on a critical issue, while allowing the opinion of his adversary's expert on the same issue." *Id.* at 1552.

Assuming *arguendo* that the 1994 seminar is a collateral matter which could explain or justify Schlosser's misguided belief that he was not subject to the tax laws of the United States, Schlosser was still not prevented from presenting this defense. Schlosser provided evidence at trial regarding the seminar and its content to rebut the Government's case against him. The jury heard full well about renouncing

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[3] In *Lankford*, the defendant was charged with filing false income tax returns after not reporting a $1,500 check he received—which he asserted was a gift rather than taxable income. *U.S. v. Lankford*, 955 F.2d 1545 (11th Cir. 1992). The court concluded the expert's testimony was indirectly relevant because the testimony intended to explain the defendant's state of mind and whether he willfully violated the tax laws. *Id.* at 1551. The lower court determined that the tax expert offered by the defense would not be allowed to testify as to the reasonableness of the defendant's belief that the money was a gift and not taxable income which must be reported. *Lankford*, 955 F.2d at 1550. However, the Eleventh Circuit stated, the "[defendant's] expert's testimony revealed that a legitimate and well-founded legal analysis would have supported the reasonableness of that belief." *Id.*

citizenship. Schlosser retold the story relating to the seminar at trial; thus, the introduction of reading materials and duplicative evidence clearly would not have produced a different result. Allowing Schlosser to introduce many documents from the 1994 seminar would impede the function and efficiency of this Court and be duplicative testimony.

Accordingly, this Court finds that Schlosser's constitutional rights were not violated and his motion for new trial is denied.

C. Judgment of Acquittal Regarding Count I

Rule 29 of the Federal Rules of Criminal procedure requires the court enter a judgment of acquittal of any offense "for which the evidence is insufficient to sustain a conviction." Fed. R. Crim. P. 29(a). The Third Circuit has stated, in reviewing the evidence in the light most favorable to the prosecution, a judgment of acquittal should be granted if any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *United States v. Caraballo-Rodriguez*, 726 F.3d 418, 424-25 (3d Cir. 2013). In addition, the jury's findings must be afforded deference and all reasonable inferences must be drawn in favor of the verdict. *United States v. Riley*, 621 F.3d 312, 329 (3d Cir. 2010).

Schlosser argues that this Court should grant his motion for acquittal and enter a verdict of not guilty on Count I, interference with the administration of the internal revenue laws in violation of 26 U.S.C. § 7212(a). To prove a violation of 26 U.S.C. § 7212(a) ("Omnibus Clause"), the government must prove beyond a reasonable doubt that the defendant "corruptly endeavored to obstruct or impede the due

administration of the Internal Revenue Code." *United States v. Marek*, 548 F.3d 147, 150 (1st Cir. 2008). Succinctly, a violation of the statute occurs when a defendant intends to impede the administration of tax laws.

Schlosser contends that the two expert witnesses produced by the government were insufficient for the jury to find him guilty of interfering with the administration of tax laws beyond a reasonable doubt. Schlosser complains that the IRS agents' testimony that Schlosser made their jobs "harder to perform" did not amount to "obstructing or impeding the due administration of the tax laws." (ECF No. 62, at 15.) Taken together, along with all of the other evidence in the case, including the creation of the Corporate Soles and Business Trusts, and the gold-for-cash testimony of Leroy Glick and John Nolt, reasonable jurors could have, and did, infer that Schlosser interfered and obstructed with the administration of the tax laws of the United States. Thus, viewed in the light most favorable to the government and drawing all reasonable inferences in favor of the jury's verdict, the Court finds Schlosser's conviction on Count I is supported by sufficient evidence to find Schlosser was guilty of the offense.

III. Conclusion

Therefore, this Court will deny Schlosser's motion to arrest judgment (Docket No. 61), motion for a new trial (Docket No. 62), and motion for judgment of acquittal (Docket No. 62). Furthermore, the Court orders the Defendant to cease and desist from filing any further pro se motions, as he is represented by counsel.

ORDER OF THE DISTRICT COURT OF PENNSYLVANIA (MAY 15, 2017)

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

JAMES KERR SCHLOSSER

Criminal No. 16-0178

Before: Jeffrey L. SCHMEHL, Judge.

AND NOW, this 12th day of May, 2017, upon consideration of Defendant James Kerr Schlosser's *pro se* Motion to Arrest Judgment (Docket No. 61), Motion for New Trial and Judgment of Acquittal filed by counsel of record (Docket No. 62), and a second *pro se* Motion to Arrest Judgment, Set Aside the Jury Verdict, and Vacate the Conviction (Docket No. 64), and all supporting and opposing papers, and for the reasons stated in the accompanying memorandum opinion, it is hereby ORDERED as follows:

The motion of Defendant James Kerr Schlosser (Docket No. 61) is DENIED;

The motion of Defendant James Kerr Schlosser (Docket No. 62) is DENIED;

The motion of Defendant James Kerr Schlosser (Docket No. 64) is DENIED.

BY THE COURT:

/s/ Jeffrey L. Schmehl
Judge

ORAL DECISION OF THE DISTRICT COURT (NOVEMBER 7, 2017)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES KERR SCHLOSSER,

Defendant.

Case No. 16-cr-178

Before: The Hon. Jeffrey L. SCHMEHL,
United States District Court Judge.

[Transcript p. 147-148]

THE COURT: Okay. Now we have a time reference.

Q. Exhibit Number 1. Open it up. There's a file folders—file folders on the bench in front of you.

A. Yes.

Q. And what I would ask of you is if you could recognize, tell us whether or not you recognize, all of the pieces of paper in proposed Defense Exhibit Number 1.

A. Yes.

Q. Where did you get these documents?

A. At the State Citizenship Seminar.

Q. Did you—

A. They give you a big thick book.

Q. All right. Is this a sampling of some of the materials you acquired at this State Citizenship meeting?

MR. MILLER: Objection, Your Honor. There has been no proper foundation for this proposed exhibit.

MR. BECRAFT: That's what I'm laying, Your Honor.

THE COURT: All right. Overruled.

Q. When you attended the meeting in Westchester at some hotel, early 1994, was there a presentation given that discussed and utilized these materials?

A. Yes. And they highlighted these sections as part of what we learned.

Q. Were there more pieces of paper that you obtained at that meeting?

A. Yeah.

Q. This. Is this a representative sampling of some of the pieces of paper, some of the documentation, that you acquired at that first meeting regarding state citizenship?

A. Yes. I think so.

Q. Is this something you read and relied upon—

A. Absolutely.

Q. —in the formation of your beliefs?

A. Yes.

MR. BECRAFT: Your Honor, move for the admission of proposed Defense Exhibit Number 1.

MR. BECRAFT: Objection. Two grounds, lack of foundation and hearsay.

THE COURT: I'm going to deny that on the grounds of hearsay.

Q. Now, can you summarize for the benefit of the jury the substance of the message that you received at this first meeting that related to state citizenship?

A. Yeah. I was starting to do that before. And do I have to do it just from these documents, or are you allowed to—

Q. No, that's not admitted, so it's—

THE COURT: You should probably do it not from the documents.

THE WITNESS: Oh, these are not admitted.

[. . .]

HEATED SIDEBAR DISCUSSION

THE COURT: What's your understanding of a corporate sole or corporate—

MR. BECRAFT: Well, I was leading into it, but I got an objection from the government, because I fulfilled my obligation as a lawyer, if you're going to be talking about something, bring it along. And I'm more than happy to let him look at it all he wants.

MR. MILLER: That's not my concern now. My concern is, first of all, he should be testifying from his memory. He is flashing this book around, trying to

create the impression that this person read voluminous documents and what have you, which caused him to form a good-faith belief. That's improper.

MR. BECRAFT: No, it isn't, Judge. And while we're at it, you know, last night I prepared, pulled up some files, and I would like to make this argument at this time in reference to, you know, some of the exhibits I've offered and what will be coming up next.

I think that the defendant has a right to present a complete defense. It's his constitutional right, predicated upon the 6th Amendment. Now, there's a number of courts that talk about the type of evidence that you can offer when you're exercising your right to present a defense. Last night, I ran off a—I've got it with me, if the Court would like to have it, I've got a quote from a—it's an 11th Circuit case, Judge, but it supports my position about the type of evidence you can proffer when you're pursuing your right to a complete defense. The case is called the *United States vs. Hurn*, and it's the most developed—you know, I've tried to locate all the authority in all the circuits, Judge, that represent a legal conclusion from the courts about what type of evidence you can present when you pursue your defense. And to me this *Hurn* case really hits the nail on the head. And this type of material—I'm not offering this, but these other exhibits fall within the classification of what the—

THE COURT: Not the evidence there. It's not Exhibit 2. It's trumped up pieces of old cases—

MR. BECRAFT: Oh, that's what he had, and I'm dealing with it. That's what he got from going to these meetings.

MR. MILLER: Your Honor, my concerns are threefold when it—particularly documentary evidence. First of all, we talk about—

THE COURT: Well, he's not admitting this. As far as I know, he's not even marking it.

MR. MILLER: It's the flashing around of things to give them questions. Because he can ask him—he can ask him questions about his, you know, his views, but to suggest somehow, without actually offering it in, that one, he looked at this and so therefore he formed this opinion, which gave him a good-faith basis that he wouldn't have to file.

MR. BECRAFT: His testimony is going to be what he believed.

THE COURT: That's right.

MR. BECRAFT: Now if I—

THE COURT: That's not preventing a defense.

MR. BECRAFT: Well, he's objecting to me using this. If I hadn't brought it to court, he would be objecting to why I didn't—

THE COURT: So the next thing you're going to get into is corporate soles, right?

MR. BECRAFT: That's correct. And I would like—

THE COURT: Why don't you just ask him about it and see what he says.

MR. BECRAFT: Okay. All right. But I mean, now, I just—this is what he picked up at the meetings.

MR. MILLER: But it's theater. This is theater.

MR. BECRAFT: No, it's not theater.

THE COURT: All right. We're going to go another ten minutes, we can take it up in recess. And maybe you can focus your client.

MR. BECRAFT: Okay.

(Conclusion of sidebar)

THE COURT: All right, members of the jury, we're going to resume questioning about a particular topic at this time, and then shortly, we'll take our afternoon recess.

And, Mr. Becraft, ask your next question of your

[. . .]

[Transcript p. 181-187]

Q. And is there a way that you can summarize what it is that you learned as a result of attending this seminar regarding corporate soles?

MR. MILLER: Your Honor, I'm sorry. Objection as to form. He can talk about his—what his opinion—

THE COURT: Yeah, the objection's sustained. It's not relevant, and it's not proper for him to summarize what people told him.

MR. BECRAFT: I'm not offering it for the truth of the matter, Your Honor.

THE COURT: You can say, after hearing this, what did you do, or what did you think? But he's not allowed to like repeat what people said.

MR. BECRAFT: Okay.

Q. In light of the Court's admonition, what is it that you ultimately reached in reference to a conclusion or a belief about the use of these entities regarding corporation soles?

A. Okay. I believe that they are very, very valid ways to hold church property in perpetuity. So it's—a corporation just kind of gives you protection, but it also enables you perpetuity. So, if one, for instance, Catholic priest dies, another can take his office, and the office doesn't change.

So in a *Law Review* article from right here in Pennsylvania, in Carlisle, they had—in 1978 there was a corporation sole Law Review article, and it says that—

MR. MILLER: Objection, Your Honor, it's a Law Review article. It's—

THE COURT: Yeah, that's not what—that's not what I said.

THE WITNESS: Okay, well—

THE COURT: All right, we're going to take our afternoon recess at this time. We're in recess, the jury can be taken from the courtroom. Ten or 15 minute recess and then we'll resume.

(Jury out)

THE COURT: All right. Just to be clear when we return, my ruling is this. I'm sustaining the Government's objections regarding written hearsay by others. I allowed Exhibit 3 because it was a document prepared by Mr. Schlosser himself.

Now, the questions should be in this form. Did you attend a seminar in Austin Texas for three days?

Yes. Okay. After you left that seminar, what did you think, and you know, what did you do, based upon what you heard at the seminar? Not what you heard at the seminar, based upon what you heard at the seminar.

MR. BECRAFT: Well, could I make a record on that, Judge? And I'd like to—

THE COURT: Yeah.

MR. BECRAFT: I was mentioning at the sidebar, you know, the right to present a—the constitutional right to present a defense. I'd like to direct the Court's attention to the case of *United States vs. Hurn*, 368 F.3d 1359, it's an 11th Circuit case—

THE COURT: All right. Do you have a copy of that case?

MR. BECRAFT: Well, I have a—my notes. What I'd like to do is provide the Court with, you know, the part of that opinion that, you know, I believe, is relevant. And it outlines the various things you can offer in the way of proof regarding an element of the case. And we're contesting the elements of—all of the elements of all three counts of the indictment, but primarily, what is his intent?

Now, I would offer the statements that are made at the course of both the state citizenship meeting, as well as the statements that are made to him at this other meeting regarding corporate soles—I'm not offering it for the truth of the matter, I'm offering it for a demonstration of what was his intent? And, you know, *Hurn* says, and I think *Hurn's* one of probably the best cases, it tells you the type of evidence you can offer regarding your

right to present a complete defense. And you certainly can offer evidence regarding an element.

And one of the elements that I told the jury from the very beginning, you know, of the contested elements, what's the intent? And so I would, you know, the Court looks at the statements that are made at these meetings as being hearsay, which a typical lawyer's going to—you know, all lawyers say that. But, you know, if you study the cases on what can be shown in reference to intent, I mentioned in my trial brief that the *Wellendorf* case, a 9th Circuit case, the *Palo* (phonetic) case and the *Schomber* (phonetic) case, and they indicate that you can offer, for state of mind purposes, you know, the—what we would consider hearsay statements if they relate to state of mind.

THE COURT: But. I'm not sure they're relate to state of mind.

MR. BECRAFT: I'm sorry—

THE COURT: Otherwise, in every case, a defendant would have to testify about everything he heard and read in his whole life.

MR. BECRAFT: You know, Judge, if you did that, the jury would kill the defendant. You know, so there's a limit to a practical limit—but then it also has to be relevant.

THE COURT: All right. I went to Austin, I heard from Mr. Thayer, I heard from Ms. Miller. You know, they spoke for three days, and after I left, I felt I could do this.

MR. BECRAFT: I also think that—well, if I could, Your Honor, here's a—I hate to reuse—it's the 11th Circuit case is the cause—

THE COURT: So you have the Hurn case?

MR. BECRAFT: And—well, I've got—on this point right here, this relates to 11th Circuit again—

MR. MILLER: May I have a copy, please?

MR. BECRAFT: Yeah, I'm getting ready to give it to you, I ran it off last night. *United States vs. Juan*.

MR. MILLER: It would have been nice to have a copy of the entire opinion.

MR. BECRAFT: Well, I—the issue came up during the course of this trial.

THE COURT: Well, he can look it up, and I can look it up too. I can never make a ruling without seeing the-MR. BECRAFT: Yeah.

THE COURT:—opinion and the facts of the case. Courts can't make rulings on blurbs.

MR. BECRAFT: I know. The only thing I had, Your Honor, was my notes. And I keep notes on evidence questions, and, you know, this *Juan* case seems to me, you know, what I gather from at least the quote right here, is that, you know, you can offer—you know, having somebody state the ultimate conclusion is one thing. But, you know, being able to per-show the foundation of your belief is quite another. And being able to show the foundation, you know, adds greater credibility to your belief.

Like, for example, you know, I learned to offer the, you know, Exhibit Number 2, state citizenship cases. You know, I think he can—if he relied upon

cases, he can say what he learned from them. But then I also maintain it's admissible, because, you know, as Juan says, you know, just simply stating a belief without having the ability to prove the foundation or the source of the belief, you know, the source of the belief is equally admissible.

And that's what I get out of *Juan*, and that's what I get out of *Hurn*. Both 11th Circuit, my circuit. That's why—

MR. MILLER: Well, certainly, Your Honor, a defendant is entitled to present a defense. But at the same time, the government has the right to cross-examine the source of the information. To simply get it documented and admitted in evidence, written by someone else, we have no opportunity to cross examine, it's not proper. He—it would have been helpful if we'd had the entire opinion.

We're clearly not trying to deny him. He's got a right to present a defense, but he can say, as the Court pointed out, I looked at—I attended the seminar, and as a result of attending the seminar, I reached a conclusion, blank blank blank for the following reason, without quoting exactly what they said.

THE COURT: We'll take our break.

MR. BECRAFT: We made our record.

THE COURT: We'll take our break, and I'll note that, and I'll note what you said, but that doesn't mean everything. That doesn't mean fragments of all the cases come in. Depending upon what it is, it may come in to support someone's belief.

MR. BECRAFT: Okay.

THE COURT: But I don't think I've seen anything yet that would meet the standard of *Juan*. I'm trying to look at the Juan facts right now. Okay. But I'll do that during the break. All right? Court's in recess.

(Recess)

(Jury in)

COURTROOM DEPUTY: All rise. Court is again in session. Thank you, you may be seated.

THE COURT: All right. Let the record reflect, counsel is present, the defendant is back on the witness stand in the middle of his direct testimony, the jury is in the box. Counselor, you may proceed.

MR. BECRAFT: May it please the Court, could the defendant be shown—the Government—I would like to *see* Exhibit 1-5E.

THE COURT: 1-5E.

MR. BECRAFT: 1-5E.

THE COURT: It's up.

DIRECT EXAMINATION, CONTINUED

[. . .]

[Transcript p 192-194]

A. Okay. Well, that's—one page of that's in here.

Q. Okay. How about 16? Was that part of the course material?

A. Yes.

Q. 17. Was that part of the course material?

A. Yes.

Q. 19. Was that a part of the course material?

A. Yes.

Q. Did you know anything about the matters that are covered in those exhibits we just listed off prior to going to this meeting?

A. I knew a little bit about 19 from state citizenship. I didn't know much about 17, which is a comparison of the corporation sole—

MR. MILLER: Objection as to—

Q. Yeah, let me get them admitted, okay? Just listen to my question.

A. Okay.

Q. Let me withdraw any pending questions. Did—for those exhibits right there, that was the subject of discussion and study at the meeting. Correct?

A. Yes.

Q. Did you learn something from each of these numbered exhibits, let me repeat them, 13, 16, 17, 19, and 20, as a result of attending the meeting in—

A. Yes, absolutely.

Q. Do these have some bearing upon why you filed—created these two corporation soles, which are admitted in Government Exhibit 1-5E—

A. Yes.

Q. and 1-5B?

A. Yes.

Q. Okay.

MR. BECRAFT: Your Honor, I move for the admission of 13, 16, 17, 19, and 20.

MR. MILLER: Your Honor, I object to the admissibility of 13, 16, 17, 19, and 20 as being hearsay, and they are proposed exhibits and not actual exhibits. They're all hearsay.

THE COURT: 13, 16—

MR. MILLER: 17, 19, and 20.

THE COURT: All right. I will sustain your motion to everything but 13. 13 is an outline of the three-day seminar, and I will allow that to give some perspective. All right?

[. . .]

ORDER OF THE THIRD CIRCUIT DENYING SURPETITION FOR REHEARING (MAY 21, 2019)

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

UNITED STATES OF AMERICA,

v.

JAMES KERR SCHLOSSER,

Appellant.

No. 17-2872

Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Criminal Action No. 5-16-cr-00178-001)
District Judge: Honorable Jeffrey L. Schmehl

Submitted Under Third Circuit
L.A.R. 34.1(a) January 8, 2019

Before: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN, HARDIMAN, GREENAWAY, Jr., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, and FUENTES*, Circuit Judges.

* Senior Judge Fuentes is limited to panel rehearing only.

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

By the Court,
/s/ Thomas L. Ambro
Circuit Judge

Dated: May 21, 2019

Lmr/cc:
Bernadette A. McKeon
Robert A. Zauzmer
James Kerr Schlosser

AFFIDAVIT IN SUPPORT OF APPELLANT'S MISSING EVIDENCE

Exhibits 21 and 22 are parts of exhibits that were withheld from the court and jury by Larry Becraft, defendant's own trial lawyer.

Becraft was at the defendant's home the morning of Day 2, February 28, 2017 the first day of testimony and our 4 Exhibit Books were due. It was about 7:15 AM and Becraft got a call, and took it privately in a bedroom. To appellant's shock, he stormed out of the bedroom, white as a ghost, bee-lined to the exhibit books, and started removing Exhibits 21, 22, and two others that appellant believed had other questionable actions, possibly Brady or Bivins complaint material in them. Becraft's hands were shaking like crazy, (he had never done that), and appellant objected, Me-"Larry, what are you doing"? B-"Oh the judge will never accept these exhibits". Me-"That's OK, let him deny them, Larry why are your hands shaking like that" . . . B "Oh they do that sometimes" Me-"No leave them in there, if he denies them we can bring it up on appeal" B-"No, I'll cover it in cross-examination". Becraft persisted in removing them, and never put IRS CI Agent Michael Castellano on the stand and gave IRS agent Diane Ramos a pass in his weak performance of a cross. (App 423-433). That's when I realized I was getting railroaded. Thankfully, the full Exhibits 21 and 22 were entered in the Supplemental Appendix for re-hearing that the Appellant's Appeals lawyer refuse to do. In the sight of God I certify that this is true to my recollection.

/s/ James Kerr Schlosser

LEGAL COMMENTARY:

An unrebutted Affidavit of Defense is prima facie evidence. An affidavit not rebutted or contradicted is prima facie evidence and will remain sufficient in the judgment of the law to establish a given fact or group or chain of facts, *State vs. Burlingame*, 146 Mo. 207, 48 S.W. 72, 6 Pet. 632, 1 Starkie, Ev. 544. Indeed, no more than [affidavit] is necessary to make the prima facie case. *United States vs. Kis*, 658 F.2d 526 (7th Cir. 1981); *certiorari denied* 50 U.S.L.W. 2169; S.Ct. March 22, 1982. In *Pennsylvania ex rel. Hendrickson vs. Meyers*, 393 Pa. 224, 228, 144 A.2d 367, 370 (1958), the Pennsylvania Supreme Court held:

> The Supreme Court, adopting the definition in Black's Law Dictionary, defined "evidence" as any species of proof legally presented at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, concrete objects, etc.

JURAT/ACKNOWLEDGEMENT

Lancaster County

CERTIFIED AND SUBSCRIBED TO before me this 11th day of October 2019, before me, Marilyn Lopez, Notary Public, James Kerr Schlosser personally stood before me, or is known to me, and subscribed his name on this instrument, and acknowledged that he executed this document in good faith and with clean hands.

/s/ Marilyn Lopez
Notary Public
My commission expires on: 12/23/19

SCHLOSSER'S EXHIBIT LIST

UNITED STATES OF AMERICA
v.
JAMES KERR SCHLOSSER

Case No. 16-cr-178-JLS

Ex.:	Description	Offered	Admitted
1	State citizenship course materials		
2	State citizenship cases		
3	Schlosser affidavit, May 1994		
4	SSA documents (Ron Paul, etc)		
5	SSA document (printed July 5, 2003)		
6	Jan. 2008 SSN objections		
7	FOIA requests to SSA		
8	Lawyer SSN appeal to Penn DOT		
9	ITIN immigration support		
10	Religious objections re SSN to Mennonite Financial		
11	FOIA Requests to IRS		

12	Corporation Sole seminar outline		
13	Corporation Sole Def. of Church		
14	Dickenson Law Review Article		
15	Non-interest bearing accounts		
16	Corporation Sole definition		
17	Corporation Sole facts		
18	Nevada Corporation Sole laws		
19	Corporation Sole resources		
20	Corporation Sole almsgiving		
21	Tax lien for 1994		
22	Ramos notes & MOI		
23	BMM SS4 request		
24	Grand Jury letter (2009)		

CRIMINAL JUDGMENT
(AUGUST 14, 2017)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

JAMES KERR SCHLOSSER

Case Number: 0313 5:16CR00178-001

USM Number: 75261-066

The Defendant was found guilty on count(s) 1, 2 and 3 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
26 U.S.C. § 7212(a)	Attempts to interfere with administration of the internal Revenue Jaws	12/31/14	1
26 U.S.C. § 7203	Willful failure to file tax returns	12/31/14	2,3

The defendant is sentenced as provided in pages 2 through 6 of this Judgment. This sentence is imposed pursuant to the sentencing Reform Act of 1984.

8/11/2017
Date of Imposition of Judgment

/s/ Jeffrey L. Schmehl
United States District Judge

Date: August 11, 2017

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

36 MONTHS on Count 1 and consecutive terms of 5 MONTHS on each of Counts 2 and 3, to produce a total custodial sentence of 46 MONTHS.

The defendant is remanded to the custody of the United States Marshal.

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of:

1 YEAR on each of COUNTS 1 THROUGH 3, all such terms to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The

defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

STANDARD CONDITIONS OF SUPERVISION

1. the defendant shall not leave the judicial district without the permission of the court or probation officer;

2. the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;

3. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

4. the defendant shall support his or her dependents and meet other family responsibilities;

5. the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;

6. the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;

7. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;

8. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

9. the defendant shall not associate with any persons engaged in criminal activity and shall not

associate with any person convicted of a felony, unless granted permission to do so by the probation officer;

10. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;

11. the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and

13. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION

The court has reviewed these conditions of supervision and finds that they are reasonably related to statutory goals, consistent with United States Sentencing Commission policy and that the liberty deprivations are no greater than is reasonably necessary.

The defendant is to fully cooperate with the Internal Revenue Service by filing all delinquent or amended returns and by timely filing all future returns that come due during the period of supervision. The

defendant is to properly report all correct taxable income and claim only allowable expenses on those returns. The defendant is to provide all appropriate documentation in support of said returns. Upon request, the defendant is to furnish the Internal Revenue Service with information pertaining to all assets and liabilities, and the defendant is to fully cooperate by paying all taxes, interest and penalties due, specifically in the amount of $405,650, and otherwise comply with the tax laws of the United States.

The defendant shall provide the U.S. Probation Office with full disclosure of financial records and include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of financial dealings and shall provide truthful monthly income statements.

The defendant is prohibited from incurring any new credit charges or opening additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with a payment schedule for any fine or restitution obligation. The defendant shall not encumber or liquidate interest in any assets unless it is in the direct service of the fine or restitution obligation or otherwise has the express approval of the Court.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Fine	Restitution
Totals	$150.00	$	$405,650

Name of Payee

Internal Revenue Service
IRS-RA CS
Attn: Mail Stop 6261;
Restitution
333 West Pershing Ave.
Kansas City, MO 64108

Restitution Ordered

$405,650

SCHEDULE OF PAYMENTS

A. Lump sum payment of $405,8000 due immediately, balance due

in accordance below; or

F. Special instructions regarding the payment of criminal monetary penalties:

It is recommended that the defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program and provide a minimum payment of $25 per quarter towards the fine and special assessment. In the event the entire amount is not paid prior to the commencement of supervision, the defendant shall satisfy the amount due in

monthly installments of not less than $250, to commence 30 days after release from confinement. The defendant shall notify the United States Attorney for this district within 30 days of any change of mailing address or residence that occurs while any motion of the fine remains unpaid.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

INDICTMENT
(APRIL 6, 2016)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

JAMES KERR SCHLOSSER

Violations:
26 U.S.C. § 7212(a) (attempts to interfere with administration of the internal revenue laws–1 count)

26 U.S.C. § 7203 (willful failure to file tax returns–2 counts).

The Grand Jury Charges That:

At all times relevant to this indictment unless other indicated:

BACKGROUND

1. The Internal Revenue Service was an agency of the United States Department of Treasury charged with enforcing the tax laws of the United States.

2. The Internal Revenue Code required every individual, certain types of corporations, trusts and, in some cases estates who had received gross income subject to taxation in excess of the exemption amount

established by Congress, to make and file a tax return with the Internal Revenue Service.

3. The types of gross income which necessitated the preparation and filing of a federal income tax return included: (a) compensation for services, fees, commissions, and fringe benefits; and (b) gross income derived from a business enterprise.

4. The Office of the Nevada Secretary of State was a Nevada public agency where documents that had created corporations, business trusts, partnerships, and other artificial entities, were filed.

5. A business trust was an unincorporated organization created by a declaration of trust. As an artificial entity, a business trust was used to circumvent certain restrictions imposed upon corporate acquisitions while, at the same time, providing the creators of the business trust with similar limited liability protection provided to the equity owners of a corporation.

6. A foreign business trust under Nevada law was an artificial entity formed pursuant to the laws of a foreign nation or jurisdiction and denominated as such, pursuant to the laws of the foreign nation or jurisdiction.

7. A corporation sole was an artificial entity consisting of a single incorporated office and occupied by a single natural person. A corporation sole could pass, without an interval in time, from one officer holder to the next successor-in-office giving the position legal continuity with the subsequent officer holders having identical powers and possessions to their predecessors.

8. Person "A" was an individual known to the grand jury who served as trustee for

Surgical Resource Business Trust and Lightsource Medical Business Trust.

THE DEFENDANT

9. Defendant JAMES KERR SCHLOSSER, a manufacturers' sales representative, sold medical equipment and surgical devices to health care providers and was compensated through commission payments based on the gross sales that defendant SCHLOSSER made for his clients.

10. From in or about 1987 until on or about December 31, 1992, defendant JAMES KERR SCHLOSSER filed federal income tax returns and paid taxes that were due and owing on the income that he had earned.

11. For tax years 1990 and 1992, defendant JAMES KERR SCHLOSSER was entitled to receive two tax refund checks. However, on or about June 6, 1994 and August 29, 1994, defendant SCHLOSSER's tax refund checks were sent to the New Jersey Office of Child Support Enforcement.

12. On or about April 25, 1994, defendant JAMES KERR SCHLOSSER filed a document with the Superior Court of Gloucester New Jersey in which he renounced his United States Citizenship, his social security, and declared himself to be a "Sovereign Human Being."

13. From at least 1995, defendant JAMES KERR SCHLOSSER has continued to earn gross income but has failed to file federal income tax returns with the Internal Revenue Service.

ENTITIES CREATED BY DEFENDANT SCHLOSSER

14. Defendant JAMES KERR SCHLOSSER created an artificial entity which he named the Office of the Overseer of the Berean Medical Mission and his Successor, A Corporation Sole (EIN #91-2120368), which he registered with the Nevada Secretary of State.

15. Defendant JAMES KERR SCHLOSSER created an artificial entity which he named the Office of the President of Surgical Resource Group and His Successor, A Corporation Sole (EIN# 91-2010118), which he registered with the Nevada Secretary of State.

16. Defendant JAMES KERR SCHLOSSER created an artificial entity which he named the Surgical Resource Business Trust (EIN#20-6157212), which he registered with the Nevada Secretary of State.

17. Defendant JAMES KERR SCHLOSSER created an artificial entity which he named the Lightsource Medical Business Trust (EIN# 20-615217), which he registered with the Nevada Secretary of State.

18. Defendant JAMES KERR SCHLOSSER created an artificial entity which he named the Office of Elder of the International Fellowship of Biblical Stewards and His Successor, A Corporation Sole (no EIN#), which he registered with the Nevada Secretary of State.

INVESTMENT COMPANIES AND CREDIT UNION

19. Investment Company #1 was a financial services organization that provided investment advice and services to individual, corporate and institutional investors.

20 Investment Company #2 was a financial services organization that provided investment advice and services to individual, corporate and institution investors.

21. Credit Union #1 was a faith-based association credit union that provided banking services to its members.

COIN DEALERS

22. Coin Dealer #1 sold gold coins to the Office of the President Surgical Resource Group and His Successor, A corporate Sole, for the benefit of defendant JAMES KERR SCHLOSSER.

23. Coin Dealer #2 sold gold coins to individual known to the grand jury as Person "A" for the benefit of defendant JAMES KERR SCHLOSSER.

24. Coin Dealer #3 sold gold coins to defendant JAMES KERR SCHLOSSER who told Coin Dealer #3 that he [SCHLOSSER] did not have to pay taxes because he was a sovereign citizen.

25. Coin Dealer #4 sold and purchased gold coins from defendant JAMES KERR SCHLOSSER.

SCHLOSSER'S CONCEALMENT OF INCOME

26. Defendant JAMES KERR SCHLOSSER directed health care providers, who had purchased medical equipment and surgical supplies from him, to make their checks payable to one or more of the corporation soles and business trusts that he had created. The checks, which were initially sent to several business addresses in Nevada, were forwarded to defendant SCHLOSSER or to an individual known to the grand jury as Person "A" both of whom lived within the

Eastern District of Pennsylvania. The checks were then deposited into accounts in the names of the entities that had been established at investment company #1 or investment company #2.

27. Defendant JAMES KERR SCHLOSSER deposited some of the money that he received from his health care provider clients into an account that he had established at Credit Union #1 and wrote checks on this account to pay, among other things, personal expenses.

28. When he opened the investment account at Investment Company #1, defendant JAMES KERR SCHLOSSER indicated on the Account Agreement/W-9 Form that the account should be a non-interest bearing account.

29. Defendant JAMES KERR SCHLOSSER's justification for not wanting to earn interest on the account that he established in the name of the Office of the Overseer of the Berean Medical Mission, and His Successor, a Corporate sole account, was that since Jesus would not take interest, he too did not want to earn interest.

30. By placing his commission payments in a non-interest bearing account, defendant JAMES KERR SCHLOSSER caused Investment Company #1 not to issue IRS Form 1099-INT to him, or the Internal Revenue Service, thus preventing the Internal Revenue Service from learning about the existence of the account at a time when defendant JAMES KERR SCHLOSSER was not filing federal income tax returns.

31. On or about April 26, 2004, defendant JAMES KERR SCHLOSSER opened a second account in the

name of Surgical Resource Business Trust at Investment Company #1 which listed an individual known to the grand jury as Person "A" as trustee. Defendant SCHLOSSER's instructions on the new account directed all financial statements associated with the Surgical Resource Business Trust Account be sent to home address of Person "A."

32. On or about September 20, 2004, defendant JAMES KERR SCHLOSSER opened an account at Investment Company #2 in the name of The Surgical Resource Business Trust and made deposits into this account. The checks written on the account, however, were endorsed by an individual known to the grand jury as Person "A."

33. From on or about April 15, 1995 through on or about December 31, 2014, at Bird-in-Hand, in the Eastern District of Pennsylvania, and elsewhere defendant

JAMES KERR SCHLOSSER

corruptly endeavored to obstruct and impede the due administration of the internal revenue laws in an attempt to prevent the Internal Revenue Service from identifying, assessing and collecting federal income taxes based on income that defendant SCHLOSSER had earned from the sale of surgical devices and medical equipment through the following acts:

a. on or about April 25, 1994, defendant JAMES KERR SCHLOSSER filed a document in the Superior Court of Gloucester County New Jersey in which he renounced his United States Citizenship, his social security number

and declared himself to be a "Sovereign Human Being;"

b. on or about September 21, 1999, defendant JAMES KERR SCHLOSSER filed articles of incorporation with the Nevada Secretary of State for an organization bearing the name The Office of the Overseer of The Berean Medical Mission and His Successor, a Corporation Sole. Defendant SCHLOSSER attempted to conceal and assign income to this artificial entity that he had earned from the sale of medical supplies and surgical equipment;

c. on or about November 29, 1999, defendant JAMES KERR SCHLOSSER filed articles of incorporation with the Nevada Secretary of State for an organization bearing the name The Office of The President of Surgical Resource Group and His Successors, a Corporate Sole. Defendant SCHLOSSER attempted to conceal and assign Income to this artificial entity that he had earned from the sale of medical supplies and surgical equipment;

d. on or about May 17, 2001, defendant JAMES KERR SCHLOSSER opened an investment account with Investment Company #1 in the name of The Office of Overseer of the Berean Medical Missions and His Successors, A corporate Sole (Account Number XXXX-1566);

e. on or about February 7, 2003, defendant JAMES KERR SCHLOSSER filed a trust

formation document with the Nevada Secretary of State for an organization bearing the name of Surgical Resource Business Trust. Defendant SCHLOSSER attempted to conceal and assign income to this artificial entity that he had earned from the sale of medical supplies and surgical equipment;

f. on or about February 7, 2003, defendant JAMES KERR SCHLOSSER filed a trust formation document with the Nevada Secretary of State for an organization bearing the name of Lightsource Medical Business Trust. Defendant SCHLOSSER attempted to conceal and assign income to this artificial entity that he had earned from the sale of medical supplies and surgical equipment;

g. on or about November 5, 2003, defendant JAMES KERR SCHLOSSER filed articles of incorporation with the Nevada Secretary of State for an organization bearing the name The Office of the Elder of the International Fellowship of Biblical Stewards and His Successors, a Corporation Sole. Defendant SCHLOSSER attempted to conceal and assign income to this artificial entity that he had earned from the sale of medical supplies and surgical equipment;

h. on or about April 26, 2004, defendant JAMES KERR SCHLOSSER opened an investment account with Investment Company #1 in the name of Surgical Resource Business Trust. The trust formation document listed a person known to the grand jury as Person "A;"

i. on or about September 20, 2004, defendant JAMES KERR SCHLOSSER opened an investment account with Investment Company #2 in the name of Surgical Resource Business Trust. The trust document listed a person known to the grand jury as Person "A;"

j. on or about July 6, 2006, defendant JAMES KERR SCHLOSSER opened an investment account with Investment Company #2 in the name of Lightsource Medical Trust. The trust formation document named an individual as trustee known to the grand jury as Person "A;"

k. on or about February 9, 2010, after being informed by the United States Tax Court that his request for a summary judgment challenging the Internal Revenue Service's attempt to collect delinquent taxes—a decision that was affirmed by United States Court of Appeals for the Third Circuit—defendant SCHLOSSER continued his efforts to prevent the Internal Revenue Service from identifying the gross income he had earned;

l. on or about November 2, 2012, defendant JAMES KERR sent a letter to the Internal Revenue Service, captioned as "Privacy Act Request For Notification and Access," in which defendant SCHLOSSER complained that the Internal Revenue Service's correspondence did not contain an Office of Management and Budget Control Number.

m. on or about December 31, 2014, approximately 6 years after the United States Court of Appeals for the Third Circuit had affirmed the United States Tax Court's rejection of defendant JAMES KERR SCHLOSSER's Complaint for Summary Judgment, defendant SCHLOSSER sent the Internal Revenue Service a letter in which he complained about a notice that he had received regarding the nonpayment of the $1,000 civil penalty that was assessed against him by the United States Tax Court.

All in violation of Title 26, United States Code, Section 7212(a).

COUNT TWO

The Grand Jury Further Charges That:

1. Paragraphs 1-7, 9-18 and 26-37 of Count One are incorporated here.

2. From on or about January 1, 2012 to on or about December 31, 2012, in in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES KERR SCHLOSSER

A resident of Bird-in-Hand, Pennsylvania received gross income substantially in excess of the minimum filing requirement, as set forth below, and that by reason of such gross income he was required by law, following the close of each calendar year and on or before April 15 of the following year, to make an income tax return to the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing this, he willfully failed to make an income tax return to the Director of the Internal Revenue Service Center, or to any other proper office of the United States:

Filing Status	Filer's Age	Gross Income Threshold	Self-Employed
Single	Younger than 65	$9,500	$400
Head of Household	Younger than 65	$12,500	$400

Married, filing jointly	Younger than 65 (both spouses	$19,500	$400

All in violation of Title 26, United States Code, Section 7203.

COUNT THREE

The Grand Jury Further Charges That:

1. Paragraphs 1-7, 9-18 and 26-37 of Count One are incorporated here.

2. From on or about January 1, 2013 to on or about December 31, 2013, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES KERR SCHLOSSER

a resident of Bird-in-Hand, Pennsylvania received gross income substantially in excess of the minimum filing requirement, as set forth below, and that by reason of such gross income he was required by law, following the close of each calendar year and on or before April 15 of the following year, to make an income tax return to the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing this, he willfully failed to make an income tax return to the Director of the Internal Revenue Service Center, or to any other proper office of the United States:

Filing Status	Filer's Age	Gross Income Threshold	Self-Employed
Single	Younger than 65	$ 10,000	$400
Head of Household	Younger than 65	$11,500	$400
Married, filing jointly	Younger than 65 (both spouses	$12,850	$400

All in violation of Title 26, United States Code, Section 7203.

A True Bill:

Grand Jury Foreperson

Zane David Memeger
United States Attorney

NOTICE OF INTENT TO OFFSET
(MAY 2, 2018)

U.S. DEPARTMENT OF JUSTICE
Pennsylvania-Eastern
615 Chestnut St., Suite 1250
Philadelphia, PA 19106

James Kerr Schlosser,
2645 Stumptown Rd.
Bird-In-Hand, PA 17505

Date of Notice 05/02/2018
Account Number
Court Number 16/CR-178/041
Balance Due $ 408,741.36
Tax ID Number XXXXXX-9979

This office is responsible for collecting a debt you owe as a result of a judgment in favor of the United States. This debt may include additional costs, interest, penalties, and a surcharge which are not reflected in the amount shown above. A United States District Court entered a judgment against you and established the amount due. The District Court judgment is a final decision that you owe this debt to the United States.

We strongly urge you to pay this debt immediately. Make your payment payable to the Clerk of Court. Please include your court number on your payment.

If you do not pay your debt, Federal law allows agencies to refer debts to the United States Department of the Treasury for the purpose of collecting debts through the Treasury Offset Program. Under this program, the Department of the Treasury will reduce

or withhold any of your eligible Federal payments (see list of federal payments eligible for offset on the back of this notice) by the amount of your debt. This "offset" process is authorized by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, and the Internal Revenue Code. Under these statutes, prior to referring a debt for offset, a federal agency must: (1) notify the debtor who is responsible for the debt that the agency plans to refer the debt to the Department of the Treasury for the offset of any pending federal payments; (2) determine that the debt is past-due and legally enforceable after providing the debtor at least 60 days in which to present evidence to the contrary; and (3) make reasonable efforts to collect the debt. The purpose of this notice is to meet these requirements.

To avoid referral of your debt to the Treasury Offset Program, within 60 calendar days from the date of this notice you must: (1) pay your debt in full; or (2) enter into a repayment agreement; or (3) present evidence that all or part of the criminal or the civil judgment debt is not past due or that the judgment debt has been stayed or satisfied. You must send any evidence to the Department of Justice, United States Attorney's office address on this notice. Any false statements could subject you to applicable civil or criminal penalties. The United States Attorney's office Financial Litigation Unit will review any evidence you present and take appropriate action.

Payment must be received by the PAYMENT DUE Date in order for your payment to be applied before the next billing cycle.

Account Number:
Name: James Kerr Schlosser

Court number: 16-CR-178-01
Payment Due Date: Immediately
Total amount due $408,741.36

If you fail to take any of the above steps within the 60 day time period, the Department of Justice will refer the debt to the Department of the Treasury and any and all payments due to you from the Federal government will be offset to pay the amount of your judgment debt. You should be aware that any money offset from federal payments due to you will be applied to the amount you owe along with a servicing fee. You are responsible for paying any remaining balance after an offset is taken. If you fail to do so, your name will continue to be included in the Department of the Treasury database of debtors, and any future federal payment due to you will be offset until the debt is totally satisfied.

PLEASE NOTE: If you are currently on a payment plan and you default on this payment plan, this debt may be submitted to the Department of the Treasury for inclusion in the Treasury Offset Program. You will not receive another notice from this office. Payments eligible for offset include:

- Federal income tax refunds;
- Federal salary pay, including the military
- Federal retirement pay, including military retirement pay;
- Certain federal benefit payments, such as Social Security, Railroad Retirement (other than tier 2), and Black Lung (part B) benefits (when regulations are published); and

- Other federal payments, including certain loans to you that are not exempt from offset.
- Payments made by States

ADDITIONAL INFORMATION

ARE YOU A FEDERAL EMPLOYEE, MEMBER OF THE ARMED FORCES (INCLUDING CIVILIAN EMPLOYEES)? If so, amounts from your salary and retirement pay may be offset to satisfy your debt beginning in the pay period that your debt is submitted to the Department of the Treasury for offset, and continuing every pay period until your debt, including interest, penalties and other costs, is paid in full. In accordance with Section 5514 of Title 5, United States Code, you may be entitled to a hearing to dispute the amount of the payroll deduction.

Active duty service members may have limited protections under the Service members Civil Relief Act of 2003.

ARE YOU MARRIED? If so, your spouse may be eligible to receive a portion of a joint refund. To do this, the following must be true: 1) you must file a joint income tax return; 2) you must have incurred this debt separately from your spouse and your spouse must have no legal responsibility for the debt; and 3) your spouse must have income and withholding or estimated tax payments. Taxpayers filing joint returns should obtain Form 8379, Injured Spouse Claim and Allocation, before filing a return. The instructions will explain the steps your spouse may take to obtain his/her share of your joint income tax refund.

HAVE YOU FILED FOR BANKRUPTCY? If so, then you may not be subject to offset while the

automatic stay remains in effect. However, you should notify the United States Attorney's Financial Litigation Unit of your bankruptcy.

SUMMARY OF WITNESS TESTIMONY AND RECORDS

W4	Lyn Biting, Supervisory Tax Examining Assistant IRS: Philadelphia Compliance Services: Insolvency Operation 11601 Roosevelt Blvd. Philadelphia, PA 19255 215-516-4998	
W4-1	Memorandum of Interview, dated March 19, 2009	SCHLOSSER's telephone Inquiry was mis-routed to her department. There is no record of SCHLOSSER filing for bankruptcy. She was unable to determine what was discussed with Schlosser because not all taxpayer contacts are documented on a computer system.
W4-2	Memorandum of Interview, dated March 23, 2009	Based on her review of SCHLOSSER's letter and TXMOD, her employee, Ms. Harth, followed proper procedures. Ms. Harth advised SCHLOSSER that the levy was released on 07/03/2006.

W1-34	Letter from Schlosser, January 21, 2010	Written protest to Letter CP-501 regarding civil penalty Imposed by tax court or 199-412. Schlosser asserts statute of limitations expired. Also slates that he has religious objection to using an SSN and has not done so since 1994.
W1-35	Letter from SCHLOSSER dated January 21, 2010, written protest to Letter CP 501	Written protest to Letter CP-501, dated 01/18/2010, requesting payment for civil penalty for tax period 12/31/1994 (Imposed by Tax Court). SCHLOSSER Incorrectly responded that the alleged tax owed Is older than ten years and Is no longer collectible because the statute of limitations has run out. Furthermore, he has a religious objection to using an SSN and has not done so since 1994. He does not have a legal obligation-to pay Into the system.

INTERNAL REVENUE SERVICE CRIMINAL INVESTIGATION

MEMORANDUM OF INTERVIEW

In Re: James Kerr SCHLOSSER

Location: Telephonically 215-861-1413

Investigation #: 1000209254

Date: 03/16/2009

Time: 03:20 p.m. to 04:10 p.m.

Participant(s): Brenda Williams-Downing, Revenue Officer Advisor Michael A. Castellano, Special Agent

On the above date and time, I spoke with Brenda Williams-Downing, Revenue Officer Advisor for Small Business Self-Employed, located in Philadelphia, PA. Williams- Downing provided the following information regarding the Form 4442, Enquiry Referral, dated February 20, 2009.

4. This lien was never re-filed. The assigned Revenue Officer should have re-filed the lien by 08/27/2007. Collection may be barred from re-filing the liens, but-she will have to do -some research. I advised her that the purpose of me contacting her was to determine what SCHLOSSER requested and what information was provided. I told her that I was not requesting that she take any action.

5. She started a file on SCHLOSSER after she received the F4442. She has a copy of the original lien and a copy of the lien release, which she will mail to me. She has no other documents.

TRIAL EXHIBIT 22– IRS/CI
MEMORANDUM OF INTERVIEW
(JUNE 15, 2009)

In Re: James Kerr SCHLOSSER

Investigation #: 1000209254

Date: 06/15/2009

Time: 10:18a.m. to 11.44 p.m.

Participant(s): Peter L. Costanzo, Jr., Financial Consultant Kevin L. Bradley. First Vice-President and Branch. Manager · Bee Bradley, Regulatory Compliance Manager and Counsel Michael A. DeVito, Special Agent Michael A. Castellano, Special Agent

1.) On the above date, time, and place, Special Agent (S/A) DeVito and I went to the Janney Montgomery Scott (JMS) office to interview Peter L Costanzo (hereafter referred to as Costanzo), Financial Consultant We introduced ourselves to the receptionist, displayed our credentials for her inspection and requested to speak to Costanzo. A short white later, Kevin L Bradley, First Vice-President and Branch Manager arrived and escorted us to the conference room. We introduced ourselves, display our credentials for his inspection, advised him we were assisting the United States Attorney's Office for the Eastern District of Pennsylvania with a grand jury investigation relating to James Kerr SCHLOSSER (hereafter referred to as SCHLOSSER), and wanted to speak to Costanzo relative to his business activities with SCHLOSSER. Mr. Bradley requested

that we wait in the conference room because he wanted to contact JMS counsel before he spoke with us. I advised Mr. Bradley that we previously issued a grand jury subpoena for records and wanted to ask Costanzo questions regarding those records.

2.) Kevin Bradley mentioned that he was aware of the investigation because agent Ramos had been to his office previously. I advised that Ms. Ramos was a Revenue Officer and not an agent He felt that. Ms. Ramos was aggressive and may have caused his front office employees to provide information about their former client, SCHLOSSER, which potentially should not have released without a legal summons. He was not present when Ms. Ramos came to the office and did not elaborate on what information was released. We explained that Ms. Ramos was not a special agent, but that she worked for the civil collection division of the Internal Revenue Service (IRS). Kevin Bradley will fully cooperate with law enforcement, but only after consulting with counsel. He apologized and we advised he was in his legal . . . .

SSA CERTIFIED FOIA RESPONSE (JANUARY 28, 2013)

SOCIAL SECURITY ADMINISTRATION

CERTIFICATION

Pursuant to the provisions of Title 42, United States Code, Section 3505, and the authority vested in me by 45 F. R. 47245-46, I hereby certify that I have legal custody of certain records, documents, and other information established. I certify such fact being true and correct, substantiated by the records maintained by the Social Security Administration, pursuant to Title 42, United States Code, Section 405.

I certify that all signatures of Social Security Administration officials on the annexed document(s) are genuine and made pursuant to the signers' official capacity.

I further certify that the annexed computer printouts showing the dates the information was recorded are true and complete copies of such documents in my custody for Social Security number XXX-XX-9979 in the name of James Kerr Schlosser.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Social Security Administration to be affixed this 28th day of January, 2013.

/s/ Stephanie S. Harrison
Director
Division of Earnings
Record Operations
Office of Central Operations

TRIAL EXHIBIT 10–INCLUDES 41A RESPONSE TO BANK RE: SSN & RELIGIOUS BELIEFS (APRIL 20, 2006)

James Kerr, Schlosser
c/o general delivery @
2645 Stumptown Road
Bird-in-Hand, (17505) Pennsylvania

Mennonite Financial
2160 Lincoln Hwy East, PO 10455
Lancaster, PA 17605
Attn: Larry Miller, President and C.E.O.
Michael Zehr, Vice President and CFO
Sandy Hershey, Vice President Operations
Tel: 717-735-8330
Fax: 717-735-8331

Scottdale Branch
616 Walnut Avenue
Scottdale, PA 15683, 800-322-0440
Deborah Millslagle, Branch Manager, Compliance
Tel: 724-887-4830
Fax: 724-887-6977

Dear Larry Michael and Sandy,

It was nice to meet you all briefly in the office on Tuesday while I was doing errands in my workout cloths. Forgive my casual attire as I was not planning on that meeting . . .

Regarding your request (demand) for a SSN or TIN for my families accounts, as I received your most recent letter on Saturday, April 15th, and a form type letter dated November 17th, 2005 from Deborah Millslagle. In the first letter, she stated that: "The United States government requires that we have a signed W-9 form

for all of our accounts. If we do not, we may be required to withhold up to 31% of the dividends which the account earns." I did not respond as it did not apply to my families accounts as these are non-interest-bearing accounts, and there are not any dividends. Please send me the law(s) that would require a. numerical identifier in these accounts.

I understand that you-are currently registered as a Federal Credit Union so you have to meet certain requirements to meet their certification. You seem to be under threats or pressure these State, Federal or Private Agencies to conform to their demands, but I) currently believe that their requirements would not apply to our accounts. I want to be able to help you meet this demand/request to provide you with a SSN or TIN, if in fact those requirements do apply to us. I will need some help from you and an extension on the time that you are threatening to close these accounts, as that would be very damaging to us, financially, emotionally and socially, just because of my deeply held religious beliefs. I do not believe that the April 29th date is either fair or necessary and this heavy emotional burden with everything else I have going on right now is overwhelming.

First I would like a copy of all of the laws and correspondence regarding this demand from them and you for a SSN-TIN for these non-interest bearing account forwarded to me, as well as copies of all law(s) that would require that you close the account instead of taking out 31% (even if there were any dividends), as your November 17th letter stated. This is very important as I have studied many of the laws that govern these numbers and I do not believe that they currently apply to me.

Secondly I would like to ask what other forms beside a W-9 are acceptable to meet this requirement in all situations. I want to obey all lawful government requests that apply to me as a Christian Citizen in Pennsylvania. This information will enable me to: "walk circumspectly, (*i.e.* looking around with knowledge of the surroundings), for you enemy the devil is seeking who he may devour . . . ", "to be wise as serpents and innocent as doves". I will need this information to check to see if what these agencies are telling you is true as not all laws that the government enforces apply to every man or situation.

There are many instances in scripture where man's laws conflict with God's laws or believers deeply held religious beliefs based on Scriptural principals. I believe that it is the mature educated believers mandated duty to stand their ground, not comply with ungodly laws, rules or principals. If we are to be salt and light to a diseased and dark world when we are confronted with corruption or darkness we musts be "worth our salt", and "not be ignorant of his devices".

As the only Mennonite Financial Institution you may be aware of the Religious Freedoms Restoration Act of 1993, 42 U.S.C. 2000bb et seq., (RFRA) a Federal Law which was enacted in-part because past tendencies of overzealous government agents or agencies railroad-Mg over Citizens inalienable God-Given Rights and freedoms under the color of law, because of their man-made laws, rules and regulations. By way of example I am enclosing a recent Supreme Court case where the a religious sect successfully defeated the governments denial of their free use of *hoasca tea, a* dangerous and controlled substance derived from plants in the Amazon region, (similar to peyote mushrooms) that they use in

a sacramental ritual. The highest court in our land recently acknowledged their religious freedom and authoritative application of RFRA even in that instance.

I just mention this so that you see that many people from all religions have exceptions and exemptions every day to certain laws, and that is OK, it's legal. I know that our accounts cannot be the only accounts where your customers have a religious or political objection to using a SSN and instead of just automatically believing the authorities and principalities I adjure you to look into some of these issues yourself and to not act hastily.

I need to again reiterate that I have had a held religious objection to Social Security for many years since I studied this out. I have a letter from SSA that states that "a social security number is not required to live or to work in the United States." I object to any government benefit that would replace a God-given mandate or responsibility. I believe that putting my future "security" and old-age benefits in the hands of men is contrary to the principals in Jeremiah 17: 5 86 6, II Chronicles 16:7 and many New Testament scriptures. I Cor. 7:21-23 encourages believers to stay free from enslavement when they can, and I see using a SSN makes me an insurable interest in the CORPORATE UNITED STATES, a federal corporation. (There are at least 3 definitions for the United States- and different laws invoke different definitions.) I just want to let God provide for us through His ways.

Revelation 13: 16-17 states that; "and he causeth all, both small and great, rich and poor, free and bond to receive a mark in their right hand or their foreheads: 17 And that no man might buy or sell save

that he had the mark, or the name of the beast or the number of his name . . . " Lately with the stepped up Patriot Act rules and regulations make it almost impossible to live without using this SSN number, and I believe that it is, or is a forerunner to this mark of the beast, which has been and will probably be implanted in the RFID chips like they axe using for the animal identification programs right now.

You seemed shocked when I mentioned the-animal tracking issue; it is huge and happening right NOW in many states. There is a huge Federal push to get people and animals enumerated and upon further study you may *see* that supporting this type of a program, (IF YOU DO NOT HAVE TO) may be more damaging to the cause of Christ, that objecting to it or not supporting it. I hope to hear from you soon, and thank you for your time.

In Christ,

/s/ James Kerr, Schlosser
c/o general delivery @
2645 Stumptown Road
Bird-in-Hand, (17505)
Pennsylvania

MEMBERSHIP APPLICATION OF
RELIGIOUS OBJECTION PROSECUTOR'S CLAIM

Primary member

Name: James Kerr Schlosser
Birth Date: August 23, 2007
Social Security/ Tax identification number:

Religious Objection on file
Street Address: C/O B.M.M. 2645 Stumptown Rd
Village: Blvd-In-hard, (17505-9999)
State: Pennsylvania
Postal Code: (17505-9999)
Country: Pa. United States of America
Phone: 717-656-2774, 717-371-6964
Membership Eligibility: Stumptown Mennonite/
3-in Lmtt System
Email Address: excellenceshydrosoff.net

Savings & loan accounts

PRIMARY SAVINGS: Membership Requires a minimum deposit of $25 into a primary savings. This money is yours, but $25 must remain in the account as long as you are a member. Send your initial deposit with this application, and you are eligible for these additional services:

[* * *]

TRIAL EXHIBIT 8
LAWYERS SSN OBJECTION TO PENNDOT
(APRIL 8, 2004)

CLYMER & MUSSER P C
ATTORNEYS AT LAW
23 North Lime Street
Post Office Box 1766
Lancaster PA 17608-1766
(717) 299-7101
Fax (717) 299-5115
E-Mail law@clymer.net (717) 786-0500

April 8, 2004

Jim and Schlosser
c/o of General Delivery at
2645 Stumptown Road
Bird-in-Hand, (17505) Pennsylvania

Dear Jim:

Please find attached the letters sent by certified mail to the state.

Sincerely yours,

/s/ Randall L. Wenger

ATTORNEY WENGER LETTER TO PENNDOT FOR APPELLANT (APRIL 8, 2004)

CLYMER & MUSSER P C
ATTORNEYS AT LAW
23 North Lime Street
Post Office Box 1766
Lancaster PA 17608-1766
(717) 299-7101
Fax (717) 299-5115
E-Mail law@clymer.net (717) 786-0500

April 8, 2004

Rebecca L. Bickley, Director
Bureau of Driver Licensing
Commonwealth of Pennsylvania
Department of Transportation
Harrisburg, Pennsylvania 17123

RE: Driver's License for James Kerr, Schlosser

Dear Mrs. Bickley,

Mr. Schlosser has engaged our firm in order to assist him in getting a Pennsylvania Driver's License. He has been denied a license merely because he is unable to provide a Social Security number due to his sincerely held religious beliefs as per his previous correspondence.

As you are aware, the Religious Freedom Protection Act (hereinafter "RFPA"), 71 P.S. § 2401 *et seq.*, provides that "neither State nor local government should substantially burden the free exercise of religion without

compelling justification." § 2402(1). "Substantially burden" is defined as an "agency action which" "[c]ompels conduct or expression which violates a specific tenet of a person's religious faith." § 2403(4). As Mr. Schlosser has notified you in the past, the provision. or utilization of a Social Security number violates specific tenets of Mr. Schlosser's religious faith in that he believes the Social Security number to be a forerunner of the "Mark of the mentioned in the Book of Revelation and that any Association with the number, therefore, would be a violations of his religious conscience.

We recognize that 75 Pa.C.S.A. § 1510 provides that an applicant for a Driver's, License shall, except as otherwise provided, "include Social Security number on his license application." § 1510(a). However, the RFPA applies to all statutes whether enacted prior to or after RFPA, except for a few inapplicable areas of the law. *See* § 2406. The Bureau of Driver Licensing, therefore, "shall not substantially burden" Mr. Schlosser's religious exercise by requiring his to provide or Utilize a Social Security number, even though the burden "results from a rule of general applicability." § 2404(a).

The only way under RFPA that the Bureau can burden Mr. Schlosser's religious exercise is if the provision of a Social Security number is the "least restrictive means of furthering the compelling interest" of the Bureau § 2404(b)(2). As you are well aware, section 1501(a) and (f) provides that under different circumstances an applicant need not provide a Social Security number. Since there are other circumstances in which the Bureau can further its interest in identifying applicants without the use of a Social Security number, and since section 2404(b)(2) requires

that the Bureau further any "compelling interest' by the "least restrictive means", less restrictive means must be available here for identifying Mr. Schlosser for purposes of his application.

This letter is being sent to you in a spirit of cooperation, in hopes that you will take necessary steps to accommodate Mr. Schlosser's religious beliefs when he again applies for a Driver's License. We ask that you provide a letter that Mr. Schlosser can submit with his application to clarify his right, to whomever he submits the application, that, due to his religious beliefs, he need not supply a Social Security number.

If, instead, you are unwilling to issue a Driver's License in the absence of his providing a Social Security number, let this letter serve as notice under section 2405(b) that Mr. Schlosser's free exercise of religion has been substantially burdened by exercise of the Bureau's requirement under its government authority that a Social Security number be provided in order to get a Driver's License since provision of a Social Security number violates Mr. Schlosser's religious beliefs. We are of course, prepared to file an action in court seeking injunctive and declaratory relief and the award of attorney's fees for violation of RFPA. *See* § 2505(e)-(f). We may also seek remedies under other legal theories as well. I have every hope, however, of a more amicable outcome.

I look forward to hearing from you within the next week.

Very truly yours,

/s/ Randall L. Wenger

RESPONSE FROM SSA COMMISSIONER RE: NO SSN ON DL (OCTOBER 20, 2004)

SOCIAL SECURITY

TEH2A
PB7882

Mr. James K. Schlosser
General Delivery
2645 Stumptown Road
Bird-in-Hand, Pennsylvania 17505

Dear Mr. Schlosser:

This is in response to your letter to Commissioner Barnhart concerning the requirement that an individual disclose his or her Social Security number (SSN) to obtain a driver's license and your request that the Social Security Administration (SSA) provide you and your wife with a letter permitting you both not to have an SSN. We regret the delay in replying.

We can understand your concerns regarding whether you and your wife are required to provide your SSNs to obtain a Pennsylvania driver's license. However, we cannot comply with your request for a letter permitting an individual not to have an SSN.

Participation in the Social Security program is mandatory with respect to the payment of Social Security taxes, regardless of the citizenship or place of residence of either the employer or the employee. Unless specifically exempt by law, everyone working in the United States is required to pay Social Security taxes on earnings from covered employment. The law

provides an exemption only in very limited circumstances for members of certain religious sects. People generally cannot voluntarily withdraw from or terminate their participation in the Social Security program.

Similarly, people cannot withdraw the Social Security taxes that they have already paid. This is true regardless of the number of Social Security credits earned or whether benefits are payable. The Social Security taxes that employees and employers pay on workers' earnings are not placed in an individual worker's account, but are pooled in special funds from which benefits are paid to eligible workers and their families. However, people will not receive benefits unless they voluntarily apply for them at the time they become eligible.

When someone has applied for and been assigned a SSN, we may not cancel or destroy that record. The Privacy Act of 1974 authorizes agencies to maintain in their records any information about a person that is relevant and necessary to accomplish a purpose of the agency that is required by law. We are required by law to establish and maintain records of wages and self-employment income for each person whose work is covered under the program. The SSN is considered relevant and necessary for that record keeping purpose. Consequently, valid SSNs are permanently part of SSA's records.

Some people ask that their SSNs be revoked because they did not complete the application; their parents did. These requests are denied. If an SSN is requested for someone who is either under age 18 or age 18 or older and physically or mentally incapable of signing the application, the parent is a proper applicant.

We are aware of public concerns about the increasing uses of the SSN for identification and record keeping purposes. Although Federal laws do restrict the use and disclosure of SSNs, these laws do not apply to the private sector.

Businesses, private agencies, etc., are free to request someone's SSN and use it for any purpose that does not violate a Federal or State law. (Some businesses, for example, sell their SSN information to other businesses by computer networks.) Anyone can refuse to disclose his or her number, but the requester can refuse its services without it.

Voluntarily giving a SSN to businesses or other organizations does not give them access to Social Security records. We require additional identification to avoid unauthorized access to and/or disclosure of personal Social Security information. The privacy of a person's record is legally guaranteed unless the law requires (1) the disclosure to another government agency or (2) the information to conduct Social Security or other government health or welfare programs. Ha Ha are-and always have been-vigilant about protecting the privacy of information we maintain in our records.

Also, the Tax Reform Act of 1976 permits State and local governments to use SSNs in administering their tax, public assistance, driver's license, and vehicle registration programs. Thus, the State or local government may require a person who has or is eligible to have a SSN to provide it for these purposes.

Federal law [at U.S.C. 666(a)(13)(A)] requires that applicants for various State licenses or documents supply their SSNs so that States can use them for child support enforcement purposes. Examples of such

licenses or documents include, but are not limited to drivers' licenses, professional licenses, marriage licenses, divorce decrees, support order, paternity acknowledgements or determinations, and death certificates.

We hope you End this information helpful.

Sincerely,

/s/ Annie White
Associate Commissioner
Office of Public Inquiries

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