-- Redacted for Publication --

Case Docket No._____

IN THE

SUPREME COURT OF THE UNITED STATES

DANIEL ALLEN VILLA ("Pro Se")

"Petitioner"

v.

COMMISSIONER OF THE

INTERNAL REVENUE SERVICE (IRS) ("et al")

"Respondent"

ON PETITION FOR WRIT OF CERTIORARI TO THE

"UNITED STATES COURT OF APPEALS FOR THE D.C. CIRCUIT"

APPENDIX

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-- Appendix --
-- Cover Page --

APPENDIX A – ORDER'S AND ORDER'S OF DISMISSAL FOR LACK OF JURISDICTION REGARDING PETITIONER'S UNITED STATES TAX COURT PETITION CASE DOCKETS 2516-21W AND 36146-21W FILED 01/06/2023 AND 01/09/2023

UNITED STATES TAX COURT

Washington, DC 20217

USTC'S: ***2516-21W***

Entered and Served 01/09/23

DANIEL ALLEN VILLA,

Petitioner

v. Docket *2516-21W*

COMMISSIONER OF INTERNAL REVENUE,

Respondent

ORDER AND ORDER OF DISMISSAL FOR LACK OF JURISDICTION

Petitioner seeks in this case review of a notice of determination under section 7623 concerning whistleblower action. The notice of determination on which this case is based states in relevant part: "The Whistleblower Office has made a final decision to reject your claim for an award. The claim has been rejected because the IRS [Internal Revenue Service] decided not to pursue the information you provided."

By opinion issued January 11, 2022, in the case of Li v. Commissioner, 22 F.4th 1014 (D.C. Cir. 2022), the U.S. Court of Appeals for the District of Columbia Circuit (to which all whistleblower cases under section 7623 are appealable pursuant to section 7482(b)(1)) held that the Tax Court lacks subject matter jurisdiction of whistleblower cases, such as this one, in which the IRS rejects the whistleblower claim and therefore does not commence any administrative or judicial proceeding based on the whistleblower's information. Based on the holding in that case, by Order and Order of Dismissal for Lack of Jurisdiction (order of dismissal), issued July 11, 2022, the Court dismissed this case for lack of jurisdiction.

On August 30, 2022, the Supreme Court docketed a petition for writ of certiorari, filed by the whistleblower in Li, as of June 16, 2022. Accordingly, by Order issued September 2, 2022, this Court vacated and set aside the order of dismissal and reminded the parties that the proceedings in this case were stayed. By order issued October 31, 2022, the Supreme Court denied the whistleblower's petition for a writ of certiorari in Li. A review of the Supreme Court docket in Li reflects that a petition for rehearing of the order denying the writ of certiorari has not been docketed, as of the date of this Order. See U.S. Sup. Ct. Rule 44(2) (providing that such a petition must be filed "within 25 days after the date of the order of denial"). Accordingly, we conclude that the judgment in Li is now final and will thus dismiss this case for lack of jurisdiction.

Upon due consideration of the foregoing, it is

ORDERED that the stay of proceedings in this case is lifted. It is further

ORDERED that, on the Court's own motion, this case is dismissed for lack of jurisdiction.

(Signed) Kathleen Kerrigan

Chief Judge

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UNITED STATES TAX COURT

Washington, DC 20217

USTC'S: *36146-21W*

Entered and Served 01/06/23

DANIEL ALLEN VILLA,

Petitioner

v. Docket 36146-*21W*

COMMISSIONER OF INTERNAL REVENUE,

Respondent

ORDER AND ORDER OF DISMISSAL FOR LACK OF JURISDICTION

Petitioner seeks in this case review of a notice of determination under section 7623 concerning whistleblower action. The notice of determination on which this case is based states in relevant part: "The Whistleblower Office has made a final decision to reject your claim for an award. The claim has been rejected because the IRS [Internal Revenue Service] decided not to pursue the information you provided."

By opinion issued January 11, 2022, in the case of Li v. Commissioner, 22 F.4th 1014 (D.C. Cir. 2022), the U.S. Court of Appeals for the District of Columbia Circuit (to which all whistleblower cases under section 7623 are appealable pursuant to section 7482(b)(1)) held that the Tax Court lacks subject matter jurisdiction of whistleblower cases, such as this one, in which the IRS rejects the whistleblower claim and therefore does not commence any administrative or judicial proceeding based on the whistleblower's information. On March 14, 2022, respondent filed a Motion to Dismiss for Lack of Jurisdiction. Based on the holding in Li, by Order and Order of Dismissal for Lack of Jurisdiction (order of dismissal), issued July 11, 2022, the Court granted respondent's motion and dismissed this case for lack of jurisdiction.

On August 30, 2022, the Supreme Court docketed a petition for writ of certiorari, filed by the whistleblower in Li, as of June 16, 2022. Accordingly, by Order issued September 2, 2022, this Court vacated and set aside the order of dismissal and reminded the parties that the proceedings in this were stayed. By order issued October 31, 2022, the Supreme Court denied the whistleblower's petition for a writ of certiorari in Li. A review of the Supreme Court docket in Li reflects that a petition for rehearing of the order denying the writ of certiorari has not been docketed, as of the date of this Order. See U.S. Sup. Ct. Rule 44(2) (providing that such a petition must be filed "within 25 days after the date of the order of denial"). Accordingly, we conclude that the judgment in Li is now final and will thus dismiss this case for lack of jurisdiction. Upon due consideration of the foregoing, it is

ORDERED that the stay of proceedings in this case is lifted. It is further

ORDERED that respondent's Motion to Dismiss for Lack of Jurisdiction is granted and this case is dismissed for lack of jurisdiction.

(Signed) Kathleen Kerrigan

Chief Judge

APPENDIX B

OPINION OF THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, FILED JANUARY 11, 2022 IN, "Li v. Commissioner No. 20-1245," UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued November 5, 2021 Decided January 11, 2022

No. 20-1245

MANDY MOBLEY LI,

APPELLANT

v.

COMMISSIONER OF INTERNAL REVENUE

APPELLEE

On Appeal from a Decision and Order of the United States Tax Court. Mandy Mobley Li, pro se, argued the cause and filed the briefs for appellant. Matthew S. Johnshoy, Attorney, U.S. Department of Justice, argued the cause for appellee. With him on the briefs was Bruce R. Ellisen, Attorney. Robert Manhas, appointed by the court, argued the cause as amicus curiae to assist the court by addressing this court's jurisdiction. With him on the brief was Robert M. Loeb, appointed by the court.

Before: HENDERSON and MILLETT, Circuit Judges, and SENTELLE, Senior Circuit Judge

Opinion for the Court filed by Senior Circuit Judge SENTELLE.

SENTELLE, Senior Circuit Judge: Appellant Mandy Mobley Li appeals the United States Tax Court's final decision awarding summary judgment to the IRS Commissioner in her whistleblower case. Specifically, the Tax Court held that the IRS Whistleblower Office ("WBO") did not abuse its discretion in rejecting Li's request for a whistleblower award, since Li provided only vague and speculative information as to purported tax violations. For the reasons explained below, we dismiss this appeal for lack of subject matter jurisdiction and remand to the Tax Court with instructions to do the same.[1]

I. Background

On December 12, 2018, Li filed a Form 211 with the WBO alleging four tax violations by a third party (the "target taxpayer"). A Form 211 is an application to receive a monetary whistleblower award for supplying the IRS with actionable tax violation information, pursuant to 26 U.S.C. § 7623(b). A WBO classifier reviewed Li's Form 211, as well as the target taxpayer's 2016 and 2017 tax returns, and concluded that Li's allegations were "speculative and/or did not provide specific or credible information regarding tax underpayments or violations of internal revenue laws," making Li ineligible for an award. Therefore, the WBO did not forward Li's form to anl The Court appointed Mr. Robert Manhas to assist in addressing the Court's jurisdiction to hear this appeal. The Court extends its appreciation to Mr. Manhas for his excellent amicus brief on the topic.

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[1] The Court appointed Mr. Robert Manhas to assist in addressing the Court's jurisdiction to hear this appeal. The Court extends its appreciation to Mr. Manhas for his excellent amicus brief on the topic.

IRS examiner for any potential action against the target taxpayer. The WBO communicated its decision by letter to Li on February 8, 2019 and informed her that she could appeal to the United States Tax Court if she thought the WBO had erred. Li did so by petition on March 13, 2019. Neither party identified a jurisdictional issue with the Tax Court's review of the case. The Commissioner subsequently filed a motion for summary judgment, which the Tax Court granted. The Tax Court found that the WBO adequately performed its evaluative function in reviewing Li's application and did not abuse its discretion by rejecting it for an award. Li then filed a motion for reconsideration. After the Tax Court denied the motion, Li appealed to this Court.

II.Analysis

Statutory law gives exclusive jurisdiction over Tax Court decisions to the United States Courts of Appeals, which are required to review Tax Court decisions in the same manner as any district court decision. 26 U.S.C. § 7482(a)(1). However, this Court's jurisdiction is predicated upon the Tax Court having had jurisdiction over the case. Bender v. Williamsport Area Sch. Dist., 475 U.S. 534, 541 (1986). If the Tax Court lacks jurisdiction, this Court has "jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit." Id.(quoting United States v. Corrick, 298 U.S. 435, 440 (1936)).For the reasons set forth below, such is the case presently. The Tax Court lacked jurisdiction to hear Li's appeal from the WBO, leaving this Court with jurisdiction only to cure the

defect. Even though the parties did not raise the issue, "federal courts have an independent obligation to ensure that they do not exceed the scope of their jurisdiction, and therefore they must raise and decide jurisdictional questions that the parties either overlook or elect not to press." *Henderson ex rel. Henderson v. Shinseki, 562 U.S. 428, 434 (2011).*

a. The Whistleblower Statute There are three relevant provisions of the whistleblower statute, 26 U.S.C. § 7623. The first, subsection (a), authorizes the IRS to grant monetary awards to persons helping to "detect[] underpayments of tax, or . . . detect[] and bring[] to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same . . . ." § 7623(a). The second, subsection (b)(1), requires the IRS to give awards to whistleblowers "[i]f the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual . . . ." § 7623(b)(1). This provision only applies if certain monetary conditions are met ((b)(5)). The remainder of that portion of the statute provides the parameters for such awards, including a floor and ceiling award amount ((b)(1)), a reduction in award amount for information based on public data ((b)(2)), and a reduction or denial of award amount in which the whistleblower participated in the tax violations ((b)(3)). The third relevant segment, subsection (b)(4), gives the Tax Court exclusive jurisdiction over an appeal of "[a]ny determination regarding an award under paragraph (1), (2), or (3) . . . ." When a whistleblower makes a Form 211 filing, the WBO follows several steps. First, it reviews the Form, and any related information, to determine whether the provided information may lead to the discovery of a tax violation. If the information is too vague or speculative, the WBO issues a rejection. Rogers v. Comm'r, No. 17985-19W, 2021 WL 3284613, at *5 (T.C. Aug. 2, 2021). "[A] rejection is appropriate when a whistleblower's claim fails to comply with the threshold requirements as to who may submit a claim or what information the claim must include."*Id.*; see also 26 C.F.R. § 301.7623-3(c)(7) (defining "rejection"). If the whistleblower's information signals a potential tax violation, the IRS may initiate a proceeding against the target taxpayer. If the proceeding then yields payments to the IRS, the whistleblower receives an award, subject to 26 U.S.C. § 7623(b)(1)-(3). Any appeal of an award determination under subsections (b)(1)-(3) is then directed to the Tax Court. § 7623(b)(4).

As we noted earlier, we have the continuing duty to examine our jurisdiction, regardless of whether the parties raise the issue. The jurisdictional issue in this case asks whether § 7623(b)(4) gives the Tax Court jurisdiction over the threshold first step, the initial rejection of a whistleblower award before the WBO makes an award determination under subsections (b)(1)-(3). This issue is not one of first impression for the court below. In Cooper v. Comm'r, the Tax Court held that an initial rejection of a whistleblower award is in fact an award determination under subsection (b)(4), rejecting the argument that "there can be a determination for jurisdictional purposes only if the Whistleblower Office undertakes an administrative or judicial action and thereafter 'determines' to make an award." 135 T.C. 70, 75 (2010).

Instead, the Tax Court held that it had jurisdiction even over threshold rejections of whistleblower awards, interpreting the statute to "expressly permit an individual to seek judicial review in this Court of the amount or denial of an award determination." Id.(emphasis added).

This position was echoed in the Tax Court's decision in Lacey v. Comm'r, 153 T.C. 146 (2019), where the Tax Court found jurisdiction on the grounds that "a denial or rejection is a (negative) 'determination regarding an award', so the Tax Court has jurisdiction where, pursuant to the WBO's determination, the individual does not receive an award." Lacey, 153 T.C. at 163 n.19 (emphasis in original) (citing in accompanying text Cooper, 135 T.C. 70); see also id. at 150 n.5 (citing Cooper, 135 T.C. at 75–76).

In the case at bar, the Tax Court relied on its precedent in Cooper and Lacey to find jurisdiction over Li's WBO appeal. Neither party identified a problem with the Tax Court's jurisdiction. However, as we noted above, we have the continuing duty to examine our own jurisdiction.

b. Lack of Jurisdiction under 26 U.S.C. § 7623(b)(4).

After review, we conclude that Cooper and Lacey were wrongly decided. The Tax Court lacks jurisdiction to hear appeals from threshold rejections of whistleblower award requests.

Subsection (b)(4) of § 7623 gives the Tax Court exclusive jurisdiction over only a "determination regarding an award" under subsections (b)(1)-(3). The Cooper and Lacey Courts held that a threshold rejection of a whistleblower award request constituted such an award determination because the rejection of an award was a so-called "negative" award determination. Lacey, 153 T.C. 163 n.19 (citing in accompanying text Cooper, 135 T.C. 70); see also id. at 150 n.5 ("[A] 'rejection' is also a 'determination' . . . ."). We disagree. A threshold rejection of a whistleblower's Form 211 for vague and speculative information is not a negative award determination, as there is no determination as to an award under subsections (b)(1)-(3) whatsoever. Per subsection (b)(1), an award determination by the IRS arises only when the IRS "proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by [the whistleblower] . . . ." 26 U.S.C. § 7623(b)(1) (emphasis added). A threshold rejection of a Form 211 by nature means the IRS is not proceeding with an action against the target taxpayer. See Cline v. Comm'r, 119 T.C.M. (CCH) 1199, 2020 WL 1249454, at *5 (T.C. 2020). Therefore, there is no award determination, negative or otherwise, and no jurisdiction for the Tax Court.[2]

In this case, the WBO rejected Li's Form 211 for providing vague and speculative information it could not corroborate, even after examining supplemental material Li herself did not provide. The WBO did not forward Li's Form 211 to an IRS examiner for further action, and the IRS did not take any action against the

target taxpayer. There was no proceeding and thus no "award determination" by the IRS for Li's whistleblower information. Therefore, the Tax Court had no jurisdiction to review the WBO's threshold rejection of Li's Form 211.

This Court regrets that Li was informed otherwise by letter to her from the WBO. However, "no action of the parties can confer subject-matter jurisdiction upon a federal court." Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 702 (1982).

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[2] Li does not argue on appeal that the IRS, in fact, did proceed against the target taxpayer based on information in her Form 211 application. So we need not and do not decide whether the Tax Court would have jurisdiction to hear a whistleblower's claim in a case in which the IRS wrongly denied a Form 211 application but nevertheless proceeded against a target taxpayer based on the provided information.

Finally, the parties have called our attention to our decision in Myers v. Comm'r which contains the statement that "'written notice informing a claimant that the IRS has considered information that he submitted and has decided whether the information qualifies the claimant for an award' suffices to constitute a 'determination' for the purpose of § 7623(b)(4)." 928 F.3d 1025, 1032 (D.C. Cir. 2019). Upon review, we conclude that this statement is not a holding concerning the issue in the present case. This statement was responding to petitioner's argument that the WBO denial letter in his case did not contain enough information to qualify as a "determination" under the statute. Id. We subsequently declined to "craft requirements out of whole cloth" regarding what information a WBO denial letter must contain. Id. at 1033. By contrast, the question in this case asks whether § 7623(b)(4) confers jurisdiction only when there is both an IRS action based on whistleblower information and proceeds collected from that action. As this issue was not squarely before us in Myers, the above statement from Myers does not bind our decision today.

III. Conclusion

For the reasons set forth above, we dismiss this appeal for lack of subject matter jurisdiction under 26 U.S.C. § 7623(b)(4). We remand to the Tax Court with instructions to do the same. So ordered.

APPENDIX C

ORDER'S REGARDING PETITIONER'S MOTION TO CONSOLIDATE AND MOTION FOR RECONSIDERATION OF ORDERS OF THE UNITED STATES TAX COURT PETITION CASE DOCKETS 2516-21W AND 36146-21W FILED 02/09/2023

UNITED STATES TAX COURT

Washington, DC 20217

USTC'S: ***2516-21W***

Served 02/09/23

DANIEL ALLEN VILLA,

Petitioner

v.

Docket Electronically File
Docket No. 2516-21W

COMMISSIONER OF INTERNAL REVENUE,

Document No. 21

Respondent

Motion to Consolidate Docket Numbers 2516-21W, 36146-21W

It is ORDERED as follows: This motion is **DENIED**

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(Signed) Kathleen Kerrigan Chief Judge

Served 02/09/23

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UNITED STATES TAX COURT

Washington, DC 20217

USTC'S: ***2516-21W***

Served 02/09/23

DANIEL ALLEN VILLA,

Petitioner

v.

Docket Electronically File
Docket No. 2516-21W

COMMISSIONER OF INTERNAL REVENUE,

Document No. 22

Respondent

Motion for Reconsideration of Order of Dismissal for Lack of Jurisdiction Entered January 9, 2023

It is ORDERED as follows: This motion is **DENIED**

(Signed) Kathleen Kerrigan Chief Judge

Served 02/09/23

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UNITED STATES TAX COURT

Washington, DC 20217

USTC'S: 36146-*21W*

Served 02/09/23

DANIEL ALLEN VILLA,

Petitioner

v.

Docket Electronically File
Docket No. 36146-21W

Document No. 28

COMMISSIONER OF INTERNAL REVENUE,

Respondent

Motion to Consolidate Docket Numbers 2516-21W, 36146-21W

It is ORDERED as follows: This motion is **DENIED**

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(Signed) Kathleen Kerrigan Chief Judge

Served 02/09/23

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-- Redacted for Publication --

Washington, DC 20217

USTC'S: 36146-*21W*

Served 02/09/23

DANIEL ALLEN VILLA,

Petitioner

v.

Docket Electronically File
Docket No. 36146-21W

COMMISSIONER OF INTERNAL REVENUE,

Document No. 29

Respondent

Motion for Reconsideration of Order of Dismissal for Lack of Jurisdiction Entered January 6, 2023

It is ORDERED as follows: This motion is **DENIED**

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(Signed) Kathleen Kerrigan Chief Judge

Served 02/09/23

APPENIX H

CONSTITUTIONAL, STATUTORY, AND REGULATORY PROVISIONS INVOLVED

(Pursuant to Rule 14.1 - Indented Quotations - 11pt Font Format)

•**Amendment V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation

•**The Fifth Amendment:** creates a number of rights relevant to both criminal and civil legal proceedings. In criminal cases, the Fifth Amendment guarantees the right to a grand jury, forbids "double jeopardy," and protects against self-incrimination. It also requires that "due process of law" be part of any proceeding that denies a citizen "life, liberty or property" and requires the government to compensate citizens when it takes private property for public use.

•**The Eleventh Amendment:** was the first Constitutional amendment adopted after the Bill of Rights. The amendment was adopted following the Supreme Court's ruling in Chisholm v. Georgia, 2 U.S. 419 (1793). In Chisholm, the Court ruled that federal courts had the authority to hear cases in law and equity brought by private citizens against states and that states did not enjoy sovereign immunity from suits made by citizens of other states in federal court. Thus, the amendment clarified Article Ill, Section 2 of the Constitution, which gives diversity jurisdiction to the judiciary to hear cases "between a state and citizens of another state."

•**Amendment XIV Section 1:** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

•**The Fourteenth Amendment:** addresses many aspects of citizenship, the rights of citizens and the equal protections of the laws. Civil Rights, Due Process Clause and Equal Protection Clause are important integral rights that apply to this case.

•**Due Process - The Fifth Amendment:** says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures. Substantive Due Process Substantive due process has been interpreted to include the right to work in an ordinary kind of job, marry, and to raise one's children as a parent.

•**Equal Protection:** The Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution prohibits states from denying any person within its territory the equal protection of the laws. This means that a state must treat an individual in the same manner as others in similar conditions and circumstances. The Federal Government must do the same, but this is required by the Fifth Amendment Due Process.

Civil Rights: A civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury. Discrimination occurs when the civil rights of an individual are denied or interfered with because of the individual's membership in a particular group or class. Various jurisdictions have enacted statutes to prevent discrimination based on a person's race, sex, religion, age, previous condition of servitude, physical limitation, national origin, political affiliation and in some instances sexual orientation.

•**Article III – Section 1 - Judiciary Act of 1789:** Article III of the Constitution establishes the federal judiciary. Article III, Section I states that "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Although the Constitution establishes the Supreme Court, it permits Congress to decide how to organize it. Congress first exercised this power in the Judiciary Act of 1789. The Judiciary Act of 1789 gave the Supreme Court original jurisdiction to issue writs of mandamus (legal orders compelling government officials to act in accordance with the law).

(Quote) "And be it further enacted, That all the said courts of the United States shall have power to grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law; and shall have power to impose and administer all necessary oaths or affirmations, and to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same; and to make and establish all necessary rules for the orderly conducting business in the said courts, provided such rules are not repugnant to the laws of the United States."

(Section 13- Clause) *A clause in Section 13 of the Judiciary Act,* which granted the Supreme Court the power to issue writs of mandamus under its original jurisdiction, was later declared unconstitutional. In Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803) one of the seminal cases in American law, the Supreme Court held that was unconstitutional because it purported to enlarge the original jurisdiction of the Supreme Court beyond that permitted by the Constitution. The case was the first that clearly established that the judiciary can and must interpret what the Constitution permits and declare any laws which are contrary to the Constitution as unenforceable. Thus, the Judiciary Act of 1789 was the first act of Congress to be partially invalidated by the Supreme Court.

•**Arizona Constitution Article 2 Section 4 - Due process of law**

Section 4. No person shall be deprived of life, liberty, or property without due process of law.

•**Arizona Constitution Article 2 Section 5 - Right of petition and of assembly**

Section 5. The right of petition, and of the people peaceably to assemble for the common good, shall never be abridged.

•5 USC § 704 provides in relevant part: Actions reviewable: Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsideration, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority.

•26 USC Section 7623 (b)(1), (4), (6) and (c - Proceeds) - Awards to whistleblowers: (1)In general — If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the proceeds collected as a result of the action (including any related actions) or from any settlement in response to such action (determined without regard to whether such proceeds are available to the Secretary). The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

(4) Appeal of award determination — Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

(6) Additional rules (A)No contract necessary. — No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection. (B)Representation — Any individual described in paragraph (1) or (2) may be represented by counsel. (C)Submission of information — No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.

(c)Proceeds — For purposes of this section, the term "proceeds" includes — (1)penalties, interest, additions to tax, and additional amounts provided under the internal revenue laws, and — (2) any proceeds arising from laws for which the Internal Revenue Service is authorized to administer, enforce, or investigate, including— (A) criminal fines and civil forfeitures, and (B) violations of reporting requirements.

•26 USC § 7701 - Definitions (11)(B) and (12): (11) Secretary of the Treasury and Secretary — (A)Secretary of the Treasury — The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his. — (B)Secretary —The term "Secretary" means the Secretary of the Treasury or his delegate.

(12) Delegate — (A)In general — The term "or his delegate"— (i)when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and — (ii)when used with reference to any other official of the United States, shall be similarly construed. (B)Performance of certain functions in Guam or American Samoa — The term "delegate," in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

• **26 USC § 7801 - Authority of Department of the Treasury:** (A)In general — The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term "Secretary" or "Secretary of the Treasury" shall, when applied to those provisions, mean the Attorney General; and the term "internal revenue officer" shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:(i) Chapter 53. (ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

• **26 USC § 7803 - Commissioner of Internal Revenue; other officials(c)(d):** (c) Office of the Taxpayer Advocate (1) Establishment (A)In general —There is established in the Internal Revenue Service an office to be known as the "Office of the Taxpayer Advocate". (B)National Taxpayer Advocate (i)In general — The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the "National Taxpayer Advocate". The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code. (ii)Appointment —The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service. (iii)Qualifications — An individual appointed under clause (ii) shall have— (I)a background in customer service as well as tax law; and (II)experience in representing individual taxpayers. (iv)Restriction on employment — An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of

the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

(2)Functions of office (A)In general — It shall be the function of the Office of the Taxpayer Advocate to—(i)assist taxpayers in resolving problems with the Internal Revenue Service;(ii)identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and (iv)identify potential legislative changes which may be appropriate to mitigate such problems.

(B)Annual reports (i)Objectives Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information. (ii)Activities — Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall— (I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness; (II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811; (III) contain a summary of the 10 most serious problems encountered by taxpayers, including a description of the nature of such problems; (IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action; (V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory; (VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction; (VII)identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b); (VIII) identify any Taxpayer Advocate Directive which was not honored by the Internal Revenue Service in a timely manner, as specified under paragraph (5); (IX) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers; (X) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems; (XI) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes; (XII) with respect to any statistical information included in such

report, include a statement of whether such statistical information was reviewed or provided by the Secretary under section 6108(d) and, if so, whether the Secretary determined such information to be statistically valid and based on sound statistical methodology; and (XIII) include such other information as the National Taxpayer Advocate may deem advisable.(iii)Report to be submitted directly — Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget. The preceding sentence shall not apply with respect to statistical information provided to the Secretary for review, or received from the Secretary, under section 6108(d). (iv)Coordination with report of Treasury Inspector General for Tax Administration — To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

(C)Other responsibilities — The National Taxpayer Advocate shall—(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates; (ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates; (iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office; and (iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

(D)Personnel actions (i)In general — The National Taxpayer Advocate shall have the responsibility and authority to—(I) appoint local taxpayer advocates and make available at least 1 such advocate for each State; and (II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I). (ii)Consultation — The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

(E)Coordination with Treasury Inspector General for Tax Administration Before beginning any research or study, the National Taxpayer Advocate shall coordinate with the Treasury Inspector General for Tax Administration to ensure that the National Taxpayer Advocate does not duplicate any action that the Treasury Inspector General for Tax Administration has already undertaken or has a plan to undertake.

(3) Responsibilities of Commissioner — The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

(4) Operation of local offices (A)In general — Each local taxpayer advocate—(i) shall report to the National Taxpayer Advocate or delegate thereof; (ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate; (iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate; and (iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer. (B)Maintenance of independent communications — Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

(5)Taxpayer Advocate Directives — In the case of any Taxpayer Advocate Directive issued by the National Taxpayer Advocate pursuant to a delegation of authority from the Commissioner of Internal Revenue—(A) the Commissioner or a Deputy Commissioner shall modify, rescind, or ensure compliance with such directive not later than 90 days after the issuance of such directive, and (B) in the case of any directive which is modified or rescinded by a Deputy Commissioner, the National Taxpayer Advocate may (not later than 90 days after such modification or rescission) appeal to the Commissioner, and the Commissioner shall (not later than 90 days after such appeal is made) ensure compliance with such directive as issued by the National Taxpayer Advocate or provide the National Taxpayer Advocate with the reasons for any modification or rescission made or upheld by the Commissioner pursuant to such appeal.

(d) Additional duties of the Treasury Inspector General for Tax Administration (1) Annual reporting — The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978— (A)an evaluation of the compliance of the Internal Revenue Service with— (i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees; (ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted; (iii) required procedures under section 6320 upon the filing of a notice of a lien; (iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 regarding levies; and (v) restrictions under section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers; (B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return; (C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers

regarding requests for such extension; (D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service; (E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998; (F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A); and (G)information regarding any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304, including— (i) a summary of such actions initiated since the date of the last report; and (ii) a summary of any judgments or awards granted as a result of such actions.

(2) Semiannual reports — (A)In general.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978— (i) the number of taxpayer complaints during the reporting period; (ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources; (iii) a summary of the status of such complaints and allegations; and (iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations. (B) Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

(3) Other responsibilities — The Treasury Inspector General for Tax Administration shall—(A) conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code; (B)establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1); and (C) not later than December 31, 2010, submit a written report to Congress on the implementation of section 6103(k)(10).

•**26 USC Ch. 46: GOLDEN PARACHUTE PAYMENTS — §4999. Golden parachute payments:** (a) Imposition of tax There is hereby imposed on any person who receives an excess parachute payment a tax equal to 20 percent of the amount of such payment. (b) Excess parachute payment defined — For purposes of this section, the term "excess parachute payment" has the meaning given to such term by section 280G(b). (c) Administrative provisions (1) Withholding — In the case of any excess parachute payment which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such payment. (2) Other administrative provisions — For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

•26 USC § 280G - Golden parachute payments: (a)General rule — No deduction shall be allowed under this chapter for any excess parachute payment.

(b)Excess parachute payment — For purposes of this section— (1)In general The term "excess parachute payment" means an amount equal to the excess of any parachute payment over the portion of the base amount allocated to such payment. (2)Parachute payment defined (A)In general — The term "parachute payment" means any payment in the nature of compensation to (or for the benefit of) a disqualified individual if— (i)such payment is contingent on a change—(I) in the ownership or effective control of the corporation, or (II) in the ownership of a substantial portion of the assets of the corporation, and (ii) the aggregate present value of the payments in the nature of compensation to (or for the benefit of) such individual which are contingent on such change equals or exceeds an amount equal to 3 times the base amount. For purposes of clause (ii), payments not treated as parachute payments under paragraph (4)(A), (5), or (6) shall not be taken into account. (B)Agreements — The term "parachute payment" shall also include any payment in the nature of compensation to (or for the benefit of) a disqualified individual if such payment is made pursuant to an agreement which violates any generally enforced securities laws or regulations. In any proceeding involving the issue of whether any payment made to a disqualified individual is a parachute payment on account of a violation of any generally enforced securities laws or regulations, the burden of proof with respect to establishing the occurrence of a violation of such a law or regulation shall be upon the Secretary. (C)Treatment of certain agreements entered into within 1 year before change of ownership — For purposes of subparagraph (A)(i), any payment pursuant to— (i) an agreement entered into within 1 year before the change described in subparagraph (A)(i), or (ii) an amendment made within such 1-year period of a previous agreement, shall be presumed to be contingent on such change unless the contrary is established by clear and convincing evidence. (3)Base amount (A)In general — The term "base amount" means the individual's annualized includible compensation for the base period. (B)Allocation — The portion of the base amount allocated to any parachute payment shall be an amount which bears the same ratio to the base amount as— (i) the present value of such payment, bears to (ii) the aggregate present value of all such payments. (4)Treatment of amounts which taxpayer establishes as reasonable compensation — In the case of any payment described in paragraph (2)(A)— (A) the amount treated as a parachute payment shall not include the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services to be rendered on or after the date of the change described in paragraph (2)(A)(i), and (B) the amount treated as an excess parachute payment shall be reduced by the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered before the date of the change described in paragraph (2)(A)(i). For purposes of subparagraph (B), reasonable compensation for services actually rendered before the date of the change described in paragraph

(2)(A)(i) shall be first offset against the base amount. (5)Exemption for small business corporations, etc. (A)In general — Notwithstanding paragraph (2), the term "parachute payment" does not include— (i) any payment to a disqualified individual with respect to a corporation which (immediately before the change described in paragraph (2)(A)(i)) was a small business corporation (as defined in section 1361(b) but without regard to paragraph (1)(C) thereof), and (ii) any payment to a disqualified individual with respect to a corporation (other than a corporation described in clause (i)) if— (I) immediately before the change described in paragraph (2)(A)(i), no stock in such corporation was readily tradeable on an established securities market or otherwise, and (II) the shareholder approval requirements of subparagraph (B) are met with respect to such payment. The Secretary may, by regulations, prescribe that the requirements of subclause (I) of clause (ii) are not met where a substantial portion of the assets of any entity consists (directly or indirectly) of stock in such corporation and interests in such other entity are readily tradeable on an established securities market, or otherwise. Stock described in section 1504(a)(4) shall not be taken into account under clause (ii)(I) if the payment does not adversely affect the shareholder's redemption and liquidation rights. (B)Shareholder approval requirements — The shareholder approval requirements of this subparagraph are met with respect to any payment if— (i) such payment was approved by a vote of the persons who owned, immediately before the change described in paragraph (2)(A)(i), more than 75 percent of the voting power of all outstanding stock of the corporation, and (ii) there was adequate disclosure to shareholders of all material facts concerning all payments which (but for this paragraph) would be parachute payments with respect to a disqualified individual. — The regulations prescribed under subsection (e) shall include regulations providing for the application of this subparagraph in the case of shareholders which are not individuals (including the treatment of nonvoting interests in an entity which is a shareholder) and where an entity holds a de minimis amount of stock in the corporation.(6)Exemption for payments under qualified plans — Notwithstanding paragraph (2), the term "parachute payment" shall not include any payment to or from— (A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), (B)an annuity plan described in section 403(a), (C)a simplified employee pension (as defined in section 408(k)), or (D)a simple retirement account described in section 408(p).

(c)Disqualified individuals — For purposes of this section, the term "disqualified individual" means any individual who is— (1)an employee, independent contractor, or other person specified in regulations by the Secretary who performs personal services for any corporation, and (2)is an officer, shareholder, or highly-compensated individual. — For purposes of this section, a personal service corporation (or similar entity) shall be treated as an individual. For purposes of paragraph (2), the term "highly-compensated individual" only includes an individual who is (or would be if the individual were an employee) a member of the group consisting of the highest

paid 1 percent of the employees of the corporation or, if less, the highest paid 250 employees of the corporation.

(d)Other definitions and special rules — For purposes of this section— (1)Annualized includible compensation for base period — The term "annualized includible compensation for the base period" means the average annual compensation which— (A) was payable by the corporation with respect to which the change in ownership or control described in paragraph (2)(A) of subsection (b) occurs, and (B) was includible in the gross income of the disqualified individual for taxable years in the base period. (2)Base period—The term "base period" means the period consisting of the most recent 5 taxable years ending before the date on which the change in ownership or control described in paragraph (2)(A) of subsection (b) occurs (or such portion of such period during which the disqualified individual performed personal services for the corporation). (3)Property transfers — Any transfer of property— (A)shall be treated as a payment, and (B)shall be taken into account as its fair market value. (4)Present value — Present value shall be determined by using a discount rate equal to 120 percent of the applicable Federal rate (determined under section 1274(d)), compounded semiannually. (5)Treatment of affiliated groups — Except as otherwise provided in regulations, all members of the same affiliated group (as defined in section 1504, determined without regard to section 1504(b)) shall be treated as 1 corporation for purposes of this section. Any person who is an officer of any member of such group shall be treated as an officer of such 1 corporation.

(e)Special rule for application to employers participating in the Troubled Assets Relief Program (1)In general — In the case of the severance from employment of a covered executive of an applicable employer during the period during which the authorities under section 101(a) of the Emergency Economic Stabilization Act of 2008 are in effect (determined under section 120 of such Act), this section shall be applied to payments to such executive with the following modifications: (A)Any reference to a disqualified individual (other than in subsection (c)) shall be treated as a reference to a covered executive. (B)Any reference to a change described in subsection (b)(2)(A)(i) shall be treated as a reference to an applicable severance from employment of a covered executive, and any reference to a payment contingent on such a change shall be treated as a reference to any payment made during an applicable taxable year of the employer on account of such applicable severance from employment. (C)Any reference to a corporation shall be treated as a reference to an applicable employer. (D)The provisions of subsections (b)(2)(C), (b)(4), (b)(5), and (d)(5) shall not apply. (2)Definitions and special rules — For purposes of this subsection: (A)Definitions — Any term used in this subsection which is also used in section 162(m)(5) shall have the meaning given such term by such section. (B)Applicable severance from employment — The term "applicable severance from employment" means any severance from employment of a covered executive— (i)by reason of an involuntary termination of the executive by the employer, or (ii) in connection with any bankruptcy, liquidation, or receivership of the employer.

(C)Coordination and other rules (i)In general — If a payment which is treated as a parachute payment by reason of this subsection is also a parachute payment determined without regard to this subsection, this subsection shall not apply to such payment. (ii)Regulatory authority — The Secretary may prescribe such guidance, rules, or regulations as are necessary— (I)to carry out the purposes of this subsection and the Emergency Economic Stabilization Act of 2008, including the extent to which this subsection applies in the case of any acquisition, merger, or reorganization of an applicable employer, (II)to apply this section and section 4999 in cases where one or more payments with respect to any individual are treated as parachute payments by reason of this subsection, and other payments with respect to such individual are treated as parachute payments under this section without regard to this subsection, and (III)to prevent the avoidance of the application of this section through the mischaracterization of a severance from employment as other than an applicable severance from employment.

(f)Regulations — The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section (including regulations for the application of this section in the case of related corporations and in the case of personal service corporations).

•26 USC § 7201 (Evasion): Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

•26 USC § 7202 (Trust Fund Violation—Willful Failure to Collect or Pay Over Tax) Felony: - Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

•26 USC § 7203 - Willful failure to file return, supply information, or pay tax: Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $25,000 ($100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure

if there is no addition to tax under section 6654 or 6655 with respect to such failure. In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting "felony" for "misdemeanor" and "5 years" for "1 year".

•26 USC § 7206 Fraud and false statements: Any person who— (1)Declaration under penalties of perjury—Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or (2)Aid or assistance — Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or (3)Fraudulent bonds, permits, and entries — Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or (4)Removal or concealment with intent to defraud— Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or(5)Compromises and closing agreements — In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully— (A)Concealment of property— Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or— (B)Withholding, falsifying, and destroying rec-ords— Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

•26 USC § 7212 - Attempts to interfere with administration of internal revenue laws - "Omnibus Clause":- 7212(a) Corrupt or forcible interference — Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than

$5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than $3,000, or imprisoned not more than 1 year, or both. The term "threats of force", as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

(b)Forcible rescue of seized property — Any person who forcibly rescues or causes to be rescued any property after it shall have been seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise provided for, for every such offense, be fined not more than $500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than 2 years.

•**26 USC § 7232 - Failure to register or reregister under section 4101, false representations of registration status, etc.:** - Every person who fails to register or reregister as required by section 4101, or who in connection with any purchase of any taxable fuel (as defined in section 4083) or aviation fuel falsely represents himself to be registered as provided by section 4101, or who willfully makes any false statement in an application for registration or reregistration under section 4101, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

•**26 U.S. Code § 162 - Tax Cuts and Jobs Act (TCJA) of 2017 - Trade or business expenses:** (c)Illegal bribes, kickbacks, and other payments. (1)Illegal payments to government officials or employees. No deduction shall be allowed under subsection (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment is unlawful under the Foreign Corrupt Practices Act of 1977. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or is unlawful under the Foreign Corrupt Practices Act of 1977) shall be upon the Secretary to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(2)Other illegal payments No deduction shall be allowed under subsection (a) for any payment (other than a payment described in paragraph (1)) made, directly or indirectly, to any person, if the payment constitutes an illegal bribe, illegal kickback, or other illegal payment under any law of the United States, or under any law of a State (but only if such State law is generally enforced), which subjects the payor to a criminal penalty or the loss of license or privilege to engage in a trade or business. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer. The burden of proof in respect of the issue, for purposes of this paragraph, as to whether a payment constitutes an illegal bribe, illegal kickback, or other illegal payment shall be upon the Secretary to the

same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(3)Kickbacks, rebates, and bribes under medicare and medicaid. No deduction shall be allowed under subsection (a) for any kickback, rebate, or bribe made by any provider of services, supplier, physician, or other person who furnishes items or services for which payment is or may be made under the Social Security Act, or in whole or in part out of Federal funds under a State plan approved under such Act, if such kickback, rebate, or bribe is made in connection with the furnishing of such items or services or the making or receipt of such payments. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer.

(e)Denial of deduction for certain lobbying and political expenditures: (1)In general. No deduction shall be allowed under subsection (a) for any amount paid or incurred in connection with— (A)influencing legislation,(B)participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,(C)any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or (D)any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

(3)Influencing legislation. For purposes of this subsection— (A)In general. The term "influencing legislation" means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation. (B)Legislation. The term "legislation" has the meaning given such term by section 4911(e)(2).

(f)Fines, penalties, and other amounts: (1)In general. Except as provided in the following paragraphs of this subsection, no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or governmental entity in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

(g) Treble damage payments under the antitrust laws: If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred— (1) on any judgment for damages entered against the taxpayer under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or (2) in

settlement of any action brought under such section 4 on account of such violation or related violation.

•26 USC Subtitle A - Ch1- Subch B - Part VI – § 165. Losses: (a) General rule — There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) Amount of deduction — For purposes of subsection (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) Limitation on losses of individuals — In the case of an individual, the deduction under subsection (a) shall be limited to— (1) losses incurred in a trade or business; (2) losses incurred in any transaction entered into for profit, though not connected with a trade or business; and (3) except as provided in subsection (h), losses of property not connected with a trade or business or a transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft.

(d) Wagering losses — Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions. For purposes of the preceding sentence, in the case of taxable years beginning after December 31, 2017, and before January 1, 2026, the term "losses from wagering transactions" includes any deduction otherwise allowable under this chapter incurred in carrying on any wagering transaction.

(e) Theft losses — For purposes of subsection (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) Capital losses — Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in sections 1211 and 1212.

(g) Worthless securities (1) General rule — If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset. (2) Security defined — For purposes of this subsection, the term "security" means— (A) a share of stock in a corporation; (B) a right to subscribe for, or to receive, a share of stock in a corporation; or (C) a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form. (3) Securities in affiliated corporation — For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if— (A) the taxpayer owns directly stock in such corporation meeting the requirements of section 1504(a)(2), and (B) more than 90 percent of the aggregate of

its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental of properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities. — In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains therefrom.

(h) Treatment of casualty gains and losses (1) Dollar limitation per casualty Any loss of an individual described in subsection (c)(3) shall be allowed only to the extent that the amount of the loss to such individual arising from each casualty, or from each theft, exceeds $500 ($100 for taxable years beginning after December 31, 2009). (2) Net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income (A) In general— If the personal casualty losses for any taxable year exceed the personal casualty gains for such taxable year, such losses shall be allowed for the taxable year only to the extent of the sum of— (i) the amount of the personal casualty gains for the taxable year, plus (ii) so much of such excess as exceeds 10 percent of the adjusted gross income of the individual. (B) Special rule where personal casualty gains exceed personal casualty losses— If the personal casualty gains for any taxable year exceed the personal casualty losses for such taxable year— (i) all such gains shall be treated as gains from sales or exchanges of capital assets, and (ii) all such losses shall be treated as losses from sales or exchanges of capital assets. (3) Definitions of personal casualty gain and personal casualty loss — For purposes of this subsection— (A) Personal casualty gain— The term "personal casualty gain" means the recognized gain from any involuntary conversion of property which is described in subsection (c)(3) arising from fire, storm, shipwreck, or other casualty, or from theft. (B) Personal casualty loss— The term "personal casualty loss" means any loss described in subsection (c)(3). For purposes of paragraph (2), the amount of any personal casualty loss shall be determined after the application of paragraph (1). (4) Special rules (A) Personal casualty losses allowable in computing adjusted gross income to the extent of personal casualty gains— In any case to which paragraph (2)(A) applies, the deduction for personal casualty losses for any taxable year shall be treated as a deduction allowable in computing adjusted gross income to the extent such losses do not exceed the personal casualty gains for the taxable year. (B) Joint returns— For purposes of this subsection, a husband and wife making a joint return for the taxable year shall be treated as 1 individual. (C) Determination of adjusted gross income in case of estates and trusts— For purposes of paragraph (2), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income. (D) Coordination with estate tax— No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.

(E) Claim required to be filed in certain cases— Any loss of an individual described in subsection (c)(3) to the extent covered by insurance shall be taken into account under this section only if the individual files a timely insurance claim with respect to such loss. (5) Limitation for taxable years 2018 through 2025 (A) In general— In the case of an individual, except as provided in subparagraph (B), any personal casualty loss which (but for this paragraph) would be deductible in a taxable year beginning after December 31, 2017, and before January 1, 2026, shall be allowed as a deduction under subsection (a) only to the extent it is attributable to a Federally declared disaster (as defined in subsection (i)(5)). (B) Exception related to personal casualty gains— If a taxpayer has personal casualty gains for any taxable year to which subparagraph (A) applies—(i) subparagraph (A) shall not apply to the portion of the personal casualty loss not attributable to a Federally declared disaster (as so defined) to the extent such loss does not exceed such gains, and (ii) in applying paragraph (2) for purposes of subparagraph (A) to the portion of personal casualty loss which is so attributable to such a disaster, the amount of personal casualty gains taken into account under paragraph (2)(A) shall be reduced by the portion of such gains taken into account under clause (i).

(i) Disaster losses— (1) Election to take deduction for preceding year— Notwithstanding the provisions of subsection (a), any loss occurring in a disaster area and attributable to a federally declared disaster may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.— (2) Year of loss— If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.(3) Amount of loss— The amount of the loss taken into account in the preceding taxable year by reason of paragraph (1) shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss. (4) Use of disaster loan appraisals to establish amount of loss— Nothing in this title shall be construed to prohibit the Secretary from prescribing regulations or other guidance under which an appraisal for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government as a result of a federally declared disaster may be used to establish the amount of any loss described in paragraph (1) or (2). (5) Federally declared disasters— For purposes of this subsection— (A) In general— The term "Federally 1 declared disaster" means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. (B) Disaster area— The term "disaster area" means the area so determined to warrant such assistance.

(j) Denial of deduction for losses on certain obligations not in registered form (1) In general— Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such

obligation was subject to tax under section 4701). (2) Definitions— For purposes of this subsection— (A) Registration-required obligation— The term "registration-required obligation" has the meaning given to such term by section 163(f)(2). (B) Registered form— The term "registered form" has the same meaning as when used in section 163(f). (3) Exceptions— The Secretary may, by regulations, provide that this subsection and section 1287 shall not apply with respect to obligations held by any person if— (A) such person holds such obligations in connection with a trade or business outside the United States, (B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business, (C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or (D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form, but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A), (B), or (C).

(k) Treatment as disaster loss where taxpayer ordered to demolish or relocate residence in disaster area because of disaster— In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, if— (1) not later than the 120th day after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and (2) the residence has been rendered unsafe for use as a residence by reason of the disaster, any loss attributable to such disaster shall be treated as a loss which arises from a casualty and which is described in subsection (i).

(l) Treatment of certain losses in insolvent financial institutions (1) In general—If— (A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual's deposit in a qualified financial institution, and (B) such loss is on account of the bankruptcy or insolvency of such institution, then the taxpayer may elect to treat the amount so estimated as a loss described in subsection (c)(3) incurred during the taxable year. (2) Qualified individual defined— For purposes of this subsection, the term "qualified individual" means any individual, except an individual—(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution, (B) who is an officer of the qualified financial institution, (C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or (D) who otherwise is a related person (as defined in section 267(b)) with respect to an individual described in subparagraph (A) or (B). (3) Qualified financial institution— For purposes of this subsection, the term "qualified financial institution" means—(A) any bank (as defined in section 581), (B) any institution described in section 591, (C) any credit

union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or (D) any similar institution chartered and supervised under Federal or State law. (4) Deposit— For purposes of this subsection, the term "deposit" means any deposit, withdrawable account, or withdrawable or repurchasable share.(5) Election to treat as ordinary loss (A) In general— In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year. (B) Limitations (i) Deposit may not be federally insured— No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law. (ii) Dollar limitation— With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.(6) Election— Any election by the taxpayer under this subsection for any taxable year—(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and (B) may be revoked only with the consent of the Secretary. (7) Coordination with section 166— Section 166 shall not apply to any loss to which an election under this subsection applies.

(m) Cross references (1) For special rule for banks with respect to worthless securities, see section 582. (2) For disallowance of deduction for worthlessness of securities to which subsection (g)(2)(C) applies, if issued by a political party or similar organization, see section 271. (3) For special rule for losses on stock in a small business investment company, see section 1242. (4) For special rule for losses of a small business investment company, see section 1243. (5) For special rule for losses on small business stock, see section 1244.

• **26 USC § 275 - Certain taxes:** (a)General rule — No deduction shall be allowed for the following taxes: (1)Federal income taxes, including— (A) the tax imposed by section 3101 (relating to the tax on employees under the Federal Insurance Contributions Act); (B) the taxes imposed by sections 3201 and 3211 (relating to the taxes on railroad employees and railroad employee representatives); and (C) the tax withheld at source on wages under section 3402. (2) Federal war profits and excess profits taxes. (3) Estate, inheritance, legacy, succession, and gift taxes. (4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States if the taxpayer chooses to take to any extent the benefits of section 901. (5) Taxes on real property, to the extent that section 164(d) requires such taxes to be treated as imposed on another taxpayer. (6) Taxes imposed by chapters 41, 42, 43, 44, 45, 46, and 54. — Paragraph (1) shall not apply to any

taxes to the extent such taxes are allowable as a deduction under section 164(f). (b)Cross reference — For disallowance of certain other taxes, see section 164(c)

•5 USC - Administrative Procedure Act (APA) - SUBCHAPTER II - Administrative Procedure - § 553. Rule making: (a) This section applies, according to the provisions thereof, except to the extent that there is involved -(1) a military or foreign affairs function of the United States; or (2) a matter relating to agency management or personnel or to publc property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include - (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the legal authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Except when notice or hearing is required by statute, this subsection does not apply - (A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or (B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except - (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

•5 U.S. Code § 2105 – Employee:

(a)For the purpose of this title, "employee", except as otherwise provided by this section or when specifically modified, means an officer and an individual who is— (1)appointed in the civil service by one of the following acting in an official capacity— (A)the President; (B)a Member or Members of Congress, or the Congress;(C)a member of a uniformed service;(D)an individual who is an employee

under this section;(E)the head of a Government controlled corporation; or (F)an adjutant general designated by the Secretary concerned under section 709(c) of title 32;(2)engaged in the performance of a Federal function under authority of law or an Executive act; and (3)subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

(b)An individual who is employed at the United States Naval Academy in the midshipmen's laundry, the midshipmen's tailor shop, the midshipmen's cobbler and barber shops, and the midshipmen's store, except an individual employed by the Academy dairy (if any), and whose employment in such a position began before October 1, 1996, and has been uninterrupted in such a position since that date is deemed an employee.

(c)An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Navy Ships Stores Program, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is deemed not an employee for the purpose of—(1)laws administered by the Office of Personnel Management, except— (A)section 7204; (B)as otherwise specifically provided in this title; (C)the Fair Labor Standards Act of 1938; (D)for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or (E)subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from Non appropriated funds; or (2) subchapter I of chapter 81, chapter 84 (except to the extent specifically provided therein), and section 7902 of this title. This subsection does not affect the status of these nonappropriated fund activities as Federal instrumentalities.

(d)A Reserve of the armed forces who is not on active duty or who is on active duty for training is deemed not an employee or an individual holding an office of trust or profit or discharging an official function under or in connection with the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity.

(e)Except as otherwise provided by law, an employee of the United States Postal Service or of the Postal Regulatory Commission is deemed not an employee for purposes of this title.

(f)For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.

•5a USC - Compiled Act 95-452. INSPECTOR GENERAL ACT OF 1978 - § § (2)(4)(5)(6)(8)(8D. Special Provisions Concerning the Department of the

Treasury) (8E. Special Provisions Concerning the Department of Justice) (8G) (12. Definitions):

5a USC § 2 - Purpose and establishment of Offices of Inspector General; departments and agencies involved — In order to create independent and objective units— (1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 12(2); (2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and (3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action; there is established— (A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and (B)in the establishment of the Department of the Treasury— (i) an Office of Inspector General of the Department of the Treasury; and (ii) an Office of Treasury Inspector General for Tax Administration.

5a USC § 3 - Appointment of Inspector General; supervision; removal; political activities; appointment of Assistant Inspector General for Auditing and Assistant Inspector General for Investigations — (a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. (b) An Inspector General may be removed from office by the President. If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) (1)Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—(A)appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment; (B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations; and (C)designate a Whistleblower Protection Coordinator who shall— (i)educate agency employees— (I) about prohibitions against retaliation for protected disclosures; and (II)who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures, including— (aa) the means by which employees may seek review of any allegation of reprisal, including the roles of the Office of the Inspector General, the Office of Special Counsel, the Merit Systems Protection Board, and any other relevant entities; and (bb) general information about the timeliness of such cases, the availability of any alternative dispute mechanisms, and avenues for potential relief.[1] (ii)assist the Inspector General in promoting the timely and appropriate handling and consideration of protected disclosures and allegations of reprisal, to the extent practicable, by the Inspector General; and (iii) assist the Inspector General in facilitating communication and coordination with the Special Counsel, the Council of the Inspectors General on Integrity and Efficiency, the establishment, Congress, and any other relevant entity regarding the timely and appropriate handling and consideration of protected disclosures, allegations of reprisal, and general matters regarding the implementation and administration of whistleblower protection laws, rules, and regulations. (2) The Whistleblower Protection Coordinator shall not act as a legal representative, agent, or advocate of the employee or former employee. (3) The Whistleblower Protection Coordinator shall have direct access to the Inspector General as needed to accomplish the requirements of this subsection. (4)For the purposes of this section, the requirement of the designation of a Whistleblower Protection Ombudsman [2] under paragraph (1)(C) shall not apply to— (A) any agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [50 U.S.C. 3003(4)]); or (B) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counter intelligence activities.

(e) The annual rate of basic pay for an Inspector General (as defined under section 12(3)) shall be the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, plus 3 percent.

(f) An Inspector General (as defined under section 8G(a)(6) or 12(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.

(g)Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.

5a USC § 4 - Duties and responsibilities; report of criminal violations to Attorney General. (a)It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established— (1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment; (2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations; (3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations; (4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and (5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) (1)In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall— (A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions; (B) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and (C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).[1] (2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of

Inspector General of establishments defined under section 12(2), Offices of Inspector General of designated Federal entities defined under section 8G(a)(2), and any audit office established within a Federal entity defined under section 8G(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the Government Accountability Office or the Office of Inspector General of each establishment defined under section 12(2), or the Office of Inspector General of each designated Federal entity defined under section 8G(a)(2).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(e) (1)In carrying out the duties and responsibilities established under this Act, whenever an Inspector General issues a recommendation for corrective action to the agency, the Inspector General— (A)shall submit the document making a recommendation for corrective action to— (i) the head of the establishment; (ii) the congressional committees of jurisdiction; and (iii) if the recommendation for corrective action was initiated upon request by an individual or entity other than the Inspector General, that individual or entity; (B) may submit the document making a recommendation for corrective action to any Member of Congress upon request; and (C) not later than 3 days after the recommendation for corrective action is submitted in final form to the head of the establishment, post the document making a recommendation for corrective action on the website of the Office of Inspector General. (2) Nothing in this subsection shall be construed as authorizing an Inspector General to publicly disclose information otherwise prohibited from disclosure by law.

5a USC § 5 - Semiannual reports; transmittal to Congress; availability to public; immediate report on serious or flagrant problems; disclosure of information; definitions — (a)Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to— (1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period; (2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1); (3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed; (4) a

summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; (5) a summary of each report made to the head of the establishment under section 6(c)(2) during the reporting period; (6) a listing, subdivided according to subject matter, of each audit report, inspection reports,[1] and evaluation reports [1] issued by the Office during the reporting period and for each report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use; (7) a summary of each particularly significant report; (8)statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for reports— (A) for which no management decision had been made by the commencement of the reporting period; (B) which were issued during the reporting period; (C)for which a management decision was made during the reporting period, including— (i) the dollar value of disallowed costs; and (ii) the dollar value of costs not disallowed; and (D) for which no management decision has been made by the end of the reporting period; (9)statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of recommendations that funds be put to better use by management, for reports— (A) for which no management decision had been made by the commencement of the reporting period; (B) which were issued during the reporting period; (C)for which a management decision was made during the reporting period, including— (i) the dollar value of recommendations that were agreed to by management; and (ii) the dollar value of recommendations that were not agreed to by management; and (D) for which no management decision has been made by the end of the reporting period; (10)a summary of each audit report, inspection reports,1 and evaluation reports 1 issued before the commencement of the reporting period—(A) for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report; (B)for which no establishment comment was returned within 60 days of providing the report to the establishment; and(C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations.[2] (11) a description and explanation of the reasons for any significant revised management decision made during the reporting period; (12)information concerning any significant management decision with which the Inspector General is in disagreement; (13)the information described under section 804(b) of the Federal Financial Management Improvement Act of 1996; (14) (A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or (B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General; (15) a list of any outstanding recommendations from any peer review conducted by another Office of

Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; (16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented; (17)statistical tables showing— (A) the total number of investigative reports issued during the reporting period; (B) the total number of persons referred to the Department of Justice for criminal prosecution during the reporting period; (C) the total number of persons referred to State and local prosecuting authorities for criminal prosecution during the reporting period; and (D) the total number of indictments and criminal informations during the reporting period that resulted from any prior referral to prosecuting authorities; (18) a description of the metrics used for developing the data for the statistical tables under paragraph (17); (19)a report on each investigation conducted by the Office involving a senior Government employee where allegations of misconduct were substantiated, including the name of the senior government official (as defined by the department or agency) if already made public by the Office, and a detailed description of— (A) the facts and circumstances of the investigation; and (B)the status and disposition of the matter, including— (i) if the matter was referred to the Department of Justice, the date of the referral; and (ii) if the Department of Justice declined the referral, the date of the declination; (20) (A) a detailed description of any instance of whistleblower retaliation, including information about the official found to have engaged in retaliation; and (B) what, if any, consequences the establishment actually imposed to hold the official described in subparagraph (A) accountable; (21)a detailed description of any attempt by the establishment to interfere with the independence of the Office, including— (A) with budget constraints designed to limit the capabilities of the Office; and (B) incidents where the establishment has resisted or objected to oversight activities of the Office or restricted or significantly delayed access to information, including the justification of the establishment for such action; and (22) detailed descriptions of the particular circumstances of each— (A) inspection, evaluation, and audit conducted by the Office that is closed and was not disclosed to the public; and (B) investigation conducted by the Office involving a senior Government employee that is closed and was not disclosed to the public.

(b)Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing— (1) any comments such head determines appropriate; (2)statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of disallowed costs, for reports— (A) for which final action had not been taken by the

commencement of the reporting period; (B) on which management decisions were made during the reporting period; (C)for which final action was taken during the reporting period, including— (i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and (ii) the dollar value of disallowed costs that were written off by management; and (D) for which no final action has been taken by the end of the reporting period; (3)statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for reports— (A) for which final action had not been taken by the commencement of the reporting period; (B)on which management decisions were made during the reporting period; (C)for which final action was taken during the reporting period, including— (i) the dollar value of recommendations that were actually completed; and (ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and (D) for which no final action has been taken by the end of the reporting period; (4) whether the establishment entered into a settlement agreement with the official described in subsection (a)(20)(A), which shall be reported regardless of any confidentiality agreement relating to the settlement agreement; and (5)a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing— (A) a list of such audit reports and the date each such report was issued; (B) the dollar value of disallowed costs for each report; (C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and (D) an explanation of the reasons final action has not been taken with respect to each such audit report, except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.

(c)Within sixty days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost. Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d)Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

(e)(1)Nothing in this section shall be construed to authorize the public disclosure of information which is—(A) specifically prohibited from disclosure by any other provision of law; (B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or (C) a part of an ongoing criminal investigation. (2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record. (3) Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(f)], nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof. (4) Subject to any other provision of law that would otherwise prohibit disclosure of such information, the information described in paragraph (1) may be provided to any Member of Congress upon request. (5) An Office may not provide to Congress or the public any information that reveals the personally identifiable information of a whistleblower under this section unless the Office first obtains the consent of the whistleblower.

(f)As used in this section— (1)the term "questioned cost" means a cost that is questioned by the Office because of— (A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; (B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or (C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable; (2) the term "unsupported cost" means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation; (3) the term "disallowed cost" means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government; (4)the term "recommendation that funds be put to better use" means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including— (A) reductions in outlays; (B) deobligation of funds from programs or operations; (C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds; (D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;(E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or (F) any other savings which are specifically identified; (5) the term "management decision" means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; (6)the term "final action" means— (A) the completion of all actions that the management of an establishment has

concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and (B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made; and (7)the term "senior Government employee" means— (A) an officer or employee in the executive branch (including a special Government employee as defined in section 202 of title 18, United States Code) who occupies a position classified at or above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and(B) any commissioned officer in the Armed Forces in pay grades O–6 and above.

5a USC § 6 - Authority of Inspector General; information and assistance from Federal agencies; unreasonable refusal; office space and equipment: (a)In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized— (1) (A) to have timely access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available to the applicable establishment which relate to the programs and operations with respect to which that Inspector General has responsibilities under this Act; (B)to have access under subparagraph (A) notwithstanding any other provision of law, except pursuant to any provision of law enacted by Congress that expressly— (i) refers to the Inspector General; and (ii)limits the right of access of the Inspector General; and (C) except as provided in subsection (i), with regard to Federal grand jury materials protected from disclosure pursuant to rule 6(e) of the Federal Rules of Criminal Procedure, to have timely access to such information if the Attorney General grants the request in accordance with subsection (h); (2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable; (3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof; (4) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information), as well as any tangible thing and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: Provided, That procedures other than subpoenas shall be used by the Inspector General to obtain documents and information from Federal agencies; (5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal; (6) to have direct and

prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act; (7) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; (8) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5, United States Code; and (9) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)Nothing in this section shall be construed as authorizing an Inspector General to publicly disclose information otherwise prohibited from disclosure by law.

(c)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.(2)Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(d) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(e) (1) (A)For purposes of applying the provisions of law identified in subparagraph (B)— (i) each Office of Inspector General shall be considered to be a separate agency; and (ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions. (B)This paragraph applies with respect to the following provisions of title 5, United States Code: (i) Subchapter II of chapter 35. (ii) Sections 8335(b), 8336, 8344, 8414, 8468, and 8425(b). (iii) All provisions relating to the Senior Executive Service (as determined by the Office of Personnel Management), subject to paragraph (2). (2) For purposes of applying section 4507(b) of title 5, United States Code, paragraph (1)(A)(ii) shall be applied by substituting "the Council of the Inspectors General on Integrity and Efficiency

(established by section 11 of the Inspector General Act) shall" for "the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,".

(f) (1)In addition to the authority otherwise provided by this Act, each Inspector General, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to— (A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General; (B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and (C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed. (2)The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that— (A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers; (B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and (C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers. (3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General. (4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1). (5) (A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the

Attorney General under paragraph (4). (B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4). (6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court. (7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General. (8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation. (9) In this subsection, the term "Inspector General" means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G.

(g)(1) For each fiscal year, an Inspector General shall transmit a budget estimate and request to the head of the establishment or designated Federal entity to which the Inspector General reports. The budget request shall specify the aggregate amount of funds requested for such fiscal year for the operations of that Inspector General and shall specify the amount requested for all training needs, including a certification from the Inspector General that the amount requested satisfies all training requirements for the Inspector General's office for that fiscal year, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request. (2)In transmitting a proposed budget to the President for approval, the head of each establishment or designated Federal entity shall include— (A) an aggregate request for the Inspector General; (B) amounts for Inspector General training;(C) amounts for support of the Council of the Inspectors General on Integrity and Efficiency; and (D) any comments of the affected Inspector General with respect to the proposal. (3)The President shall include in each budget of the United States Government submitted to Congress— (A) a separate statement of the budget estimate prepared in accordance with paragraph (1); (B) the amount requested by the President for each Inspector General; (C) the amount requested by

the President for training of Inspectors General; (D) the amount requested by the President for support for the Council of the Inspectors General on Integrity and Efficiency; and (E) any comments of the affected Inspector General with respect to the proposal if the Inspector General concludes that the budget submitted by the President would substantially inhibit the Inspector General from performing the duties of the office.

(h) (1) If the Inspector General of an establishment submits a request to the head of the establishment for Federal grand jury materials pursuant to subsection (a)(1), the head of the establishment shall immediately notify the Attorney General of such request. (2)Not later than 15 days after the date on which a request is submitted to the Attorney General under paragraph (1), the Attorney General shall determine whether to grant or deny the request for Federal grand jury materials and shall immediately notify the head of the establishment of such determination. The Attorney General shall grant the request unless the Attorney General determines that granting access to the Federal grand jury materials would be likely to— (A) interfere with an ongoing criminal investigation or prosecution; (B) interfere with an undercover operation; (C) result in disclosure of the identity of a confidential source, including a protected witness; (D) pose a serious threat to national security; or (E) result in significant impairment of the trade or economic interests of the United States. (3) (A) The head of the establishment shall inform the Inspector General of the establishment of the determination made by the Attorney General with respect to the request for Federal grand jury materials. (B)The Inspector General of the establishment described under subparagraph (A) may submit comments on the determination submitted pursuant to such subparagraph to the committees listed under paragraph (4) that the Inspector General considers appropriate. (4)Not later than 30 days after notifying the head of an establishment of a denial pursuant to paragraph (2), the Attorney General shall submit a statement that the request for Federal grand jury materials by the Inspector General was denied and the reason for the denial to each of the following: (A) The Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate. (B) The Committee on Oversight and Government Reform, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives. (C) Other appropriate committees and subcommittees of Congress. (i) Subsections (a)(1)(C) and (h) shall not apply to requests from the Inspector General of the Department of Justice.

(j) (1) In this subsection, the terms "agency", "matching program", "record", and "system of records" have the meanings given those terms in section 552a(a) of title 5, United States Code. (2) For purposes of section 552a of title 5, United States Code, or any other provision of law, a computerized comparison of two or more automated Federal systems of records, or a computerized comparison of a Federal system of records with other records or non-Federal records, performed by an Inspector General or by an agency in coordination with an Inspector General in conducting an audit, investigation, inspection, evaluation, or other review authorized under this

Act shall not be considered a matching program. (3) Nothing in this subsection shall be construed to impede the exercise by an Inspector General of any matching program authority established under any other provision of law.

(k) Subchapter I of chapter 35 of title 44, United States Code, shall not apply to the collection of information during the conduct of an audit, investigation, inspection, evaluation, or other review conducted by the Council of the Inspectors General on Integrity and Efficiency or any Office of Inspector General, including any Office of Special Inspector General.

5a U.S. Code § 8 - Additional provisions with respect to the Inspector General of the Department of Defense (a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

(b) (1)Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—(A) sensitive operational plans; (B) intelligence matters; (C) counterintelligence matters; (D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or (E) other matters the disclosure of which would constitute a serious threat to national security. (2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, from accessing information described in paragraph (1), or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation, access such information, or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within thirty days to the Committees on Armed Services and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Government Reform and Oversight of the House of Representatives and to other appropriate committees or subcommittees of the Congress. (4) The Secretary shall, within thirty days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the congressional committees specified in paragraph (3) and to other appropriate committees or subcommittees.

(c)In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall— (1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department; (2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers

appropriate; (3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness; (4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate; (5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs; (6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures; (7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States; (8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); (9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation; and (10) conduct, or approve arrangements for the conduct of, external peer reviews of Department of Defense audit agencies in accordance with and in such frequency as provided by Government auditing standards as established by the Comptroller General of the United States.

(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

(e)For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense, except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency.

(f) (1)Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall be transmitted by the Secretary of Defense to the Committees on Armed Services and on Homeland Security and Governmental Affairs of the Senate and the Committees on Armed Services and on Oversight and Government Reform of the House of Representatives and to other appropriate committees or subcommittees of Congress. Each such report shall include—(A) information concerning the numbers and types of contract audits conducted by the Department during the reporting period; and (B) information concerning any Department of Defense audit agency that, during the reporting period, has either

received a failed opinion from an external peer review or is overdue for an external peer review required to be conducted in accordance with subsection (c)(10). (2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the congressional committees specified in paragraph (1).

(g) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.

(h)(1) There is a General Counsel to the Inspector General of the Department of Defense, who shall be appointed by the Inspector General of the Department of Defense. (2)(A) Notwithstanding section 140(b) of title 10, United States Code, the General Counsel is the chief legal officer of the Office of the Inspector General. (B) The Inspector General is the exclusive legal client of the General Counsel. (C) The General Counsel shall perform such functions as the Inspector General may prescribe. (D) The General Counsel shall serve at the discretion of the Inspector General. (3) There is an Office of the General Counsel to the Inspector General of the Department of Defense. The Inspector General may appoint to the Office to serve as staff of the General Counsel such legal counsel as the Inspector General considers appropriate. (i)(1) The Inspector General of the Department of Defense is authorized to require by subpoena the attendance and testimony of witnesses as necessary in the performance of functions assigned to the Inspector General by this Act, except that the Inspector General shall use procedures other than subpoenas to obtain attendance and testimony from Federal employees. (2) A subpoena issued under this subsection, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court. (3) The Inspector General shall notify the Attorney General 7 days before issuing any subpoena under this section.

5a U.S. Code § 8D - Special provisions concerning the Department of the Treasury: (a) (1)Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning— (A) ongoing criminal investigations or proceedings; (B) undercover operations; (C) the identity of confidential sources, including protected witnesses; (D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior; (E) intelligence or counterintelligence matters; or (F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 3056A of title 18, United States Code, or any provision

of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94–524). (2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General of the Department of the Treasury from carrying out or completing any audit or investigation, from accessing information described in paragraph (1), or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation, access such information, or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States. (3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress. (4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.

(b) (1) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Tax and Trade Bureau. The head of such office shall promptly report to the Inspector General of the Department of the Treasury the significant activities being carried out by such office. (2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration. (3)The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will— (A) determine how audits and investigations are allocated in cases of overlapping jurisdiction; and (B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.

(c) Notwithstanding subsection (b), the Inspector General of the Department of the Treasury may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureau referred to in subsection (b)) as the Inspector General of the Department of the Treasury considers appropriate.

(d) If the Inspector General of the Department of the Treasury initiates an audit or investigation under subsection (c) concerning the bureau referred to in subsection (b), the Inspector General of the Department of the Treasury may provide the head of the office of such bureau referred to in subsection (b) with written notice that the

Inspector General of the Department of the Treasury has initiated such an audit or investigation. If the Inspector General of the Department of the Treasury issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General of the Department of the Treasury and any other audit or investigation of such matter shall cease.

(e) (1) The Treasury Inspector General for Tax Administration shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(b)], only in accordance with the provisions of section 6103 of such Code [26 U.S.C. 6103] and this Act. (2) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Treasury Inspector General for Tax Administration for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(p)(3)(A)]. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986. (3) The Treasury Inspector General for Tax Administration shall be subject to the same safeguards and conditions for receiving returns and return information as are described under section 6103(p)(4) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(p)(4)].

(f) An audit or investigation conducted by the Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986 [26 U.S.C. 6406].

(g) (1) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives. (2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.

(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole authority under this Act to conduct an audit or

investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service. (i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have demonstrated ability to lead a large and complex organization.

(j)An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1)(A), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1)(B), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service— (1) during the 2-year period preceding the date of appointment to such position; or (2) during the 5-year period following the date such individual ends service in such position.

(k) (1)In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration— (A) shall have the duty to enforce criminal provisions under section 7608(b) of the Internal Revenue Code of 1986 [26 U.S.C. 7608(b)]; (B) in addition to the functions authorized under section 7608(b)(2) of such Code, may carry firearms; (C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service, but shall not be responsible for the conducting of background checks and the providing of protection to the Commissioner of Internal Revenue; and (D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C). (2) (A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d). (B)In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to— (i) the performance of a law enforcement function under paragraph (1); and (ii) sensitive information concerning matters under subsection (a)(1)(A) through (F). (3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

(l) — (1) The Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board may request, in writing, the Treasury Inspector General for Tax Administration to conduct an audit or investigation relating to the Internal Revenue Service. If the Treasury Inspector General for Tax Administration determines not to

conduct such audit or investigation, the Inspector General shall timely provide a written explanation for such determination to the person making the request. (2) (A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board. (B) The Treasury Inspector General for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board. (C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).

5a U.S. Code § 8E - Special provisions concerning the Department of Justice: — (a) (1)Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning— (A) ongoing civil or criminal investigations or proceedings; (B) undercover operations; (C) the identity of confidential sources, including protected witnesses; (D) intelligence or counterintelligence matters; or (E) other matters the disclosure of which would constitute a serious threat to national security. (2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, from accessing information described in paragraph (1), or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation, access such information, or to issue such subpoena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States. (3)If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(b)In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice—(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate; (2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice; (3)

shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility; (4) may investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice; and (5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General.

(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.

(d)The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, except with respect to allegations described in subsection (b)(3), shall report that information to the Inspector General.

5a USC § 8G - Requirements for Federal entities and designated Federal entities: (a)Notwithstanding section 12 of this Act, as used in this section— (1)the term "Federal entity" means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include— (A) an establishment (as defined under section 12(2) of this Act) or part of an establishment; (B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity; (C) the Executive Office of the President; (D) the Central Intelligence Agency; (E) the Government Accountability Office; or(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol; (2) the term "designated Federal entity" means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection, the Board for International Broadcasting, the Committee for Purchase From People Who Are Blind or Severely Disabled, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Defense Intelligence Agency, the Denali Commission, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Election

Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Geospatial-Intelligence Agency, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Development Finance Corporation, the United States International Trade Commission, the Postal Regulatory Commission, and the United States Postal Service; (3) the term "head of the Federal entity" means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section; (4)the term "head of the designated Federal entity" means the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission, any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that— (A) with respect to the National Science Foundation, such term means the National Science Board; (B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code); (C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code); (D) with respect to the Committee for Purchase From People Who Are Blind or Severely Disabled, such term means the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled; (E) with respect to the National Archives and Records Administration, such term means the Archivist of the United States; (F) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a); [1](G) with respect to the National Endowment of the Arts, such term means the National Council on the Arts; (H) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; (I) with respect to the Peace Corps, such term means the Director of the Peace Corps; and (J) with respect to the United States International Development Finance Corporation, such term means the Board of Directors of the United States International Development Finance Corporation; (5) the term "Office of Inspector General" means an Office of Inspector General of a designated Federal entity; and (6) the term "Inspector General" means an Inspector General of a designated Federal entity.

(b) No later than 180 days after the date of the enactment of this section [Oct. 18, 1988], there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity. Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.

(d)(1) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. Except as provided in paragraph (2), the head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. (2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the inspector general of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation, or from accessing information available to an element of the intelligence community specified in subparagraph (D), if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States. (B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority. (C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide such

inspector general with a copy of such statement. Such inspector general may submit to such committees of Congress any comments on a notice or statement received by the inspector general under this subparagraph that the inspector general considers appropriate. (D)The elements of the intelligence community specified in this subparagraph are as follows: (i) The Defense Intelligence Agency. (ii) The National Geospatial-Intelligence Agency. (iii) The National Reconnaissance Office. (iv) The National Security Agency. (E)The committees of Congress specified in this subparagraph are— (i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and (ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(e)(1) In the case of a designated Federal entity for which a board, chairman of a committee, or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a ⅔ majority of the board, committee, or commission. (2) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(f) (1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied. (2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the "Inspector General") shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General. (3) (A) (i)Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning— (I) ongoing civil or criminal investigations or proceedings (II)undercover operations; (III) the identity of confidential sources, including protected witnesses; (IV) intelligence or counterintelligence matters; or (V) other matters the disclosure of which would constitute a serious threat to national security. (ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States. (iii) If the Governors exercise any power under clause (i) or (ii),

the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress. (B)In carrying out the duties and responsibilities specified in this Act, the Inspector General— (i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and (ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation. (C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives. (4)Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement. (5) As used in this subsection, the term "Governors" has the meaning given such term by section 102(3) of title 39, United States Code. (6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.

(g) (1)Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting— (A) "designated Federal entity" for "establishment"; and (B) "head of the designated Federal entity" for "head of the establishment". (2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity. (3) Notwithstanding the last sentence of subsection (d) of this section,[2] the provisions of subsection (a) of section 8D (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection and the Chairman of the Board of Governors of the Federal Reserve System in the same

manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively. (4)Each Inspector General shall— (A) in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General; (B) obtain the services of a counsel appointed by and directly reporting to another Inspector General on a reimbursable basis; or (C) obtain the services of appropriate staff of the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(h) (1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and if the designated Federal entity is not a board or commission, include the head of each such entity (as defined under subsection (a) of this section). (2)Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which— (A) states whether there has been established in the Federal entity an office that meets the requirements of this section; (B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and (C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

•12 USC Chapter 53 - Sub-Chapter V - Part E - §5565. Relief available: (a) Administrative proceedings or court actions (1) Jurisdiction — The court (or the Bureau, as the case may be) in an action or adjudication proceeding brought under Federal consumer financial law, shall have jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of Federal consumer financial law, including a violation of a rule or order prescribed under a Federal consumer financial law. (2) Relief — Relief under this section may include, without limitation— (A) rescission or reformation of contracts; (B) refund of moneys or return of real property; (C) restitution; (D) disgorgement or compensation for unjust enrichment (E) payment of damages or other monetary relief; (F) public notification regarding the violation, including the costs of notification; (G) limits on the activities or functions of the person; and (H) civil money penalties, as set forth more fully in subsection (c). (3) No exemplary or punitive damages — Nothing in this subsection shall be construed as authorizing the imposition of exemplary or punitive damages.

(b) Recovery of costs — In any action brought by the Bureau, a State attorney general, or any State regulator to enforce any Federal consumer financial law, the Bureau, the State attorney general, or the State regulator may recover its costs in connection with prosecuting such action if the Bureau, the State attorney general, or the State regulator is the prevailing party in the action.

(c) Civil money penalty in court and administrative actions (1) In general — Any person that violates, through any act or omission, any provision of Federal consumer financial law shall forfeit and pay a civil penalty pursuant to this subsection. (2) Penalty amounts — (A) First tier — For any violation of a law, rule, or final order or condition imposed in writing by the Bureau, a civil penalty may not exceed $5,000 for each day during which such violation or failure to pay continues. (B) Second tier — Notwithstanding paragraph (A), for any person that recklessly engages in a violation of a Federal consumer financial law, a civil penalty may not exceed $25,000 for each day during which such violation continues. (C) Third tier — Notwithstanding subparagraphs (A) and (B), for any person that knowingly violates a Federal consumer financial law, a civil penalty may not exceed $1,000,000 for each day during which such violation continues. (3) Mitigating factors — In determining the amount of any penalty assessed under paragraph (2), the Bureau or the court shall take into account the appropriateness of the penalty with respect to— (A) the size of financial resources and good faith of the person charged; (B) the gravity of the violation or failure to pay; (C) the severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided; (D) the history of previous violations; and (E) such other matters as justice may require. (4) Authority to modify or remit penalty — The Bureau may compromise, modify, or remit any penalty which may be assessed or had already been assessed under paragraph (2). The amount of such penalty, when finally determined, shall be exclusive of any sums owed by the person to the United States in connection with the costs of the proceeding, and may be deducted from any sums owing by the United States to the person charged. (5) Notice and hearing— No civil penalty may be assessed under this subsection with respect to a violation of any Federal consumer financial law, unless— (A) the Bureau gives notice and an opportunity for a hearing to the person accused of the violation; or (B) the appropriate court has ordered such assessment and entered judgment in favor of the Bureau.

•15 USC § 45 — Federal Trade Commission Act — Background Section 5(a) of the Federal Trade Commission Act (FTC Act): prohibits "unfair or deceptive acts or practices in or affecting commerce." This prohibition applies to all persons engaged in commerce, including banks. The Board has affirmed its authority under section 8 of the Federal Deposit Insurance Act to take appropriate action when unfair or deceptive acts or practices (UDAP) are discovered. On March 11, 2004, the Board and the Federal Deposit Insurance Corporation (FDIC) issued a joint statement (Joint Statement) regarding the agencies' responsibilities to enforce the prohibitions against unfair or deceptive trade practices as they apply to state-chartered banks. The Joint Statement contains a discussion of managing risks

relating to UDAP and general guidance on measures that state-chartered banks can take to avoid engaging in such acts or practices, including best practices. Legal Standards— The Joint Statement contained in appendix A of these procedures gives a complete description of the legal standards for both unfair and deceptive practices. The legal standards for unfairness and deception are independent of each other. Depending on the facts, a practice may be unfair, deceptive, or both. The legal standards for UDAP are briefly described below. Unfair Practices An act or practice is unfair where it • causes or is likely to cause substantial injury to consumers; • cannot be reasonably avoided by consumers; and • is not outweighed by countervailing benefits to consumers or to competition. Public policy, as established by statute, regulation, or judicial decisions may be considered with all other evidence in determining whether an act or practice is unfair. Deceptive Practices An act or practice is deceptive where • a representation, omission, or practice misleads or is likely to mislead the consumer; • a consumer's interpretation of the representation, omission, or practice is considered reasonable under the circumstances; and • the misleading representation, omission, or practice is material.

•15 USC §12. Definitions; short title: (a) "Antitrust laws," as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-six, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' " approved February twelfth, nineteen hundred and thirteen; and also this Act. "Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in this Act contained shall apply to the Philippine Islands. The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

(b) This Act may be cited as the "Clayton Act"

•15 USC § 15d. Measurement of damages: In any action under section 15c(a)(1) of this title, in which there has been a determination that a defendant agreed to fix

prices in violation of sections 1 to 7 of this title, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

•**15 USC § 1. Trusts, etc., in restraint of trade illegal; penalty:** Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person, $1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

•**15 USC § 2. Monopolizing trade a felony; penalty:** Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person, $1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

•**15 USC § 3. Trusts in Territories or District of Columbia illegal; combination a felony:** (a) Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person, $1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $100,000,000 if a corporation, or, if any other person,

$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

•**15 USC § 4 Jurisdiction of courts; duty of United States attorneys; procedure:** The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

•**15 USC § 5. Bringing in additional parties:** Whenever it shall appear to the court before which any proceeding under section 4 of this title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

•**15 USC § 6. Forfeiture of property in transit:** Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this title, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

•**15 USC § 7. "Person" or "persons" defined:** The word "person", or "persons", wherever used in sections 1 to 7 of this title shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

•**15 USC § 15e. Distribution of damages:** Monetary relief recovered in an action under section 15c(a)(1) of this title shall-(1) be distributed in such manner as the district court in its discretion may authorize; or (2) be deemed a civil penalty by the court and deposited with the State as general revenues; *** subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.***

•15 USC §15f. Actions by Attorney General: (a) Notification to State attorney general. Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general.

(b) Availability of files and other materials. To assist a State attorney general in evaluating the notice or in bringing any action under this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this Act.

•15 USC § 15g. Definitions: For the purposes of sections 15c, 15d, 15e, and 15f of this title:(1) The term "State attorney general" means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 15c of this title, and includes the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on-(A) a contingency fee based on a percentage of the monetary relief awarded under this section; or(B) any other contingency fee basis, unless the amount of the award of a reasonable attorney's fee to a prevailing plaintiff is determined by the court under section 15c(d)(1) of this title. (2) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States. (3) The term "natural persons" does not include proprietorships or partnerships.

•15 USC § 15h. Applicability of parens patriae actions: Sections 15c, 15d, 15e, 15f, and 15g of this title shall apply in any State, unless such State provides by law for its non applicability in such State.

•15 USC § 16. Judgments: (a) Prima facie evidence; collateral estoppel; A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken. Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel, except that, in any action or proceeding brought under the antitrust laws, collateral estoppel effect shall not be given to any finding made by the Federal Trade Commission under the antitrust laws or under section 45 of this title which could give rise to a claim for relief under the antitrust laws.

•15 USC § 18. Acquisition by one corporation of stock of another: No person engaged in commerce or in any activity affecting commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another person engaged also in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly. No person shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more persons engaged in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly. This section shall not apply to persons purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce or in any activity affecting commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition. Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired. Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided. Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Secretary of Transportation, Federal Power Commission, Surface Transportation Board, the Securities and Exchange Commission in the exercise of its jurisdiction

under section 79j of this title,1 the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Board, or Secretary.

•**15 USC § 21. Enforcement provisions:** (a) Commission, Board, or Secretary authorized to enforce compliance. Authority to enforce compliance with sections 13, 14, 18, and 19 of this title by the persons respectively subject thereto is vested in the Surface Transportation Board where applicable to common carriers subject to jurisdiction under subtitle IV of title 49; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Secretary of Transportation where applicable to air carriers and foreign air carriers subject to part A of subtitle VII of title 49; in the Board of Governors of the Federal Reserve System where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

(b) Issuance of complaints for violations; hearing; intervention; filing of testimony; report; cease and desist orders; reopening and alteration of reports or orders. Whenever the Commission, Board, or Secretary vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 13, 14, 18, and 19 of this title, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission, Board, or Secretary requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission, Board, or Secretary, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission, Board, or Secretary. If upon such hearing the Commission, Board, or Secretary, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 18 and 19 of this title, if any there be, in the manner and within the time fixed by said order. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission, Board, or Secretary may at any time, upon such notice

and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission, Board, or Secretary may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission, Board, or Secretary conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Review of orders; jurisdiction; filing of petition and record of proceeding; conclusiveness of findings; additional evidence; modification of findings; finality of judgment and decree. Any person required by such order of the commission, board, or Secretary to cease and desist from any such violation may obtain a review of such order in the court of appeals of the United States for any circuit within which such violation occurred or within which such person resides or carries on business, by filing in the court, within sixty days after the date of the service of such order, a written petition praying that the order of the commission, board, or Secretary be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the commission, board, or Secretary, and thereupon the commission, board, or Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the commission, board, or Secretary until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the commission, board, or Secretary, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the commission, board, or Secretary as to the facts, if supported by substantial evidence, shall be conclusive. To the extent that the order of the commission, board, or Secretary is affirmed, the court shall issue its own order commanding obedience to the terms of such order of the commission, board, or Secretary. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, board, or Secretary, the court may order such additional evidence to be taken before the commission, board, or Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission, board, or Secretary may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file such modified or new findings,

which if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

(d) Exclusive jurisdiction of Court of Appeals. Upon the filing of the record with its jurisdiction of the court of appeals to affirm, enforce, modify, or set aside orders of the commission, board, or Secretary shall be exclusive.

(e) Liability under antitrust laws. No order of the commission, board, or Secretary or judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust laws.

(f) Service of complaints, orders and other processes. Complaints, orders, and other processes of the commission, board, or Secretary under this section may be served by anyone duly authorized by the commission, board, or Secretary, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the residence or the principal office or place of business of such person; or (3) by mailing by registered or certified mail a copy thereof addressed to such person at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process mailed by registered or certified mail as aforesaid shall be proof of the service of the same.

(g) Finality of orders generally. Any order issued under subsection (b) shall become final-(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the commission, board, or Secretary may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b); or (2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the commission, board, or Secretary has been affirmed, or the petition for review has been dismissed by the court of appeals, and no petition for certiorari has been duly filed; or (3) upon the denial of a petition for certiorari, if the order of the commission, board, or Secretary has been affirmed or the petition for review has been dismissed by the court of appeals; or (4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the commission, board, or Secretary be affirmed or the petition for review be dismissed.

(h) Finality of orders modified by Supreme Court. If the Supreme Court directs that the order of the commission, board, or Secretary be modified or set aside, the order of the commission, board, or Secretary rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it

was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the commission, board, or Secretary shall become final when so corrected.

(i) Finality of orders modified by Court of Appeals. If the order of the commission, board, or Secretary is modified or set aside by the court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court then the order of the commission, board, or Secretary rendered in accordance with the mandate of the court of appeals shall become final on the expiration of thirty days from the time such order of the commission, board, or Secretary was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the commission, board, or Secretary shall become final when so corrected.

(j) Finality of orders issued on rehearing ordered by Court of Appeals or Supreme Court. If the Supreme Court orders a rehearing; or if the case is remanded by the court of appeals to the commission, board, or Secretary for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the commission, board, or Secretary rendered upon such rehearing shall become final in the same manner as though no prior order of the commission, board, or Secretary had been rendered.

•**15 USC §26. Injunctive relief for private parties; exception; costs:** Any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws, including sections 13, 14, 18, and 19 of this title, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit for injunctive relief against any common carrier subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49. In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

•15 USC § 57b - Civil actions for violations of rules and cease and desist orders respecting unfair or deceptive acts or practices: (a)Suits by Commission against persons, partnerships, or corporations; jurisdiction; relief for dishonest or fraudulent acts(1)If any person, partnership, or corporation violates any rule under this subchapter respecting unfair or deceptive acts or practices (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 45(a) of this title), then the Commission may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in a United States district court or in any court of competent jurisdiction of a State.(2)If any person, partnership, or corporation engages in any unfair or deceptive act or practice (within the meaning of section 45(a)(1) of this title) with respect to which the Commission has issued a final cease and desist order which is applicable to such person, partnership, or corporation, then the Commission may commence a civil action against such person, partnership, or corporation in a United States district court or in any court of competent jurisdiction of a State. If the Commission satisfies the court that the act or practice to which the cease and desist order relates is one which a reasonable man would have known under the circumstances was dishonest or fraudulent, the court may grant relief under subsection (b).

(c)Conclusiveness of findings of Commission in cease and desist proceedings; notice of judicial proceedings to injured persons, etc.

(1)If (A) a cease and desist order issued under section 45(b) of this title has become final under section 45(g) of this title with respect to any person's, partnership's, or corporation's rule violation or unfair or deceptive act or practice, and (B) an action under this section is brought with respect to such person's, partnership's, or corporation's rule violation or act or practice, then the findings of the Commission as to the material facts in the proceeding under section 45(b) of this title with respect to such person's, partnership's, or corporation's rule violation or act or practice, shall be conclusive unless (i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive, or (ii) the order became final by reason of section 45(g)(1) of this title, in which case such finding shall be conclusive if supported by evidence.

•18 USC § 2 - (Principal/Aiding and Abetting) - Principals: — (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

•18 USC § 242 - Deprivation of rights under color of law: Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on

account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both. 18 U.S. Code § 286, Conspiracy to defraud the U.S. Government Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined under this title or imprisoned not more than ten years, or both.

•18 USC § 286 - Conspiracy to defraud the Government with respect to claims: Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined under this title or imprisoned not more than ten years, or both.

•18 USC § 287, False, fictitious or fraudulent claims: — Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.

•18 USC § 292. Solicitation of employment and receipt of unapproved fees concerning Federal employees' compensation: Whoever solicits employment for himself or another in respect to a case, claim, or award for compensation under, or to be brought under, subchapter I of chapter 81 of title 5; or Whoever receives a fee, other consideration, or gratuity on account of legal or other services furnished in respect to a case, claim, or award for compensation under subchapter I of chapter 81 of title 5, unless the fee, consideration, or gratuity is approved by the Secretary of Labor- Shall, for each offense, be fined under this title or imprisoned not more than one year, or both.

•18 USC § 371, Conspiracy to defraud the United States: If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

•18 USC § 372. Conspiracy to impede or injure officer: — If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force,

intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined under this title or imprisoned not more than six years, or both.

•**18 USC § 656. Theft, embezzlement, or misapplication by bank officer or employee:** Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) 1 of the Federal Reserve Act, or a receiver of a national bank, insured bank, branch, agency, or organization or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank, branch, agency, or organization or holding company or any moneys, funds, assets or securities intrusted to the custody or care of such bank, branch, agency, or organization, or holding company or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both. As used in this section, the term "national bank" is synonymous with "national banking association"; "member bank" means and includes any national bank, state bank, or bank and trust company which has become a member of one of the Federal Reserve banks; "insured bank" includes any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation; and the term "branch or agency of a foreign bank" means a branch or agency described in section 20(9) of this title. For purposes of this section, the term "depository institution holding company" has the meaning given such term in section 3 of the Federal Deposit Insurance Act.

•**18 USC § 665. Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations:** (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance or any funds under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a financial assistance agreement or contract pursuant to such Act shall be fined under this title or imprisoned for not more than 2 years, or both; but if the

amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $1,000, such person shall be fined under this title or imprisoned not more than 1 year, or both. (b) Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be fined under this title, or imprisoned not more than 1 year, or both. (c) Whoever willfully obstructs or impedes or willfully endeavors to obstruct or impede, an investigation or inquiry under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998, or the regulations thereunder, shall be punished by a fine under this title, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

•**18 USC § 1001 - Statements or entries generally:** (a)Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully— (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3)makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.(b)Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.(c)With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to— (1)administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or (2)any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

•**18 USC § 1002 - Possession of false papers to defraud United States:** Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money, shall be fined under this title or imprisoned not more than five years, or both.

•18 USC § 1005. Bank entries, reports and transactions: — Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) [1] of the Federal Reserve Act, without authority from the directors of such bank, branch, agency, or organization or company, issues or puts in circulation any notes of such bank, branch, agency, or organization or company; or Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or Whoever makes any false entry in any book, report, or statement of such bank, company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization, or the Board of Governors of the Federal Reserve System; or Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution— Shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both. As used in this section, the term "national bank" is synonymous with "national banking association"; "member bank" means and includes any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks; "insured bank" includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation; and the term "branch or agency of a foreign bank" means a branch or agency described in section 20(9) of this title. For purposes of this section, the term "depository institution holding company" has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.

•18 USC § 1031, Major fraud against the United States — Major Fraud Act of 1988 (P.L. 100-700): (a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent— to defraud the United States; or to obtain money or property by means of false or fraudulent pretenses, representations, or promises, in any grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, including through the Troubled Asset Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government's purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if

the value of such grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, or any constituent part thereof, is $1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than $1,000,000, or imprisoned not more than 10 years, or both. (b) The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed $5,000,000 and-the gross loss to the Government or the gross gain to a defendant is $500,000 or greater; or the offense involves a conscious -or reckless risk of serious personal injury. (c) The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed $10,000,000. (d) Nothing in this section shall preclude a court from imposing any other sentences available under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d). (e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including— the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant; whether the defendant previously has been fined for a similar offense; and any other pertinent equitable considerations. (f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law. (g)(1) In special circumstances and in his or her sole discretion, the Attorney General is authorized to make payments from funds appropriated to the Department of Justice to persons who furnish information relating to a possible prosecution under this section. The amount of such payment shall not exceed $250,000. Upon application by the Attorney General, the court may order that the Department shall be reimbursed for a payment from a criminal fine imposed under this section. (2) An individual is not eligible for such payment if— that individual is an officer or employee of a Government agency who furnishes information or renders service in the performance of official duties; that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure; the furnished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or that individual participated in the violation of this section with respect to which such payment would be made. (3) The failure of the Attorney General to authorize a payment shall not be subject to judicial review. (h) Any individual who— (1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful

acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and (2) was not a participant in the unlawful activity that is the subject of said prosecution, may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fee's.

•**18 USC § 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce:** — (a) (1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security— (A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and (B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner, shall be punished as provided in paragraph (2). (2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court. (b) (1) Whoever— insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. (d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both. (e) (1) (A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both. (B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both. (2) A person described in paragraph (1)(A) may engage in the

business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection. (f) As used in this section— (1) the term "business of insurance" means— (A) the writing of insurance, or (B) the reinsuring of risks, by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons; (2) the term "insurer" means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business; (3) the term "interstate commerce" means— (A) commerce within the District of Columbia, or any territory or possession of the United States; (B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof; (C) all commerce between points within the same State through any place outside such State; or (D) all other commerce over which the United States has jurisdiction; and (4) the term "State" includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

•**18 USC § 1040. Fraud in connection with major disaster or emergency benefits:** (a) Whoever, in a circumstance described in subsection (b) of this section, knowingly— (1) falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or (2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation, in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), or in connection with any procurement of property or services related to any emergency or major disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned not more than 30 years, or both. (b) A circumstance described in this subsection is any instance where— (1) the authorization, transportation, transmission, transfer, disbursement, or payment of the benefit is in or affects interstate or foreign commerce; (2) the benefit is transported in the mail at any point in the authorization, transportation, transmission, transfer, disbursement, or payment of that benefit; or (3) the benefit is a record, voucher, payment, money, or thing of value of the United States, or of any department or agency thereof. (c) In this section, the term "benefit" means any record, voucher, payment, money or thing of value, good, service, right, or privilege provided by the United States, a State or local government, or other entity.

•18 USC § 1341 Frauds and swindles: Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

•18 USC § 1343. Fraud by wire, radio, or television: Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both

•18 USC § 1344 Bank fraud: Whoever knowingly executes, or attempts to execute, a scheme or artifice—(1) to defraud a financial institution; or (2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises; shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both

•18 USC § 1348. Securities and commodities fraud Securities Exchange Act of 1934 — Insider Trading Act of 1988: Whoever knowingly executes, or attempts

to execute, a scheme or artifice— (1) to defraud any person in connection with any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or (2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); shall be fined under this title, or imprisoned not more than 25 years, or both.

•**18 USC § 1349 Attempt and conspiracy:** Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

•**18 USC § 1517 Obstructing examination of financial institution:** Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.

•**18 USC § 1511 Obstruction of State or local law enforcement:** (a) It shall be unlawful for two or more persons to conspire to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business if— (1) one or more of such persons does any act to effect the object of such a conspiracy; (2) one or more of such persons is an official or employee, elected, appointed, or otherwise, of such State or political subdivision; and (3) one or more of such persons conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business. (b) As used in this section— (1) "illegal gambling business" means a gambling business which— (i) is a violation of the law of a State or political subdivision in which it is conducted; (ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and (iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day. (2) "gambling" includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein. (3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. (c) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, as amended, if no part of the gross receipts

derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization, except as compensation for actual expenses incurred by him in the conduct of such activity. (d) Whoever violates this section shall be punished by a fine under this title or imprisonment for not more than five years, or both.

•18 USC § 1621. Perjury generally: Whoever— (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

•18 USC 1951(a)(b)(2), Interference with comm. by threats or violence: Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both. As used in this section— (1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining. The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

•18 USC § 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises: The Racketeer Influenced Corrupt Organizations Act (RICO Act of 1970) (a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to— (1) distribute the proceeds of any unlawful activity; or (2) commit any crime of violence to further any unlawful activity; or (3) otherwise promote, manage, establish, carry

on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity.

•**18 USC § 1956. Laundering of monetary instruments:** (a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity— (A)(i) with the intent to promote the carrying on of specified unlawful activity; or (ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or (B) knowing that the transaction is designed in whole or in part— (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or (ii) to avoid a transaction reporting requirement under State or Federal law, shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both. For purposes of this paragraph, a financial transaction shall be considered to be one involving the proceeds of specified unlawful activity if it is part of a set of parallel or dependent transactions, any one of which involves the proceeds of specified unlawful activity, and all of which are part of a single plan or arrangement. (2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States— (A) with the intent to promote the carrying on of specified unlawful activity; or (B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part— (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or (ii) to avoid a transaction reporting requirement under State or Federal law, shall be sentenced to a fine of not more than $500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, or imprisonment for not more than twenty years, or both. For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true. (3) Whoever, with the intent-- (A) to promote the carrying on of specified unlawful activity; (B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or (C) to avoid a transaction reporting requirement under State or Federal law, conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more

than 20 years, or both. For purposes of this paragraph and paragraph (2), the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a Federal official authorized to investigate or prosecute violations of this section.

(b) PENALTIES.-- (1) IN GENERAL.--Whoever conducts or attempts to conduct a transaction described in subsection (a)(1), or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of-- (A) the value of the property, funds, or monetary instruments involved in the transaction; or (B) $10,000. (2) JURISDICTION OVER FOREIGN PERSONS.--For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and-- (A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States; (B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States; or (C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States; (3) COURT AUTHORITY OVER ASSETS.--A court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section. (4) FEDERAL RECEIVER.-- (A) IN GENERAL.--A court may appoint a Federal Receiver, in accordance with subparagraph (B) of this paragraph, to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a civil judgment under this subsection, a forfeiture judgment under section 981 or 982, or a criminal sentence under section 1957 or subsection (a) of this section, including an order of restitution to any victim of a specified unlawful activity. (B) APPOINTMENT AND AUTHORITY.--A Federal Receiver described in subparagraph (A)-- (i) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case; (ii) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28, United States Code; and (iii) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant-- (I) from the Financial Crimes Enforcement Network of the Department of the Treasury; or (II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.

(c) As used in this section-- (1) the term "knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State, Federal or foreign law, regardless of whether or not such activity is specified in paragraph (7); (2) the term "conducts" includes initiating, concluding, or participating in initiating, or concluding a transaction; (3) the term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected; (4) the term "financial transaction" means (A) a transaction which in any way or degree affects interstate or foreign commerce (i) involving the movement of funds by wire or other means or (ii) involving one or more monetary instruments, or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft, (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree; (5) the term "monetary instruments" means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery; (6) the term "financial institution" includes-- (A) any financial institution, as defined in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder; and (B) any foreign bank, as defined in section 11 of the International Banking Act of 1978 (12 U.S.C. 3101); (7) the term "specified unlawful activity" means-- (A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under subchapter II of chapter 53 of title 31; (B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving-- (i) the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act); (ii) murder, kidnapping, robbery, extortion, destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16); (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978); (iv) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official; (v) smuggling or export control violations involving-- (I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or (II) an item controlled under regulations under the Export Administration Regulations (15 C.F.R. Parts 730--774); (vi) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory

of the United States; or (vii) trafficking in persons, selling or buying of children, sexual exploitation of children, or transporting, recruiting or harboring a person, including a child, for commercial sex acts; (C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); (D) an offense under section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section 152 (relating to concealment of assets; false oaths and claims; bribery), section 175c (relating to the variola virus), section 215 (relating to commissions or gifts for procuring loans), section 351 (relating to congressional or Cabinet officer assassination), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 513 (relating to securities of States and private entities), section 541 (relating to goods falsely classified), section 542 (relating to entry of goods by means of false statements), section 545 (relating to smuggling goods into the United States), section 549 (relating to removing goods from Customs custody), section 554 (relating to smuggling goods from the United States), section 555 (relating to border tunnels), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 831 (relating to prohibited transactions involving nuclear materials), section 844(f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce), section 875 (relating to interstate communications), section 922(l) (relating to the unlawful importation of firearms), section 924(n) (relating to firearms trafficking), section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country), section 1005 (relating to fraudulent bank entries), 10063 (relating to fraudulent Federal credit institution entries), 10073 (relating to Federal Deposit Insurance transactions), 10143 (relating to fraudulent loan or credit applications), section 1030 (relating to computer fraud and abuse), 10323 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1201 (relating to kidnapping), section 1203 (relating to hostage taking), section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), section 1708 (theft from the mail), section 1751 (relating to Presidential assassination), section 2113 or 2114 (relating to bank and postal robbery and theft), section 2252A (relating to child pornography) where the child pornography contains a visual depiction of an actual minor engaging in sexually explicit conduct, section 2260 (production of certain child pornography for importation into the United States), section 2280 (relating to

violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms), section 2319 (relating to copyright infringement), section 2320 (relating to trafficking in counterfeit goods and services), section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices), section 2339A or 2339B (relating to providing material support to terrorists), section 2339C (relating to financing of terrorism), or section 2339D (relating to receiving military-type training from a foreign terrorist organization) of this title, section 46502 of title 49, United States Code, a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 422 of the Controlled Substances Act (relating to transportation of drug paraphernalia), section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, section 16 (relating to offenses and punishment) of the Trading with the Enemy Act, any felony violation of section 15 of the Food and Nutrition Act of 2008 [7 U.S.C. § 2024] (relating to supplemental nutrition assistance program benefits fraud) involving a quantity of benefits having a value of not less than $5,000, any violation of section 543(a)(1) of the Housing Act of 1949 (relating to equity skimming), any felony violation of the Foreign Agents Registration Act of 1938, any felony violation of the Foreign Corrupt Practices Act, section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons), or section 104(a) of the North Korea Sanctions Enforcement Act of 2016 (relating to prohibited activities with respect to North Korea); ENVIRONMENTAL CRIMES (E) A felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.); (F) any act or activity constituting an offense involving a Federal health care offense; or (G) any act that is a criminal violation of subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (1) of section 9(a) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)(1)), section 2203 of the African Elephant Conservation Act (16 U.S.C. 4223), or section 7(a) of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5305a(a)), if the endangered or threatened species of fish or wildlife, products, items, or substances involved in the violation and relevant conduct, as applicable, have a total value of more than $10,000; (8) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and (9) the term "proceeds" means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General. Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.

(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if-- (1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and (2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.-- If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 or 5324 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution. (h) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(i) VENUE.--(1) Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in-- (A) any district in which the financial or monetary transaction is conducted; or (B) any district where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted. (2) A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place. (3) For purposes of this section, a transfer of funds from 1 place to another, by wire or any other means, shall

constitute a single, continuing transaction. Any person who conducts (as that term is defined in subsection (c)(2)) any portion of the transaction may be charged in any district in which the transaction takes place. (2) A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place. (3) For purposes of this section, a transfer of funds from 1 place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts (as that term is defined in subsection (c)(2)) any portion of the transaction may be charged in any district in which the transaction takes place.

•**18 USC § 1957. Engaging in monetary transactions in property derived from specified unlawful activity:** (a) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than $10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b). (b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years, or both. If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this subsection is greater. (2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction. (c) In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity. (d) The circumstances referred to in subsection (a) are-- (1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or (2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section). (e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General. (f) As used in this section-- (1) the term "monetary transaction" means the deposit, withdrawal,

transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1956(c)(5) of this title) by, through, or to a financial institution (as defined in section 1956 of this title), including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title, but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution; (2) the term "criminally derived property" means any property constituting, or derived from, proceeds obtained from a criminal offense; and (3) the terms "specified unlawful activity" and "proceeds" shall have the meaning given those terms in section 1956 of this title.

•18 USC § 1959. Violent crimes in aid of racketeering activity: The Racketeer Influenced Corrupt Organizations Act (RICO Act of 1970) — (a) Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished— (1) for murder, by death or life imprisonment, or a fine under this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine under this title, or both; (2) for maiming, by imprisonment for not more than thirty years or a fine under this title, or both; (3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine under this title, or both; (4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine under this title, or both; (5) for attempting or conspiring to commit murder or kidnapping, by imprisonment for not more than ten years or a fine under this title, or both; and (6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of 1 under this title, or both. (b) As used in this section (1) "racketeering activity" has the meaning set forth in section 1961 of this title; and (2) "enterprise" includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.

•18 USC § 1961(1)(A)(B)(C)(2)(3)(4)(5)(6)(7)(8)(9), Racketeering activity — The Racketeer Influenced Corrupt Organizations Act (RICO Act of 1970): (1) **"racketeering activity"** means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of

the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act - indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1351 (relating to fraud in foreign labor contracting), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale -of naturalization or citizenship papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use, of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), -section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1592 (relating to peonage, slavery, and trafficking in persons).,[l] sections 1831 and 1832 (relating to economic espionage and theft of trade secrets), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for - phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), sections 175-178

(relating to biological weapons), sections 229-229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B); (2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof; (3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property; (4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity; (5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity; (6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate; (7) "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter; (8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter; (9) "documentary material" includes any book, paper, document, record, recording, or other material; and (10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the

United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

•**18 USC § 1962. Prohibited activities Prohibited activities:** (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer. (b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt. (d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

•**18 USC § 2113. Bank robbery and incidental crimes:** (a) Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association; or Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States, or any larceny-- Shall be fined under this title or imprisoned not more than twenty years, or both. (b)

Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined under this title or imprisoned not more than ten years, or both; or Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined under this title or imprisoned not more than one year, or both. (c) Whoever receives, possesses, conceals, stores, barters, sells, or disposes of, any property or money or other thing of value which has been taken or stolen from a bank, credit union, or savings and loan association in violation of subsection (b), knowing the same to be property which has been stolen shall be subject to the punishment provided in subsection (b) for the taker. (d) Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this section, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined under this title or imprisoned not more than twenty-five years, or both. (e) Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or if death results shall be punished by death or life imprisonment. (f) As used in this section the term "bank" means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation. (g) As used in this section the term "credit union" means any Federal credit union and any State-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any "Federal credit union" as defined in section 2 of the Federal Credit Union Act. The term "State-chartered credit union" includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States. (h) As used in this section, the term "savings and loan association" means-- (1) a Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and (2) a corporation described in section 3(b)(1)(C)

•**18 USC § 2314 Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting:** — Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of $5,000 or more, knowing the

same to have been stolen, converted or taken by fraud; or Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person or persons to travel in, or to be transported in interstate or foreign commerce in the execution or concealment of a scheme or artifice to defraud that person or those persons of money or property having a value of $5,000 or more; or Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited; or Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any traveler's check bearing a forged countersignature; or Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof; or Whoever transports, transmits, or transfers in interstate or foreign commerce any veterans' memorial object, knowing the same to have been stolen, converted or taken by fraud-- Shall be fined under this title or imprisoned not more than ten years, or both. If the offense involves a pre-retail medical product (as defined in section 670) the punishment for the offense shall be the same as the punishment for an offense under section 670 unless the punishment under this section is greater. If the offense involves the transportation, transmission, or transfer in interstate or foreign commerce of veterans' memorial objects with a value, in the aggregate, of less than $1,000, the defendant shall be fined under this title or imprisoned not more than one year, or both. This section shall not apply to any falsely made, forged, altered, counterfeited or spurious representation of an obligation or other security of the United States, or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government. This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money. For purposes of this section the term "veterans' memorial object" means a grave marker, headstone, monument, or other object, intended to permanently honor a veteran or mark a veteran's grave, or any monument that signifies an event of national military historical significance.

•**28 USC §§ 2071-2077 - The Rules Enabling Act:** The Supreme Court derives the authority to create federal court rules of general applicability from 28 U.S.C. §§ 2072 & 2075, and exercises this authority in cooperation with the Judicial Conference of the United States.

•**28 USC § 2072. Rules of Procedure and Evidence; Power to Prescribe:** (a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals. (b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in

conflict with such rules shall be of no further force or effect after such rules have taken effect. (c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.

•28 U.S.C. § 7482 Court of Reviews (c - Powers) (2 - To Make Rules) - (c)Powers - (2) To make rules: - Rules for review of decisions of the Tax Court shall be those prescribed by the Supreme Court under section 2072 of title 28 of the United States Code.

•28 U.S. Code § 1254 - Courts of appeals; certiorari; certified questions: Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; (2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

•28 USC § 455, Disqualification of justice, judge or magistrate judge: Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. He shall also disqualify himself in the following circumstances: (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding; Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it; Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy; He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the -proceeding; He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person: Is a party to the proceeding, or an officer, director, or trustee of a party; Is acting as a lawyer in the proceeding; Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; Is to the judge's knowledge likely to be a material witness in the proceeding. (c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household. (d) For the purposes of this section the following words or phrases shall have the meaning indicated: 'proceeding" includes pretrial, trial, appellate review, or other stages of litigation; the degree of relationship is calculated according to the civil law system; "fiduciary" includes such relationships as executor, administrator,

trustee, and guardian; "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that: Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund; An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization; The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest; Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities. (e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification. (1) Notwithstanding the preceding provisions of this section,, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

•31 USC §§ 3801-3812 Program Fraud Civil Remedies Act, Public Law No. 99-509: In October 1986, Congress enacted the Program Fraud Civil Remedies Act, Public Law No. 99-509 (codified at 31 U.S.C. 3801-3812), to establish an administrative remedy against any person who makes a false claim or written statement to any of certain Federal agencies.

•31 USC § 3802 - False claims and statements; liability: (a) (1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know— (A) is false, fictitious, or fraudulent;

(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent; (C)includes or is supported by any written statement that— (i) omits a material fact; (ii) is false, fictitious, or fraudulent as a result of such omission; and (iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or (D) is for payment for the provision of property or services which the person has not provided as claimed, shall be subject to, in addition to any other remedy that may be

prescribed by law, a civil penalty of not more than $5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence. (2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that— (A)the person knows or has reason to know— (i) asserts a material fact which is false, fictitious, or fraudulent; or (ii) (I) omits a material fact; and (II) is false, fictitious, or fraudulent as a result of such omission; (B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and (C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each such statement. (3) An assessment shall not be made under the second sentence of paragraph (1) with respect to a claim if payment by the Government has not been made on such claim.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection— (A)a determination under section 3803(a)(2) of this title that there is adequate evidence to believe that a person is liable under subsection (a) of this section; or (B) a determination under section 3803 of this title that a person is liable under subsection (a) of this section, may provide the authority with grounds for commencing any administrative or contractual action against such person which is authorized by law and which is in addition to any action against such person under this chapter. (2) A determination referred to in paragraph (1) of this subsection may be used by the authority, but shall not require such authority, to commence any administrative or contractual action which is authorized by law. (3) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, a determination referred to in paragraph (1) of this subsection shall not be considered as a conclusive determination of such person's responsibility pursuant to Federal procurement laws and regulations.

•**31 U.S. Code § 330 - Practice before the Department:** (a)Subject to section 500 of title 5, the Secretary of the Treasury may—(1)regulate the practice of representatives of persons before the Department of the Treasury; and(2)before admitting a representative to practice, require that the representative demonstrate—(A)good character;(B)good reputation;(C)necessary qualifications to enable the representative to provide to persons valuable service; and(D)competency to advise and assist persons in presenting their cases.

(b)Any enrolled agents properly licensed to practice as required under rules promulgated under subsection (a) shall be allowed to use the credentials or designation of "enrolled agent", "EA", or "E.A.".

(c)After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department, or censure, a representative who—(1)is incompetent;(2)is disreputable;(3)violates regulations prescribed under this section; or(4)with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented. The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.

(d)After notice and opportunity for a hearing to any appraiser, the Secretary may—(1)provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and(2)bar such appraiser from presenting evidence or testimony in any such proceeding.

(e)Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

•34 USC § 20101. Crime Victims Fund (a) Establishment— There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this subchapter referred to as the "Fund"): (b) Fines deposited in Fund; penalties; forfeited appearance bonds. Except as limited by subsection (c), there shall be deposited in the Fund- (1) all fines that are collected from persons convicted of offenses against the United States except- (A) fines available for use by the Secretary of the Treasury pursuant to- (i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and (ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and (B) fines to be paid into- (i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.); (ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 and for the purposes set forth in section 404(a)(7) of title 39; (iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and (iv) county public school funds pursuant to section 3613 of title 18; (2) penalty assessments collected under section 3013 of title 18; 1 (3) the proceeds of forfeited appearance bonds, bail bonds, and collateral

collected under section 3146 of title 18; (4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18; (5) any gifts, bequests, or donations to the Fund from private entities or individuals, which the Director is hereby authorized to accept for deposit into the Fund, except that the Director is not hereby authorized to accept any such gift, bequest, or donation that- (A) attaches conditions inconsistent with applicable laws or regulations; or (B) is conditioned upon or would require the expenditure of appropriated funds that are not available to the Office for Victims of Crime; and (6) any funds that would otherwise be deposited in the general fund of the Treasury collected pursuant to- (A) a deferred prosecution agreement; or (B) a non-prosecution agreement.

(c) Retention of sums in Fund; availability for expenditure without fiscal year limitation. Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subchapter for grants under this subchapter without fiscal year limitation. Notwithstanding subsection (d)(5), all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation.

(d) Availability for judicial branch administrative costs; grant program percentages—The Fund shall be available as follows: (1) Repealed. Pub. L. 105–119, title I, §109(a)(1), Nov. 26, 1997, 111 Stat. 2457 . (2)(A) Except as provided in subparagraph (B), the first $10,000,000 deposited in the Fund shall be available for grants under section 20104 of this title. (B)(i) For any fiscal year for which the amount deposited in the Fund is greater than the amount deposited in the Fund for fiscal year 1998, the $10,000,000 referred to in subparagraph (A) plus an amount equal to 50 percent of the increase in the amount from fiscal year 1998 shall be available for grants under section 20104 of this title. (ii) Amounts available under this subparagraph for any fiscal year shall not exceed $20,000,000. (3)(A) Of the sums remaining in the Fund in any particular fiscal year after compliance with paragraph (2), such sums as may be necessary shall be available only for- (i) the United States Attorneys Offices and the Federal Bureau of Investigation to provide and improve services for the benefit of crime victims in the Federal criminal justice system (as described in section 3771 or section 3772, as it relates to direct services, of title 18 and section 20141 of this title) through victim coordinators, victims' specialists, and advocates, including for the administrative support of victim coordinators and advocates providing such services; and (ii) a Victim Notification System.(B) Amounts made available under subparagraph (A) may not be used for any purpose that is not specified in clause (i) or (ii) of subparagraph (A). (4) Of the remaining amount to be distributed from the Fund in a particular fiscal year- (A) 47.5 percent shall be available for grants under section 20102 of this title; (B) 47.5 percent shall be available for grants under section 20103(a) of this title; and (C) 5 percent shall be available for grants under section 20103(c) of this title.(5)(A) In addition to the amounts distributed under paragraphs (2), (3), and (4), the Director may set aside up to $50,000,000 from the amounts transferred to the Fund in

response to the airplane hijackings and terrorist acts that occurred on September 11, 2001, as an antiterrorism emergency reserve. The Director may replenish any amounts obligated from such reserve in subsequent fiscal years by setting aside up to 5 percent of the amounts remaining in the Fund in any fiscal year after distributing amounts under paragraphs (2), (3) and (4). Such reserve shall not exceed $50,000,000. (B) The antiterrorism emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 20105 of this title and to provide compensation to victims of international terrorism under section 20106 of this title. (C) Amounts in the antiterrorism emergency reserve established pursuant to subparagraph (A) may be carried over from fiscal year to fiscal year. Notwithstanding subsection (c) and section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (and any similar limitation on Fund obligations in any future Act, unless the same should expressly refer to this section), any such amounts carried over shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund. (6)(A) The Director may set aside up to $10,000,000 of the amounts remaining in the Fund in any fiscal year after distributing the amounts under paragraphs (2), (3), and (4), in a Child Pornography Victims Reserve, which may be used by the Attorney General for payments under section 2259(d) of title 18. (B) Amounts in the reserve may be carried over from fiscal year to fiscal year, but the total amount of the reserve shall not exceed $10,000,000. Notwithstanding subsection (c) and any limitation on Fund obligations in any future Act, unless the same should expressly refer to this section, any such amounts carried over shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund.

(e) Amounts awarded and unspent — Any amount awarded as part of a grant under this subchapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 3 succeeding fiscal years, at the end of which period, any remaining unobligated sums shall be available for deposit into the emergency reserve fund referred to in subsection (d)(5) at the discretion of the Director, except that renewals and extensions beyond that period may be granted at the discretion of the Attorney General. Any remaining unobligated sums shall be returned to the Fund.

(f) "Offenses against the United States" as excluding — As used in this section, the term "offenses against the United States" does not include- (1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.); (2) an offense against the laws of the District of Columbia; and (3) an offense triable by an Indian tribal court or Court of Indian Offenses.

(g) Grants for Indian tribes; child abuse cases (1) The Attorney General shall use 15 percent of the funds available under subsection (d)(2) to make grants for the purpose of assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve-(A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma

to the child victim; and (B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse. (2) The Attorney General may use 5 percent of the funds available under subsection (d)(2) (prior to distribution) for grants to Indian tribes to establish child victim assistance programs, as appropriate. (3) As used in this subsection, the term "tribe" 2 has the meaning given that term in section 5304(b) 1 of title 25.

•41 USC § 8702. Prohibited conduct: — A person may not—(1) provide, attempt to provide, or offer to provide a kickback; (2) solicit, accept, or attempt to accept a kickback; or (3) include the amount of a kickback prohibited by paragraph (1) or (2) in the contract price— (A) a subcontractor charges a prime contractor or a higher tier subcontractor; or (B) a prime contractor charges the Federal Government.

•41 USC § 8706. Civil actions:— (a) Amount.—The Federal Government in a civil action may recover from a person— (1) that knowingly engages in conduct prohibited by section 8702 of this title a civil penalty equal to— (A) twice the amount of each kickback involved in the violation; and (B) not more than $10,000 for each occurrence of prohibited conduct; and (2) whose employee, subcontractor, or subcontractor employee violates section 8702 of this title by providing, accepting, or charging a kickback a civil penalty equal to the amount of that kickback.

(b) Statute of Limitations.—A civil action under this section must be brought within 6 years after the later of the date on which— (1) the prohibited conduct establishing the cause of action occurred; or (2) the Federal Government first knew or should reasonably have known that the prohibited conduct had occurred.

•Title 42 USC Chapter 85 – Part C- The Clean Air Act (CAA)(1963) - THE CLAYTON ACT - (Sec. 160 Code 7470) (Sec. 161 Code 7471(b)), (Sec. 162 Code 7472), (Sec. 166 Code 7476 (a)), and (Sec. 167 Code 7477);

42 USC §7470. Congressional declaration of purpose — The purposes of this part are as follows: (1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipate 1 to occur from air pollution or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air) 2, notwithstanding attainment and maintenance of all national ambient air quality standards;(2) to preserve, protect, and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value; (3) to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources; (4) to assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and (5) to assure that any decision to permit increased air pollution in any area to which this section applies is made only after careful evaluation of all the consequences of such a

decision and after adequate procedural opportunities for informed public participation in the decision-making process.

42 USC §7471. Plan requirements — In accordance with the policy of section 7401(b)(1) of this title, each applicable implementation plan shall contain emission limitations and such other measures as may be necessary, as determined under regulations promulgated under this part, to prevent significant deterioration of air quality in each region (or portion thereof) designated pursuant to section 7407 of this title as attainment or unclassifiable.

42 USC §7472. Initial classifications — (a) Areas designated as class I — Upon the enactment of this part, all—(1) international parks, (2) national wilderness areas which exceed 5,000 acres in size, (3) national memorial parks which exceed 5,000 acres in size, and (4) national parks which exceed six thousand acres in size, and which are in existence on August 7, 1977, shall be class I areas and may not be redesignated. All areas which were redesignated as class I under regulations promulgated before August 7, 1977, shall be class I areas which may be redesignated as provided in this part. The extent of the areas designated as Class I under this section shall conform to any changes in the boundaries of such areas which have occurred subsequent to August 7, 1977, or which may occur subsequent to November 15, 1990.

(b) Areas designated as class II — All areas in such State designated pursuant to section 7407(d) of this title as attainment or unclassifiable which are not established as class I under subsection (a) of this section shall be class II areas unless redesignated under section 7474 of this title.

42 USC §7476. Other pollutants — (a) Hydrocarbons, carbon monoxide, petrochemical oxidants, and nitrogen oxides — In the case of the pollutants hydrocarbons, carbon monoxide, photochemical oxidants, and nitrogen oxides, the Administrator shall conduct a study and not later than two years after August 7, 1977, promulgate regulations to prevent the significant deterioration of air quality which would result from the emissions of such pollutants. In the case of pollutants for which national ambient air quality standards are promulgated after August 7, 1977, he shall promulgate such regulations not more than 2 years after the date of promulgation of such standards.

42 USC §7477. Enforcement — The Administrator shall, and a State may, take such measures, including issuance of an order, or seeking injunctive relief, as necessary to prevent the construction or modification of a major emitting facility which does not conform to the requirements of this part, or which is proposed to be constructed in any area designated pursuant to section 7407(d) of this title as attainment or unclassifiable and which is not subject to an implementation plan which meets the requirements of this part.

•42 USC Subchapter II – Emission Standards for Moving Sources - § 7541. Compliance by vehicles and engines in actual use (2) (3)

(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer or rebuilder of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 7521 of this title. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following August 7, 1977.

(3) The cost of any part, device, or component of any light-duty vehicle that is designed for emission control and which in the instructions issued pursuant to subsection (c)(3) of this section is scheduled for replacement during the useful life of the vehicle in order to maintain compliance with regulations under section 7521 of this title, the failure of which shall not interfere with the normal performance of the vehicle, and the expected retail price of which, including installation costs, is greater than 2 percent of the suggested retail price of such vehicle, shall be borne or reimbursed at the time of replacement by the vehicle manufacturer and such replacement shall be provided without cost to the ultimate purchaser, subsequent purchaser, or dealer. The term "designed for emission control" as used in the preceding sentence means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions (not including those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control).

•Federal Rules of Evidence - Article IX. Authentication and Identification - Rule 902. Evidence That Is Self-Authenticating - (11)(13)(14), Rule 401. Test for Relevant Evidence, and Rule 103 Rulings on Evidence

Rule 901- (11)(13)(14): (11) Certified Domestic Records of a Regularly Conducted Activity. The original or a copy of a domestic record that meets the requirements of Rule 803(6)(A)-(C), as shown by a certification of the custodian or another qualified person that complies with a federal statute or a rule prescribed by the Supreme Court. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record — and must make the record and certification available for inspection — so that the party has a fair opportunity to challenge them.

(13) Certified Records Generated by an Electronic Process or System. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification

requirements of Rule 902(11) or (12). The proponent must also meet the notice requirements of Rule 902(11).

(14) Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Rule (902(11) or (12). The proponent also must meet the notice requirements of Rule 902 (11).

Rule 401 Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.

Rule 103 - Rulings on Evidence: (a) Preserving a Claim of Error. A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the — party and: — (1) if the ruling admits evidence, a party, on the record: (A) timely objects or moves to strike; and (B) states the specific ground, unless it was apparent from the context. (2) If the ruling excludes evidence, a party informs the court of its substance by an offer of proof, unless the substance was apparent from the context. (b) Not Needing to Renew an Objection or Offer of Proof. Once the court rules definitively on the record at trial a party need not renew an objection or offer of proof to preserve a claim of error for appeal. (c) Court's Statement About the Ruling; Directing an Offer of Proof. The court may make statement about the character or form of the evidence, the objection made, and the ruling. The court may direct that an offer of proof be made in question-and-answer form.(d) Preventing the Jury from Hearing Inadmissible Evidence. To the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.(e) Taking Notice of Fundamental Error. A court may take notice of a fundamental error affecting a substantial right, even if the claim of error was not properly preserved. (f) Preponderance of Evidence. When deciding whether to admit evidence, the court must decide any question of fact by a preponderance of the evidence.

•**IRM 30.9.1.4.4 (07-21-2005) Assistance Files:** A complete legal file necessarily includes documents relating to assistance with the case provided by all other offices. Thus, whenever an office requests assistance on a case assignment from another office, documentation of case developments by the office providing assistance must be incorporated into the legal file. To accomplish this purpose, any Counsel employees assigned to provide case assistance to another office should document case development in a temporary "assistance" file. Upon completion of the requested assistance, the assistance file should be forwarded to the office that requested the assistance for inclusion in the legal file as described below.

Whenever TSS4510 receives a request for assistance from one Associate office to another Associate office, TSS4510, or the receiving office, should set up an assistance file using a letter size, (brown) file folder. The folder should be set up in a manner similar to a legal file, i.e., the request and other documentation attached inside the folder on the right side, and the control sheet and case history sheet attached on the left. Attach a label to the upper left corner on the outside of the folder with the name of the case, the TL-CATS or TECHMIS control number (including WLI number), the type of assistance assignment and the assigned branch. Whenever a request for assistance is sent to another office, the transmittal memorandum should state: We request that a copy of documentation of significant activities during case development be returned to this office, along with the reply, for inclusion in the legal file. An assistance file should be maintained in accordance with the file maintenance directions for a legal file. The responding Associate office should forward the assistance file (with documentation, history sheet, and control sheet (showing closing) properly completed and attached to the requesting office). Forward the file with the response if possible, or promptly following the response when the need for a rapid response makes forwarding the assistance file at the same time impractical. The assigned attorney in the requesting office may retain the assistance file with the legal file while the case is still open, but should integrate the contents of the assistance file into the legal file (removing any duplicate documents) before the legal file is closed. The assistance file jacket may then be relabeled and reused.

•IRM 25.1.6.1.7 (06-10-2021): Terms- Compliance employees must be familiar with the following legal terms to understand the requirements of proof. The following table defines terms commonly used throughout this IRM section:

Burden of Proof: Includes both the burden of producing evidence and persuading a court (judge or jury) by clear and convincing evidence that the facts support the contention of civil fraud. In tax fraud cases, the burden of proof is on the government.

Direct Evidence: Evidence in the form of documents or testimony from a witness who actually saw, heard, or touched the subject of questioning. Direct evidence, which is believed, proves existence of fact in issue without inference or presumption.

Evidence: Data presented to a judge or jury to prove the facts in issue. Evidence includes the testimony of witnesses, records, documents, or objects. Evidence is distinguished from proof, in that proof is the result or effect of evidence.

Fraud: Deception by misrepresentation of material facts, or silence when good faith requires expression, which results in material damage to one who relies on it and has the right to rely on it. Simply stated, it is obtaining something of value from someone else through deceit.

Inference: A logical conclusion from given facts.

Willful Intent to Defraud: An intentional wrongdoing with the specific purpose of evading a tax believed by the taxpayer to be owing.

•IRM 25.1.6.4 (06-10-2021): Evidence of Fraud: Since direct proof of fraudulent intent is rarely available, fraud must be proven by circumstantial evidence and reasonable inferences. Fraud generally involves one or more of the following elements: Deception, Misrepresentation of material facts, False or altered documents, Evasion (i.e., diversion or omission). The courts focus on key badges, also known as indicators, of fraud in determining whether there was an "intent to evade" tax. A determination of fraud is based on the taxpayer's entire course of conduct, with each badge of fraud given the weight appropriate to a particular case. An evaluation of fraud is based on the weight of the evidence rather than the quantity of the factors. Some of the common "first indicators (or badges) of fraud" include: --Understatement of income (e.g., omissions of specific items or entire sources of income, failure to report substantial amounts of income received)--Fictitious or improper deductions (e.g., overstatement of deductions, personal items deducted as business expenses)--Accounting irregularities (e.g., two sets of books, false entries on documents)--Obstructive actions of the taxpayer (e.g., false statements, destruction of records, transfer of assets, failure to cooperate with the examiner, concealment of assets)--A consistent pattern over several years of underreporting taxable income--Implausible or inconsistent explanations of behavior--Engaging in illegal activities (e.g., drug dealing), or attempting to conceal illegal activities--Inadequate records--Dealing in cash, -- and Failure to file returns.

The Facts section of the penalty narrative should include a detailed description of all applicable badges of fraud. Additionally the examiner should include other items of deception or instances where the taxpayer may have misled or misrepresented facts to the government. A comment regarding consideration of fraud must be documented by all compliance examination field operations employees on cases involving adjustments to taxable income and/or credits resulting in an underpayment of tax due.

•IRM 25.1.2.8 (06-09-2015) Excise Tax Fraud: There are opportunities for fraud in the specialized area of excise tax. In addition to other indications of fraud, the following incidents should be considered to establish taxpayer's knowledge in excise cases: Previously filed returns and paid excise tax but stopped filing and paying without explanation. Sale of an article at a tax-included price but did not report or pay tax to the government. Handling of identical products, considers one taxable and the other not taxable. Membership in trade or industry organizations for a number of years. Subscriptions to trade publications. Answers provided by the taxpayer via a questionnaire or Initial Document Request (IDR).Answers to questions when meeting with the taxpayer face-to-face or virtually. For excise tax purposes, the Trust Fund Recovery Penalty applies only to the communications tax imposed by IRC 4251 and the air transportation taxes imposed by IRC 4261 and IRC 4271. See IRM 20.1.11.4, IRC 6672 Trust Fund Recovery Penalty, for additional guidance on

how the trust fund recovery penalty may be used in excise tax cases. There is an exemption for excise taxes on any article that is exported, see IRC 4221(a)(2). Therefore, this excise tax exemption may lead taxpayers to provide false information and fraudulent documentation which claims the taxpayer exported articles when in fact the article was not exported.

•IRM 25.1.2.8.5 (06-09-2015) Excise Taxes—Willful Failure to Pay:

See IRM 4.24.9.3, IRC 4103 Willful Failure to Pay Fuel Taxes Penalty, for guidance on the assertion of the willful failure to pay fuel tax penalty under IRC 4103.

•5 CFR § 185.101 — Purpose: This subpart implements the Program Fraud Civil Remedies Act of 1986, Public Law 99-509, 6101-6104, 100 Stat. 1874 (October 21, 1986), codified at 31 U.S.C. 3801-3812. Section 3809 requires each authority head to promulgate regulations necessary to implement the provisions of the statute. The subpart establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments. The moneys collected as a result of these procedures are deposited as miscellaneous receipts in the Treasury of the United States.

•12 U.S.C. 1691 et seq. Equal Credit Opportunity Act (ECOA) - Consumer Financial Protection Bureau Regulation (12 CFR)-Part 1002 Equal Credit Opportunity (Regulation B) The Equal Credit Opportunity Act (ECOA): Implemented by Regulation B, applies to all creditors. When originally enacted, ECOA gave the Federal Reserve Board responsibility for prescribing the implementing regulation. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) transferred this authority to the Consumer Financial Protection Bureau (CFPB or Bureau). The Dodd-Frank Act granted rule-making authority under ECOA to the CFPB and, with respect to entities within its jurisdiction, granted authority to the CFPB to supervise for and enforce compliance with ECOA and its implementing regulations. In December 2011, the CFPB restated the Federal Reserve's implementing regulation at 12 CFR Part 1002 (76 Fed. Reg. 79442)(December 21, 2011). In January 2013, the CFPB amended

Regulation B to reflect the Dodd-Frank Act amendements requiring creditors to provide applicants with free copies of all appraisals and other written valuations developed in connection with all credit applications to be secured by a first lien on a dwelling. This amendment to Regulation B also requires creditors to notify applicants in writing that copies of all appraisals will be provided to them promptly. The statute provides that its purpose is to require financial institutions and other firms engaged in the extension of credit to "make credit equally available to all creditworthy customers without regard to sex or marital status." Moreover, the statute makes it unlawful for "any creditor to discriminate against any applicant

with respect to any aspect of a credit transaction because the applicant has in good faith exercised any right under the Consumer Credit Protection Act." The ECOA has two principal theories of liability: disparate treatment and disparate impact. 1.Disparate treatment occurs when a creditor treats an applicant differently based on a prohibited basis such as race or national origin. 2. Disparate impact occurs when a creditor employs facially neutral policies or practices that have an adverse effect or impact on a member of a protected class unless it meets a legitimate business need that cannot reasonably be achieved by means that are less disparate in their impact. Regulation B applies to all persons who, in the ordinary course of business, regularly participate in the credit decision, including setting the terms of the credit. The term "creditor" includes a creditor's assignee, transferee, or subrogee who so participates. For purposes of discrimination or discouragement, 12 CFR 1002.4(a) and (b), the term creditor also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made. Regulation B's prohibitions apply to every aspect of an applicant's dealings with a creditor regarding an application for credit or an existing extension of credit (including, but not limited to: information requirements; investigation procedures; standards of creditworthiness; terms of credit; furnishing of credit information; revocation, alteration, or termination of credit; and collection procedures). The regulation defines "applicant" as any person who requests or who has received an extension of credit from a creditor and includes any person who is or may become contractually liable regarding an extension of credit. Regulation B contains two basic and comprehensive prohibitions against discriminatory lending

practices:

• A creditor shall not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction.

• A creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage, on a prohibited basis, a reasonable person from making or pursuing an application.

Enforcement, Penalties, and Liabilities – 12 CFR 1002.16: In addition to actual damages, the Act provides for punitive damages of up to $10,000 in individual lawsuits and up to the lesser of $500,000 or 1 percent of the creditor's net worth in class action suits. Successful complainants are also entitled to an award of court costs and attorney's fees. A creditor is not liable for failure to comply with the notification requirements of 12 CFR 1002.9 or the reporting requirements of 12 CFR 1002.10 if the failure was caused by an inadvertent error and the creditor, after discovering the error (1) corrects the error as soon as possible and (2) begins compliance with the requirements of the regulation. "Inadvertent errors" include mechanical, electronic, and clerical errors that the creditor can show (1) were not intentional and (2) occurred despite the fact that the creditor maintains procedures reasonably adapted to avoid such errors. Similarly, failure to comply with 12 CFR

1002.6(b)(6), 1002.12, and 1002.13 is not considered a violation if it results from an inadvertent error and the creditor takes the corrective action noted above. Errors involving 12 CFR 1002.12 and 1002.13 may be corrected prospectively by the creditor.

•12 CFR Part 1026 (Regulation Z)- Truth in Lending Act - Subpart C - Closed-End Credit -

12 CFR § 1026.1 Authority, purpose, coverage, organization, enforcement, and liability: -(a) Authority. This part, known as Regulation Z, is issued by the Bureau of Consumer Financial Protection to implement the Federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.). This part also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Pub. L. 100-86, 101 Stat. 552). Furthermore, this part implements certain provisions of the Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. 2601 et seq.). In addition, this part implements certain provisions of the Financial Institutions Reform, Recovery, and Enforcement Act, as amended (12 U.S.C. 3331 et seq.). The Bureau's information-collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. 3501 et seq. and have been assigned OMB No. 3170-0015 (Truth in Lending).

(b) Purpose. The purpose of this part is to promote the informed use of consumer credit by requiring disclosures about its terms and cost, to ensure that consumers are provided with greater and more timely information on the nature and costs of the residential real estate settlement process, and to effect certain changes in the settlement process for residential real estate that will result in more effective advance disclosure to home buyers and sellers of settlement costs. The regulation also includes substantive protections. It gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not generally govern charges for consumer credit, except that several provisions in subpart G set forth special rules addressing certain charges applicable to credit card accounts under an open-end (not home-secured) consumer credit plan. The regulation requires a maximum interest rate to be stated in variable-rate contracts secured by the consumer's dwelling. It also imposes limitations on home-equity plans that are subject to the requirements of § 1026.40 and mortgages that are subject to the requirements of § 1026.32. The regulation prohibits certain acts or practices in connection with credit secured by a dwelling in § 1026.36, and credit secured by a consumer's principal dwelling in § 1026.35. The regulation also regulates certain practices of creditors who extend private education loans as defined in § 1026.46(b)(5). In addition, it imposes certain limitations on increases in costs for mortgage transactions subject to § 1026.19(e) and (f).

(c) Coverage. (1) In general, this part applies to each individual or business that offers or extends credit, other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376, when four conditions are met:(i) The credit is offered or extended to consumers; (ii) The offering or extension of credit is done regularly; (iii) The credit is subject to a finance charge or is payable by a written agreement in more than four installments; and (iv) The credit is primarily for personal, family, or household purposes. (2) If a credit card is involved, however, certain provisions apply even if the credit is not subject to a finance charge, or is not payable by a written agreement in more than four installments, or if the credit card is to be used for business purposes. (3) In addition, certain requirements of § 1026.40 apply to persons who are not creditors but who provide applications for home-equity plans to consumers. (4) Furthermore, certain requirements of § 1026.57 apply to institutions of higher education. (5) Except in transactions subject to § 1026.19(e) and (f), no person is required to provide the disclosures required by sections 128(a)(16) through (19), 128(b)(4), 129C(f)(1), 129C(g)(2) and (3), 129D(h), or 129D(j)(1)(A) of the Truth in Lending Act, section 4(c) of the Real Estate Settlement Procedures Act, or the disclosure required prior to settlement by section 129C(h) of the Truth in Lending Act. Except in transactions subject to § 1026.20(e), no person is required to provide the disclosure required by section 129D(j)(1)(B) of the Truth in Lending Act. Except in transactions subject to § 1026.39(d)(5), no person becoming a creditor with respect to an existing residential mortgage loan is required to provide the disclosure required by section 129C(h) of the Truth in Lending Act.

12 CFR § 1026.17 General disclosure requirements: (a) Form of disclosures. Except for the disclosures required by § 1026.19(e), (f), and (g): (1) The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required by this subpart may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). The disclosures required by §§ 1026.17(g), 1026.19(b), and 1026.24 may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. The disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related to the disclosures required under § 1026.18, § 1026.20(c) and (d), or § 1026.47. The disclosures required by § 1026.20(d) shall be provided as a separate document from all other written materials. The disclosures may include an acknowledgment of receipt, the date of the transaction, and the consumer's name, address, and account number. The following disclosures may be made together with or separately from other required disclosures: The creditor's identity under § 1026.18(a), the variable rate example under § 1026.18(f)(1)(iv), insurance or debt cancellation under § 1026.18(n), and

certain security interest charges under § 1026.18(o). The itemization of the amount financed under § 1026.18(c)(1) must be separate from the other disclosures under § 1026.18, except for private education loan disclosures made in compliance with § 1026.47.

(b) Time of Disclosures--1. Consummation. As a general rule, disclosures must be made before "consummation" of the transaction. The disclosures need not be given by any particular time before consummation, except in certain mortgage transactions and variable-rate transactions secured by the consumer's principal dwelling with a term greater than one year under § 1026.19, and in private education loan transactions disclosed in compliance with §§ 1026.46 and 1026.47. (See the commentary to § 1026.2(a)(13) regarding the definition of consummation.)

12 CFR Chapter X - PART 1075-Consumer Financial Civil Penalty Fund Rule:(§ 1075.100, § 1075.103, §1026.24 and § 1075.104)

12 CFR § 1075.100 Scope and purpose: - Section 1017(d)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203, 124 Stat. 1978 (12 U.S.C. 5497(d)) (Dodd-Frank Act) establishes the "Consumer Financial Civil Penalty Fund." This part describes the conditions under which victims will be eligible for payments from the Consumer Financial Civil Penalty Fund and the amounts of the payments they may receive. This part also establishes procedures and guidelines for allocating funds from the Consumer Financial Civil Penalty Fund to classes of victims and distributing such funds to individual victims, and for allocating funds to consumer education and financial literacy programs. This part also establishes reporting requirements.

12 CFR § 1075.103 Eligible victims: - A victim is eligible for payment from the Civil Penalty Fund if a final order in a Bureau enforcement action imposed a civil penalty for the violation or violations that harmed the victim.

12 CFR § 1075.104 Payments to victims: (a) In general. -- The Bureau will use funds in the Civil Penalty Fund for payments to compensate eligible victims' uncompensated harm, as described in to paragraph (b) of this section.

(b) Victims' uncompensated harm.- (1) A victim's uncompensated harm is the victim's compensable harm, as described in paragraph (c) of this section, minus any compensation for that harm that the victim has received or is reasonably expected to receive. --- (2) For purposes of paragraph (b)(1) of this section, a victim has received or is reasonably expected to receive compensation in the amount of: (i) Any Civil Penalty Fund payment that the victim has previously received or will receive as a result of a previous allocation from the Civil Penalty Fund to the victim's class; (ii)

Any redress that a final order in a Bureau enforcement action orders to be distributed, credited, or otherwise paid to the victim, and that has not been suspended or waived and that the Chief Financial Officer has not determined to be uncollectible; and (iii) Any other redress that the Bureau knows that has been distributed, credited, or otherwise paid to the victim, or has been paid to an intermediary for distribution to the victim, to the extent that: (A) That redress compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment; and (B) It is not unduly burdensome, in light of the amounts at stake, to determine the amount of that redress or the extent to which it compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment. --- (3) If the Fund Administrator deems it impracticable to assess the uncompensated harm of individual victims in a class, each individual victim's uncompensated harm will be the victim's share of the aggregate uncompensated harm of the victim's class.

(c) Victims' compensable harm. -- Victims' compensable harm for purposes of this part is as follows:(1) If a final order in a Bureau enforcement action ordered redress for a class of victims, the compensable harm of each victim in the class is equal to that victim's share of the total redress ordered, including any amounts that are suspended or waived. (2) If a final order in a Bureau enforcement action does not order redress for a class of victims, those victims' compensable harm is as follows: (i) If the Bureau sought redress for a class of victims but a court or administrative tribunal denied that request for redress in the final order, the victims in that class have no compensable harm. (ii) Except as provided in paragraph (c)(2)(i) of this section, if the final order in the Bureau enforcement action specifies the amount of the victims' harm, including by prescribing a formula for calculating that harm, each victim's compensable harm is equal to that victim's share of the amount specified. (iii) Except as provided in paragraph (c)(2)(i) of this section, if the final order in the Bureau enforcement action does not specify the amount of the victims' harm, each victim's compensable harm is equal to the victim's out-of-pocket losses that resulted from the violation or violations for which a civil penalty was imposed, except to the extent such losses are impracticable to determine.

12 CFR § 1026.24 Advertising: (a) Actually available terms. If an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor. (b) Clear and conspicuous standard. Disclosures required by this section shall be made clearly and conspicuously.

•12 CFR- Chapter X - PART 1071 - RULE IMPLEMENTING EQUAL ACCESS TO JUSTICE ACT: Subpart A – General:

12 CFR § 1071.100 Purpose. (a) In general. The Equal Access to Justice Act (the Act), 5 U.S.C. 504 provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (adversary adjudications) before the Bureau of Consumer Financial Protection (the Bureau). An eligible party may receive an award when it prevails

over the Bureau, unless the Bureau's position in the proceeding was substantially justified or special circumstances make an award unjust. This part describes the parties eligible for awards and the proceedings that are covered. This part also explains how to apply for awards, and the procedures and standards that the Bureau will use in ruling on those applications.

(b) When an eligible party will receive an award. An eligible party will receive an award when: (1) It prevails in the adversary adjudication, unless the Bureau's position in the proceeding was substantially justified or special circumstances make an award unjust. Whether or not the position of the Bureau was substantially justified will be determined on the basis of the administrative record as a whole that is made in the adversary proceeding for which fees and other expenses are sought; or (2) The Bureau's demand is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with that decision, under all the facts and circumstances of the case, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. "Demand" means the express final written demand made by the Bureau prior to initiation of the adversary adjudication, but does not include a recitation by the Bureau of the statutory penalty in the notice of charges or elsewhere when accompanied by an express demand for a lesser amount. The relief requested in the Bureau's notice of charges issued pursuant to 12 CFR 1081.200(b)(3) may constitute the Bureau's demand only where the notice of charges was not preceded by an express final written demand.

•**12 CFR § 1071.101 When the Act applies:** The Act applies to any adversary adjudication pending before the Bureau at any time after July 21, 2011.

•**12 CFR § 1071.102 Proceedings covered:** The Act applies to all adjudicative proceedings under part 1081 as defined in § 1081.103.

•**12 CFR § 1071.103 Eligibility of applicants:** (a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart.

(b) The types of eligible applicants are as follows: (1) An individual with a net worth of not more than $2 million; (2) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees; (3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees; (4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; or (5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $7 million and not more than 500 employees. (6) For purposes of receiving an award for fees and expenses for

defending against an excessive Bureau demand, any small entity, as that term is defined under 5 U.S.C. 601(6). (c) For purposes of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated. (d) An applicant who owns an unincorporated business will be considered an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests. (e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual or group of individuals, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate of that business for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust. (g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

•**12 CFR § 1071.104 Standards for awards:** (a) For a prevailing party: (1) An eligible prevailing applicant may receive an award for fees and expenses incurred after initiation of the adversary adjudication in connection with the entire adversary adjudication, or on a substantive portion of the adversary adjudication that is sufficiently significant and discrete to merit treatment as a separate unit, unless the position of the Bureau was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant because the Bureau's position was substantially justified is on counsel for the Bureau. However, no presumption arises that the Bureau's position was not substantially justified simply because the Bureau did not prevail. (2) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust. (b) For a party defending against an excessive demand: (1) An eligible applicant will receive an award for fees and expenses incurred after initiation of the adversary adjudication related to defending against the portion of a Bureau demand that is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with that decision under all the facts and circumstances of the case. (2) An award will be denied if the applicant has committed a willful violation of law or otherwise acted in bad faith or if special circumstances make an award unjust.

•26 CFR § 301.7623-1 General rules, submitting information on underpayments of tax or violations of the internal revenue laws, and filing claims for award. (a),(b),(c), and (d)

(a) In general. In cases in which awards are not otherwise provided for by law, the Whistleblower Office may pay an award under section 7623(a), in a suitable amount, for information necessary for detecting underpayments of tax or detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same. In cases that satisfy the requirements of section 7623(b)(5) and (b)(6) and in which the Internal Revenue Service (IRS) proceeds with an administrative or judicial action based on information provided by an individual, the Whistleblower Office must determine and pay an award under section 7623(b)(1), (2), or (3). The awards provided for by section 7623 and this paragraph must be paid from collected proceeds, as defined in § 301.7623-2(d).

(b) Eligibility to file claim for award. (1) In general. Any individual, other than an individual described in paragraph (b)(2) of this section, is eligible to file a claim for award and to receive an award under section 7623 and §§ 301.7623-1 through 301.7623-4. (2) Ineligible whistleblowers. The Whistleblower Office will reject any claim for award filed by an ineligible whistleblower and will provide written notice of the rejection to the whistleblower. The following individuals are not eligible to file a claim for award or receive an award under section 7623 and §§ 301.7623-1 through 301.7623-4 — (i) An individual who is an employee of the Department of Treasury or was an employee of the Department of Treasury when the individual obtained the information on which the claim is based; (ii) An individual who obtained the information through the individual's official duties as an employee of the Federal Government, or who is acting within the scope of those official duties as an employee of the Federal Government; (iii) An individual who is or was required by Federal law or regulation to disclose the information or who is or was precluded by Federal law or regulation from disclosing the information; (iv) An individual who obtained or had access to the information based on a contract with the Federal Government; or (v) An individual who filed a claim for award based on information obtained from an ineligible whistleblower for the purpose of avoiding the rejection of the claim that would have resulted if the claim was filed by the ineligible whistleblower.

(c) Submission of information and claims for award. (1) Submitting information. To be eligible to receive an award under section 7623 and §§ 301.7623-1 through 301.7623-4, a whistleblower must submit to the IRS specific and credible information that the whistleblower believes will lead to collected proceeds from one or more persons whom the whistleblower believes have failed to comply with the internal revenue laws. In general, a whistleblower's submission should identify the person(s) believed to have failed to comply with the internal revenue laws and should provide substantive information, including all available documentation, that supports the whistleblower's allegations. Information that identifies a pass-through entity will be considered to also identify all persons with a direct or indirect interest

in the entity. Information that identifies a member of a firm who promoted another identified person's participation in a transaction described and documented in the information provided will be considered to also identify the firm and all other members of the firm. Submissions that provide speculative information or that do not provide specific and credible information regarding tax underpayments or violations of internal revenue laws do not provide a basis for an award. If documents or supporting evidence are known to the whistleblower but are not in the whistleblower's control, then the whistleblower should describe the documents or supporting evidence and identify their location to the best of the whistleblower's ability. If all available information known to the whistleblower is not provided to the IRS by the whistleblower, then the whistleblower bears the risk that this information might not be considered by the Whistleblower Office for purposes of an award. (2) Filing claim for award. To claim an award under section 7623 and §§ 301.7623-1 through 301.7623-4 for information provided to the IRS, a whistleblower must file a formal claim for award by completing and sending Form 211, "Application for Award for Original Information," to the Internal Revenue Service, Whistleblower Office, at the address provided on the form, or by complying with other claim filing procedures as may be prescribed by the IRS in other published guidance.

The Form 211 should be completed in its entirety and should include the following information — (i) The date of the claim; (ii) The whistleblower's name; (iii) The whistleblower's address and telephone number; (iv) The whistleblower's date of birth; (v) The whistleblower's taxpayer identification number; and (vi) An explanation of how the information on which the claim is based came to the attention and into the possession of the whistleblower, including, as available, the date(s) on which the whistleblower acquired the information and a complete description of the whistleblower's present or former relationship (if any) to person(s) identified on the Form 211. (3) Under penalty of perjury. No award may be made under section 7623(b) unless the information on which the award is based is submitted to the IRS under penalty of perjury. All claims for award under section 7623 and §§ 301.7623-1 through 301.7623-4 must be accompanied by an original signed declaration under penalty of perjury, as follows: "I declare under penalty of perjury that I have examined this application, my accompanying statement, and supporting documentation and aver that such application is true, correct, and complete, to the best of my knowledge." This requirement precludes the filing of a claim for award by a person serving as a representative of, or in any way on behalf of, another individual. Claims filed by more than one whistleblower (joint claims) must be signed by each individual whistleblower under penalty of perjury. (4) Perfecting claim for award. If a whistleblower files a claim for award that does not include information described under paragraph (c)(2) of this section, does not contain specific and credible information as described in paragraph (c)(1) of this section, or is based on information that was not submitted under penalty of perjury as required by paragraph (c)(3) of this section, the Whistleblower Office may reject the claim or

notify the whistleblower of the deficiencies and provide the whistleblower an opportunity to perfect the claim for award. If a whistleblower does not perfect the claim for award within the time period specified by the Whistleblower Office, then the Whistleblower Office may reject the claim. If the Whistleblower Office rejects a claim, then the Whistleblower Office will provide notice of the rejection to the whistleblower pursuant to the rules of § 301.7623-3(b)(3) or (c)(7). If the Whistleblower Office rejects a claim for the reasons described in this paragraph, then the whistleblower may perfect and resubmit the claim.

(d) Request for assistance. (1) In general. The Whistleblower Office, the IRS, or IRS Office of Chief Counsel may request the assistance of a whistleblower or the whistleblower's legal representative. Any assistance shall be at the direction and control of the Whistleblower Office, the IRS, or the IRS Office of Chief Counsel assigned to the matter. See § 301.6103(n)-2 for rules regarding written contracts among the IRS, whistleblowers, and legal representatives of whistleblowers. (2) No agency relationship. Submitting information, filing a claim for award, or responding to a request for assistance does not create an agency relationship between a whistleblower and the Federal Government, nor does a whistleblower or the whistleblower's legal representative act in any way on behalf of the Federal Government.

•26 CFR § 301.7623-3 (e - administrative record) (2) (iii)(iv)) — (iii) Form(s) 11369, "Confidential Evaluation Report on Claim for Award," including narratives prepared by the relevant IRS office(s), explaining the whistleblower's contributions to the actions and documenting the actions taken by the IRS in the case(s). The Form 11369 will refer to and incorporate additional documents relating to the issues raised by the claim, as appropriate, including, for example, relevant portions of revenue agent reports, copies of agreements entered into with the taxpayer(s), tax returns, and activity records. (iv) Copies of all contracts entered into among the IRS, the whistleblower, and the whistleblower's legal representative (if any), and an explanation of the cooperation provided by the whistleblower (or the whistleblower's legal representative, if any) under the contract

•Department of Justice Code of Conduct Canons (1)(2)(3)(3A)(3B(4))(5)

Canon 1: A Judge Should Uphold the Integrity and Independence of the Judiciary: An independent and honorable judiciary is indispensable to justice in our society. A judge should maintain and enforce high standards of conduct and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities(A) Respect for Law. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. (B) Outside Influence. A judge should not

allow family, social, political, financial, or other relationships to influence judicial conduct or judgment. A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness. (C) Nondiscriminatory Membership. A judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, or national origin.

Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently_The duties of judicial office take precedence over all other activities. The judge should perform those duties with respect for others, and should not engage in behavior that is harassing, abusive, prejudiced, or biased. The judge should adhere to the following standards:(A) Adjudicative Responsibilities.(1) A judge should be faithful to, and maintain professional competence in, the law and should not be swayed by partisan interests, public clamor, or fear of criticism. (2) A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings.(3) A judge should be patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity. A judge should require similar conduct by those subject to the judge's control, including lawyers to the extent consistent with their role in the adversary process.(4) A judge should accord to every person who has a legal interest in a proceeding, and that person's lawyer, the full right to be heard according to law. Except as set out below, a judge should not initiate, permit, or consider ex parte communications or consider other communications concerning a pending or impending matter that are made outside the presence of the parties or their lawyers. If a judge receives an unauthorized ex parte communication bearing on the substance of a matter, the judge should promptly notify the parties of the subject matter of the communication and allow the parties an opportunity to respond, if requested. A judge may:(a) initiate, permit, or consider ex parte communications as authorized by law;(b) when circumstances require it, permit ex parte communication for scheduling, administrative, or emergency purposes, but only if the ex parte communication does not address substantive matters and the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication;(c) obtain the written advice of a disinterested expert on the law, but only after giving advance notice to the parties of the person to be consulted and the subject matter of the advice and affording the parties reasonable opportunity to object and respond to the notice and to the advice received; or (d) with the consent of the parties, confer separately with the parties and their counsel in an effort to mediate or settle pending matters.(5) A judge should dispose promptly of the business of the court.(6) A judge should not make public comment on the merits of a matter pending or impending in any court. A judge should require similar restraint by court personnel subject to the judge's direction and control. The prohibition on public comment on the merits does not extend to public statements made in the course of the judge's official duties, to

explanations of court procedures, or to scholarly presentations made for purposes of legal education. (B) Administrative Responsibilities.(1) A judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court personnel.(2) A judge should not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when that conduct would contravene the Code if undertaken by the judge. (3) A judge should exercise the power of appointment fairly and only on the basis of merit, avoiding unnecessary appointments, nepotism, and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.(4) A judge should practice civility, by being patient, dignified, respectful, and courteous, in dealings with court personnel, including chambers staff. A judge should not engage in any form of harassment of court personnel. A judge should not retaliate against those who report misconduct. A judge should hold court personnel under the judge's direction to similar standards.(5) A judge with supervisory authority over other judges should take reasonable measures to ensure that they perform their duties timely and effectively.(6) A judge should take appropriate action upon receipt of reliable information indicating the likelihood that a judge's conduct contravened this Code, that a judicial employee's conduct contravened the Code of Conduct for Judicial Employees, or that a lawyer violated applicable rules of professional conduct.(C) Disqualification.(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which:(a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or lawyer has been a material witness;(c) the judge knows that the judge, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be affected substantially by the outcome of the proceeding;(d) the judge or the judge's spouse, or a person related to either within the third degree of relationship, or the spouse of such a person is:(i) a party to the proceeding, or an officer, director, or trustee of a party;(ii) acting as a lawyer in the proceeding;(iii) known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or(iv) to the judge's knowledge likely to be a material witness in the proceeding;(e) the judge has served in governmental employment and in that capacity participated as a judge (in a previous judicial position), counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.(2) A judge should keep informed about the judge's personal and fiduciary financial interests and make a reasonable effort to keep informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household.(3) For the purposes of this section: (a) the degree of relationship

is calculated according to the civil law system; the following relatives are within the third degree of relationship: parent, child, grandparent, grandchild, great grandparent, great grandchild, sister, brother, aunt, uncle, niece, and nephew; the listed relatives include whole and half blood relatives and most step relatives;(b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;(c) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that: (i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;(iii) the proprietary interest of a policyholder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities;(d) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation. (4) Notwithstanding the preceding provisions of this Canon, if a judge would be disqualified because of a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the judge (or the judge's spouse or minor child) divests the interest that provides the grounds for disqualification.(D) Remittal of Disqualification. Instead of withdrawing from the proceeding, a judge disqualified by Canon 3C(1) may, except in the circumstances specifically set out in subsections (a) through (e), disclose on the record the basis of disqualification. The judge may participate in the proceeding if, after that disclosure, the parties and their lawyers have an opportunity to confer outside the presence of the judge, all agree in writing or on the record that the judge should not be disqualified, and the judge is then willing to participate. The agreement should be incorporated in the record of the proceeding.

Canon 3A(3) The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate. The duty under Canon 2 to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary applies to all the judge's activities, including the discharge of the judge's adjudicative and administrative responsibilities. The duty to be respectful includes the responsibility to avoid comment or behavior that could reasonably be interpreted as harassment, prejudice or bias.

Canon 3B(4). A judge should neither engage in, nor tolerate, workplace conduct that is reasonably interpreted as harassment, abusive behavior, or retaliation for reporting such conduct. The duty to refrain from retaliation includes retaliation against former as well as current judiciary personnel. Under this Canon, harassment encompasses a range of conduct having no legitimate role in the

workplace, including harassment that constitutes discrimination on impermissible grounds and other abusive, oppressive, or inappropriate conduct directed at judicial employees or others. See Rules for Judicial-Conduct and Judicial-Disability Proceedings, Rule 4(a)(2) (providing that "cognizable misconduct includes: (A) engaging in unwanted, offensive, or abusive sexual conduct, including sexual harassment or assault; (B) treating litigants, attorneys, judicial employees, or others in a demonstrably egregious and hostile manner; or (C) creating a hostile work environment for judicial employees") and Rule 4(a)(3) (providing that "cognizable misconduct includes intentional discrimination on the basis of race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age, or disability").

Canon 5: A Judge Should Refrain from Political Activity — (A) General Prohibitions. A judge should not: (1) act as a leader or hold any office in a political organization; (2) make speeches for a political organization or candidate, or publicly endorse or oppose a candidate for public office; or (3) solicit funds for, pay an assessment to, or make a contribution to a political organization or candidate, or attend or purchase a ticket for a dinner or other event sponsored by a political organization or candidate.(B) Resignation upon Candidacy. A judge should resign the judicial office if the judge becomes a candidate in a primary or general election for any office.(C) Other Political Activity. A judge should not engage in any other political activity. This provision does not prevent a judge from engaging in activities described in Canon 4.COMMENTARY — The term "political organization" refers to a political party, a group affiliated with a political party or candidate for public office, or an entity whose principal purpose is to advocate for or against political candidates or parties in connection with elections for public office. Compliance with the Code of Conduct — Anyone who is an officer of the federal judicial system authorized to perform judicial functions is a judge for the purpose of this Code. All judges should comply with this Code except as provided below.

•**Judicial Public Policy Doctrine:** — (Ref; Quote: "Under the public policy doctrine, a deduction was denied if allowing the deduction would "frustrate sharply defined national or state policies proscribing particular types of conduct." Commissioner v. Tellier, 383 U.S. 687, 694 (1966), (quoting Commissioner v. Heininger, 320 U.S. 467, 473 (1943)). The national or state policies must be "evidenced by some governmental declaration of them." Id.(quoting Lilly v. Commissioner, 343 U.S. 90, 97 (1952)).

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> "Opinion - Initially the Code was silent as to the deductibility of the payment of fines and penalties. Consequently, the courts decided to deny the deduction

of these expenditures on the grounds that no deduction should be allowed for payments that violate public policy.

Federal courts consistently disallow loss deductions where the deduction would frustrate a sharply defined federal or state policy. See, e.g., Wood v. United States, 863 F.2d 417 (5th Cir. 1989); United States v. Algemene Kunstzijde Unie, N.V., 226 F.2d 115, 119–20 (4th Cir. 1955); Fuller v. Commissioner, 213 F.2d 102 (10th Cir. 1954), aff'g 20 T.C. 308 (1953). The test of "non-deductibility on public policy grounds under section 165" is the severity and immediacy of the frustration of a "sharply defined national or state policy" that would result from allowance of the deduction. Stephens v. Commissioner, 905 F.2d at 670; Wood, 863 F.2d at 417.

To allow a taxpayer a deduction for losses arising out of forfeited proceeds obtained through illegal activities would undermine public policy by permitting a portion of the forfeiture to be borne by the U.S. Government, thus taking the "sting" out of the forfeiture. See Tank Truck Rentals, Inc. v. Commissioner, 356 U.S. 30, 35 (1958); Wood, 863 F.2d at 422.

There is a distinction between possible deductions relating to income received from an unethical business practice and income received by violation of some federal or state law or, by virtue of their illegality, frustrate federal or state policy. See Lilly v. Commissioner, 343 U.S. 90 (1952). And, a deduction for (for example) legal fees incurred in the unsuccessful defense of a criminal prosecution relating to a business may constitute ordinary and necessary business expenses that are deductible without frustrating public policy. See Commissioner v. Tellier, 383 U.S. 687 (1966). In sum, a taxpayer may be allowed to deduct legitimate (i.e., ordinary and necessary) business expenses in the operation of an illegitimate enterprise, provided that the allowance of a loss deduction does not undermine the impact of any sharply defined policy, such as, against bribery of a government official.

When a taxpayer fails to report bribery proceeds, it is established by clear and convincing evidence that the taxpayer has an underpayment. Then, the IRS must prove fraudulent intent.

Fraudulent Intent. Fraud is intentional wrongdoing designed to evade tax believed to be owing. Neely v. Commissioner, 116 T.C. 79, 86 (2001). The existence of fraud is a question of fact to be resolved upon consideration of the entire record. Estate of Pittard v. Commissioner, 69 T.C. 391, 400 (1977). Fraud is not to be presumed, nor should a finding of fraudulent intent be based upon mere suspicion. Petzoldt v. Commissioner, 92 T.C. 661, 699–700 (1989).

Not disregarding Petitioner satisfactorily and timely proffered self-authenticating Direct Proof of Fraud against the Target Taxpayers.

Whereas, Direct Proof of Fraud is rarely available; thus, fraudulent intent is usually established by circumstantial evidence. at 699. This may be shown by showing that "the taxpayer intended to evade taxes known to be owing by conduct intended to conceal, mislead, or otherwise prevent the collection of taxes." Parks v. Commissioner, 94 T.C. 654, 661 (1990). The taxpayer's entire course of conduct may be examined to establish the requisite intent, and an intent to mislead may be inferred from a pattern of conduct. Webb v. Commissioner, 394 F.2d 366, 379 (5th Cir. 1968), aff'gC. Memo. 1966-81.

"Badges of fraud" include: (1) understating income, (2) keeping inadequate records, (3) giving implausible or inconsistent explanations of behavior, (4) concealing income or assets,] (5) failing to cooperate with tax authorities, (6) engaging in illegal activities, (7) supplying incomplete or misleading information to a tax return preparer, (8) providing testimony that lacks credibility, (9) filing false documents (including false tax returns), (10) failing to file tax returns, and (11) dealing in cash. See, e.g., Schiff v. United States, 919 F.2d 830, 833 (2d Cir. 1990). No single factor is dispositive, but the existence of several factors is "persuasive circumstantial evidence of fraud." Niedringhaus v. Commissioner, 99 T.C. 202, 211 (1992).

Fraud occurs upon the filing of a false return with the requisite fraudulent intent, and that conduct cannot be subsequently purged through the filing of an amended return. See Badaracco v. Commissioner, 464 U.S. 386, 394 (1984).

Insights: There is a fine—but sometimes precise—line between a possible tax deduction arising from income derived from an unethical business practice versus from violation of state or federal law. The former may afford a basis for a taxpayer to claim and receive legitimate loss deduction on income so received; for the latter, loss deductions are disallowed where the deduction would frustrate a sharply defined federal or state policy. The test of non-deductibility on public policy grounds is the severity and immediacy of the frustration of a sharply defined national or state policy that would result from allowance of the deduction. Accepting bribes in exchange for visas to enter the United States is one such example where a sharply defined federal policy is frustrated, and as such, a deduction for losses incurred from the sale of property purchased with such bribed funds will, more likely than not, be disallowed."

•Dodd-Frank Act- and - Consumer Financial Protection Act - Title X - Bureau of Consumer Financial Protection: Title X of this Act creates a new Bureau of Consumer Financial Protection within the Federal Reserve Board as a new supervisor for certain financial firms and as a rulemaker and enforcer against unfair, deceptive, abusive, or otherwise prohibited practices relating to most

consumer financial products or services. The Act further provides for FTC/Bureau coordination regarding certain rulemaking and enforcement activities. The Act provides authority for each agency to enforce some of the other's rules with respect to consumer financial practices. The Act also authorizes FTC rulemaking for certain motor vehicle dealers under standard Administrative Procedure Act procedures rather than the procedures set forth in the FTC Act. It also provides for improved financial disclosures, including integration of mortgage disclosures under the Truth in Lending Act and the Real Estate Settlement Procedures Act. Title XIV of the Act amends the Truth in Lending Act, the Equal Credit Opportunity Act, and other consumer financial laws to prevent mortgage-related abuses and to improve availability of responsible, affordable mortgage credit. It addresses compensation-based incentives; inappropriate steering, discrimination, and other abusive, unfair, deceptive, or predatory practices; minimum federal lending standards; high-cost mortgages; mortgage servicing; and appraisals. Title XIV provides a new enforcement role for the FTC regarding home appraisals. The Dodd–Frank Wall Street Reform and Consumer Protection Act (commonly referred to as Dodd–Frank) is a United States federal law that was enacted on July 21, 2010. The law overhauled financial regulation in the aftermath of the Great Recession, and it made changes affecting all federal financial regulatory agencies and almost every part of the nation's financial services industry.

•**AZ Rev Stat § 28-4410.01 — Public consignment auction dealers; exemptions; notices; requirements; penalties; payment of taxes; wholesale motor vehicle dealer prohibition** — A. A public consignment auction dealer is exempt from the following: 1. An implied warranty of merchantability described in section 28-4412, subsection B and section 44-1267. 2. An emissions inspection pursuant to section 49-542, subsection D.

B. A public consignment auction dealer shall post at the public consignment auction dealer's established place of business a sign indicating that the public consignment auction dealer is exempt from the provisions described in subsection A of this section.

C. A public consignment auction dealer, on transferring a motor vehicle by sale, shall provide written notice to the department of transportation and the department of revenue within fifteen days after the transfer on a form jointly prescribed by the directors of the departments that includes: 1. The date of the transfer. 2. The name and address of the seller. 3. The name and address of the purchaser. 4. The vehicle identification number of the motor vehicle. 5. The make and model of the motor vehicle. 6. The successful bid price and any premiums or commissions paid associated with the auction of the motor vehicle. 7. Notice as to whether the vehicle is a salvage vehicle.

D. A public consignment auction dealer who fails to provide written notice to the department within fifteen days after transferring a motor vehicle, as prescribed by subsection C of this section, shall pay the department a penalty of eight dollars for the first month and four dollars for each additional month that the notice is not provided, not to exceed a total of one hundred dollars.

E. A public consignment auction dealer, on transferring a motor vehicle by sale, shall give written notice to the purchaser at the time of delivery of the motor vehicle to the purchaser in the form of an invoice or on a form prescribed by the director that includes: 1. The date of the transfer. 2. The vehicle identification number of the motor vehicle. 3. The make and model of the motor vehicle. 4. The successful bid price and any premiums or commissions paid associated with the auction of the motor vehicle. 5. Notice as to whether the vehicle is a salvage vehicle.

F. A public consignment auction dealer shall keep and maintain at the public consignment auction dealer's established place of business a permanent record in a form prescribed by the director. The permanent record shall include the information prescribed by subsection C of this section and contain a description of all motor vehicle transfers and sales. The public consignment auction dealer shall make the permanent record available for inspection by the department of transportation, the department of revenue or any peace officer.

G. A public consignment auction dealer shall do all of the following: 1. Inform the purchaser of a motor vehicle that the purchaser is responsible for the emission inspection requirements described in section 49-542, subsection D. 2. Comply with the consignment contract requirements prescribed in section 28-4410 if the motor vehicle is acquired from a person other than a licensee, except that the public consignment auction dealer shall obtain documentation that shows that the seller of the vehicle is the legal owner of the vehicle. 3. Comply with the requirements of section 28-4409 relating to evidence of ownership if the motor vehicle is acquired from another licensee. 4. Comply with the requirements of section 28-2091 relating to salvage certificates of title.

H. If a public consignment auction dealer violates this section, the director may do either of the following: 1. Suspend or cancel the dealer's license. 2. Impose a civil penalty of at least one thousand dollars but not more than three thousand dollars as prescribed in this section or in section 28-4501. I. This section does not exempt a public consignment auction dealer from any transaction privilege tax imposed pursuant to title 42, chapter 5.

J. A wholesale motor vehicle dealer shall not sell motor vehicles to a public consignment auction dealer.

•AZ Rev Stat § 28-4412 (2020) — Guaranty disclosure; used motor vehicles; definition: A. Before the consummation of the sale of a used motor vehicle, a motor vehicle dealer shall: 1. Provide each purchaser with a written statement that: (a)

Indicates whether or not an express warranty or guaranty is associated with the used motor vehicle. (b) Is distinguished from the body of the sales agreement through the use of either bold-faced type or bold-faced type of a color other than that used in the body of the agreement. (c) States " as is not expressly warranted or guaranteed" , if the used motor vehicle to be sold is not expressly warranted or guaranteed. (d) Explicitly states the nature and extent of the express warranty or guaranty, if the used motor vehicle to be sold is expressly warranted or guaranteed. (e) States " as is not guaranteed to pass vehicle emissions inspection. Vehicle not eligible for certificate of waiver and must be repaired to meet emissions standards" , if the used motor vehicle is a disabled vehicle that is offered for sale at a wholesale public auction with an auctioneer who is a licensed used motor vehicle dealer and if the vehicle does not comply with the requirements prescribed in section 49-542. 2. Direct the purchaser's attention to the written statement.

B. This section does not negate any implied warranties otherwise applicable to the sale of a used motor vehicle, including the implied warranty of merchantability described in section 44-1267.

C. Notwithstanding any other provision of this section or title 12, chapter 6, article 9, a motor vehicle dealer that sells a used motor vehicle to another motor vehicle dealer or for the sole purpose of being legally destroyed or dismantled does not have a duty to inspect a used motor vehicle for defects or damage before the sale. This subsection does not negate any duties owed by a licensed motor vehicle dealer to its retail customers. D. For the purposes of this section, " disabled vehicle" means a motor vehicle that cannot operate on its own motive power.

AZ Rev Stat § 28-4409 (2018) — Evidence of ownership requirement; exception: A. Except as provided in section 28-4410: 1. Each dealer in motor vehicles, trailers and semitrailers, including manufacturers who sell to other than dealers, having possession of or offering for sale a motor vehicle, trailer or semitrailer shall have at the same time either: (a) Possession of a duly and regularly assigned certificate of title to the vehicle. (b) Reasonable indicia of ownership or right of possession as approved by the director. 2. A dealer or manufacturer shall not offer for sale or sell a motor vehicle, trailer or semitrailer until the dealer or manufacturer has obtained a certificate of title to the motor vehicle, trailer or semitrailer, except that a certificate of title is not required for a new motor vehicle sold by manufacturers to dealers.

B. A wholesale motor vehicle auction dealer is exempt from the requirement of having to possess a duly and regularly assigned certificate of title and from other requirements relating to the reassignment of certificate of title documents and disclosures to buyers. A wholesale motor vehicle auction dealer may buy or sell a motor vehicle at wholesale in the wholesale motor vehicle auction dealer's own name if the wholesale motor vehicle auction dealer complies with the provisions of this title relating to certificates of title, reassignments of certificate of title documents and disclosures to buyers.

C. A wholesale motor vehicle dealer must apply for a certificate of title in the name of the wholesale motor vehicle dealer any vehicle that the wholesale motor vehicle dealer acquires before the wholesale motor vehicle dealer transfers the vehicle to another licensed motor vehicle dealer.

•AZ Rev Stat § 44-1402 (2020) — Contract, combination or conspiracy to restrain or monopolize trade: A contract, combination or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce, any part of which is within this state, is unlawful.

•AZ Rev Stat § 44-1403 (2015) — Establishment, maintenance or use of monopoly — The establishment, maintenance or use of a monopoly or an attempt to establish a monopoly of trade or commerce, any part of which is within this state, by any person for the purpose of excluding competition or controlling, fixing or maintaining prices is unlawful.

AZ Rev Stat § 44-1408 (2021) — Damages; injunctive relief: A. The state, a political subdivision or any public agency threatened with injury or injured in its business or property by a violation of this article may bring an action for appropriate injunctive or other equitable relief, damages sustained and, as determined by the court, taxable costs and reasonable attorney's fees. B. A person threatened with injury or injured in his business or property by a violation of this article may bring an action for appropriate injunctive or other equitable relief, damages sustained and, as determined by the court, taxable costs and reasonable attorney's fees. If the trier of fact finds that the violation is flagrant, it shall increase recovery to an amount not in excess of three times the damages sustained.

•AZ Rev Stat § 44-1211 (2021) — Fraudulent conveyance or other transaction with intent to defraud others or defeat creditors; classification: A person is guilty of a class 2 misdemeanor who: 1. Is a party to any fraudulent conveyance of any lands, tenements or hereditaments, goods or chattels or any right or interest issuing therefrom, had, made or contrived with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands. 2. Is a party to any bond, action or judgment, or execution, contract or conveyance had, made or contrived with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands. 3. Is a party as provided in paragraph 1 or paragraph 2 of this section, and (a) At any time knowingly puts in, uses, avows, maintains, justifies or defends such transaction as true, and had or made in good faith, or (b) Upon good consideration aliens, assigns or sells any of such lands or goods or other things which have been so conveyed to him.

•AZ Rev Stat § 44-1217 (2014) — Fraud on creditors by removal, sale or concealment of property; classification: A debtor who fraudulently removes his property or effects from the state, or fraudulently sells, conveys, assigns or conceals his property, with intent to defraud, hinder or delay his creditors of their rights, claims or demands, is guilty of a class 2 misdemeanor.

•AZ Rev Stat § 44-1218 (2015) — Fraudulent or mock auction; classification; forfeiture of license and disqualification of auctioneer — A. A person who obtains money or property from another, or obtains the signature of another to a written instrument, the false making of which would be forgery, by means of a false or fraudulent sale of property or pretended property by auction, or by any practice known as a mock auction, is guilty of a class 6 felony. B. A person convicted of a violation of subsection A of this section shall forfeit his license as auctioneer, and shall be forever disqualified from receiving a license to act as auctioneer.

•AZ Rev Stat § 44-1220 (through 1st Reg Sess 51st Leg. 2013) — Fraudulent insurance claim; classification: A person who presents a false or fraudulent claim or proof in support of such claim, upon a contract of insurance for payment of any loss, or who prepares, makes or subscribes to an account, certificate of survey, affidavit or proof of loss, or other book, paper or writing, with intent to present or use it or allow it to be presented or used in support of such claim, is guilty of a class 5 felony.

•AZ Rev Stat § 44-1223 (through 1st Reg Sess 51st Leg. 2013) — Fraudulent practices relating to motor vehicle odometers; classification — A. It is unlawful for any person to: 1. Advertise for sale, sell, use or install any device which causes the odometer of a motor vehicle to register mileage other than the true mileage driven. For the purposes of this paragraph the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance. 2. Operate, with intent to defraud, a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional. 3. Replace, disconnect, turn back or reset the odometer of any motor vehicle with the intent to reduce the number of miles indicated on the odometer. 4. Sell or offer to sell, with intent to defraud, a motor vehicle on which the odometer does not register the true mileage driven.

B. Nothing in this section shall prevent the service, repair or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair or replacement, the odometer shall be adjusted to read " zero" and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alterations of such notice so affixed shall be unlawful.

C. A person who violates the provisions of this section shall be guilty of a class 1 misdemeanor.

•AZ Rev Stat § 44-1263 (through 1st Reg Sess 51st Leg. 2013) — Inability to conform motor vehicle to express warranty; replacement of vehicle or refund of monies; affirmative defenses; tax refund: — A. If the manufacturer, its agents or its authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a new motor vehicle or accept return of the motor vehicle from the consumer and refund to the consumer the full purchase price, including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle. The manufacturer shall make refunds to the consumer and lienholder, if any, as their interests appear. A reasonable allowance for use is that amount directly attributable to use by the consumer before his first written report of the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. B. It is an affirmative defense to any claim under this article that either:1. An alleged nonconformity does not substantially impair the use and market value of the motor vehicle. 2. A nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of the motor vehicle. C. In the case of taxes paid pursuant to title 42, chapter 5, if the manufacturer: 1. Accepts return of a motor vehicle from a consumer without replacing the motor vehicle, the manufacturer shall refund the amount of tax attributed to the sale of the vehicle to that consumer. 2. Replaces a motor vehicle with a new motor vehicle of lesser value, the manufacturer shall refund the difference between the original amount of tax attributed to the sale of that vehicle and the amount of tax attributed to the sale of the replacement vehicle, excluding the value of the motor vehicle being replaced. 3. Replaces a motor vehicle with a new motor vehicle of greater value, the manufacturer shall calculate the gross proceeds of sales pursuant to section 42-5001, paragraph 6. D. Pursuant to section 42-1118, subsection F, the manufacturer may apply to the department of revenue for a refund for the amount of tax that the manufacturer properly refunds to the consumer.

•AZ Rev Stat § 44-1264 (through 1st Reg Sess 51st Leg. 2013) — Reasonable number of attempts to conform motor vehicle to express warranty; presumption — A. It is presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if either: 1. The same nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers during the shorter of the express warranty term or the period of two years or twenty-four thousand miles following the date of original delivery of the motor vehicle to the consumer, whichever is earlier, but the nonconformity continues to exist. 2. The motor vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days during the shorter of the express warranty term or the two year period or twenty-

four thousand miles, whichever is earlier. B. The term of an express warranty, the two year period and the thirty day period are extended by any period of time during which repair services are not available to the consumer because of any war, invasion, strike, fire, flood or other natural disaster. C. The presumption prescribed in this section does not apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer of the alleged defect and has had an opportunity to cure the alleged defect.

AZ Rev Stat § 44-1267 (1996 through 1st Reg Sess 50th Legis) — Used motor vehicles; title; implied warranty of merchantability disclaimer; waiver; burden of proof; remedies: A. Before the seller attempts to sell a used motor vehicle the seller shall possess the title to the used motor vehicle and the title shall be in the seller's name. B. Except as provided in subsection I of this section and in addition to the requirements of section 28-4412, a used motor vehicle dealer shall not exclude, modify or disclaim the implied warranty of merchantability prescribed in section 47-2314 or limit the remedies for a breach of that warranty, except as otherwise provided in this section, before midnight of the fifteenth calendar day after delivery of a used motor vehicle or until a used motor vehicle is driven five hundred miles after delivery, whichever is earlier. In calculating time under this subsection, a day on which the warranty is breached is excluded and all subsequent days in which the motor vehicle fails to conform with the implied warranty of merchantability are also excluded. In calculating distance under this subsection, the miles driven to obtain or in connection with the repair, servicing or testing of the motor vehicle that fails to conform with the implied warranty of merchantability are excluded. An attempt to exclude, modify or disclaim the implied warranty of merchantability or to limit the remedies for a breach of that warranty, except as otherwise provided in this section, in violation of this subsection renders a purchase agreement voidable at the option of the purchaser. C. For the purposes of this section, the implied warranty of merchantability is met if the motor vehicle functions in a safe condition as provided in title 28, chapter 3, article 16 and is substantially free of any defect that significantly limits the use of the motor vehicle for the ordinary purpose of transportation on any public highway. The implied warranty of merchantability expires at midnight of the fifteenth calendar day after delivery of a used motor vehicle or when a used motor vehicle has been driven five hundred miles after delivery, whichever is earlier. In calculating time under this subsection, a day on which the warranty is breached is excluded and all subsequent days in which the motor vehicle fails to conform with the implied warranty of merchantability are also excluded. In calculating distance under this subsection, the miles driven to obtain or in connection with the repair, servicing or testing of the motor vehicle that fails to conform with the implied warranty of merchantability are excluded. D. The implied warranty of merchantability described in this section does not extend to damage that occurs after the sale of the motor vehicle and that is the result of any abuse, misuse, neglect, failure to perform regular maintenance or to maintain adequate oil, coolant or other required fluid or lubricant or off road use,

racing or towing. E. If the implied warranty of merchantability described in this section is breached, the purchaser shall give reasonable notice to the seller. Before the purchaser exercises any other remedies under title 47, chapter 2, the seller shall have a reasonable opportunity to repair the vehicle. The purchaser shall pay one-half of the cost of the first two repairs necessary to bring the vehicle in compliance with the warranty. The purchaser's payments are limited to a maximum payment of twenty-five dollars for each repair. F. The maximum liability of the seller under this section is limited to the purchase price paid for the used motor vehicle. G. An agreement for the sale of a used motor vehicle by a used motor vehicle dealer is voidable at the option of the purchaser unless it contains on its face the following conspicuous statement printed in bold-faced ten point or larger type set off from the body of the agreement: The seller hereby warrants that this vehicle will be fit for the ordinary purposes for which the vehicle is used for 15 days or 500 miles after delivery, whichever is earlier, except with regard to particular defects disclosed on the first page of this agreement. You (the purchaser) will have to pay up to $25.00 for each of the first two repairs if the warranty is violated. H. The inclusion of the statement prescribed in subsection G of this section in the agreement does not create an express warranty.

I. A purchaser of a used motor vehicle may waive the implied warranty of merchantability described in this section only for a particular defect in the vehicle and only if all of the following conditions are satisfied:

1. The used motor vehicle dealer fully and accurately discloses to the purchaser that because of circumstances unusual to the used motor vehicle dealer's business, the used motor vehicle has a particular defect. 2. The purchaser agrees to buy the used motor vehicle after disclosure of the defect. 3. Before the sale, the purchaser indicates agreement to the waiver by signing and dating the following conspicuous statement that is printed on the first page of the sales agreement in bold-faced ten point or larger type and that is written in the language in which the presentation was made:

Attention purchaser: sign here only if the dealer told you that this vehicle has the following problem(s) and that you agree to buy the vehicle on those terms:

1._____

2._____

3._____

J. The dealer has the burden to prove by a preponderance of the evidence that the dealer complied with subsection I of this section. K. Any purchaser or seller who is aggrieved by a transaction pursuant to this section and who seeks a legal remedy shall pursue any appropriate remedy prescribed in title 47, chapter 2 and shall comply with the requirements prescribed in title 47, chapter 2.

•AZ Rev Stat § 47-2314 (2015) — Implied warranty: merchantability; usage of trade:

A. Unless excluded or modified (section 47-2316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the service for value of food or drink to be consumed either on the premises or elsewhere is a sale.

B. Goods to be merchantable must be at least such as: 1. Pass without objection in the trade under the contract description; and 2. In the case of fungible goods, are of fair average quality within the description; and 3. Are fit for the ordinary purposes for which such goods are used; and 4. Run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and 5. Are adequately contained, packaged, and labeled as the agreement may require; and 6. Conform to the promises or affirmations of fact made on the container or label if any.

C. Unless excluded or modified (section 47-2316), other implied warranties may arise from course of dealing or usage of trade.

•AZ Rev Stat § 49-550. Violation; classification; civil penalty: A. Except as provided in subsection B of this section, any person who violates any provision of this article or any rule of the director adopted under this article is guilty of a class 2 misdemeanor.B. Any person who makes or issues any imitation or counterfeit of an official certificate or certificates of inspection or waiver is guilty of a class 5 felony.C. Any person who knowingly demands or collects a fee for the inspection of a vehicle other than the fee fixed by the director for the inspection of vehicles of the same class is guilty of a class 2 misdemeanor.D. Any person who makes or provides to the director the written statement required to obtain a certificate of waiver pursuant to section 49-542, subsection L, knowing the statement to be false, is guilty of a class 2 misdemeanor.E. In addition to any other criminal penalty provided by law, a person who owns a vehicle and whose residence is located outside of area A or area B but who commutes in that vehicle to the driver's principal place of employment located within area A or area B without complying with this article or who violates section 15-1444, subsection D or section 15-1627 is subject to a civil penalty of one hundred dollars for a first violation of this subsection. For a second violation of this subsection within a one year period, a court shall impose a civil penalty of three hundred dollars. A court shall impose a civil penalty of twenty-five dollars for a first time violation of this subsection if the owner presents evidence that the vehicle is in compliance with this article.F. In addition to any other criminal penalty provided by

law, any dealer who is licensed to sell motor vehicles pursuant to title 28, chapter 10, whose place of business is located in area A or area B and who delivers a vehicle that does not conform with this section is subject to a civil penalty of one thousand dollars for a first violation of this subsection. For the second violation of this subsection within a one year period, a court shall impose a civil penalty of two thousand dollars and a suspension of the dealer's license for a period of ninety days.

•**AZ Rev Stat § 49-542.03 (through 2nd Reg Sess. 50th Leg. 2012):** Motor vehicle dealer; emissions testing; remedies; definition — A. In area A, if a motor vehicle dealer sells a motor vehicle that has less than one year remaining before it must undergo a transient loaded emissions test or has not taken a transient test pursuant to section 49-542 and which is not covered under a current federal emissions warranty and if the purchaser of the vehicle has the vehicle transient loaded tested within three days, excluding holidays, of the purchase and if the vehicle fails the test, the dealer shall do one of the following: 1. Rescind the purchase agreement and reimburse the purchaser for the cost of the test. 2. Make repairs at the dealer's expense which bring the vehicle into compliance with the transient loaded test. 3. Enter into a mutually acceptable alternative agreement with the purchaser.— B. A motor vehicle dealer who sells a vehicle subject to the provisions of subsection A of this section shall provide the purchaser with a written notice of the purchaser's rights pursuant to this section prior to completing the sale transaction. A motor vehicle dealer subject to the provisions of section 49-546, subsection G, shall also provide a written summary of the requirements of section 49-542 to the purchaser. The notice shall be available in English and in Spanish.— C. A motor vehicle dealer who meets the requirements of section 49-546, subsection G, shall conduct the dealer's business pursuant to this section for those vehicles which are required by law to be registered in area A. — D. A motor vehicle dealer in area B who sells a vehicle to a resident of area A may comply with emissions testing requirements pursuant to section 49-542, subsection F, paragraph 6 by complying with this section and the tampering inspection pursuant to section 49-542, subsection — G, paragraph 4. — E. In this section, unless the context otherwise requires, "motor vehicle dealer" means a dealer who is a fleet operator and who has been issued a permit under section 49-546.

•**AZ Rev Stat § 49-542 (through 2nd Reg Sess. 50th Leg. 2012):** Emissions inspection program; powers and duties of director; administration; periodic inspection; minimum standards and rules; exceptions; definition (D)— D. A vehicle shall not be registered or reregistered until such vehicle has passed the emissions inspection, the tampering inspection prescribed in subsection G of this section and the liquid fuel leak inspection prescribed in subsection Z of this section or has been issued a certificate of waiver. A certificate of waiver shall only be issued one time to a vehicle after January 1, 1997. If any vehicle to be registered or reregistered is being sold by a dealer licensed to sell motor vehicles pursuant to title 28, the cost of any inspection and any repairs necessary to pass the inspection shall be borne by the dealer. A dealer who is licensed to sell motor vehicles pursuant to title 28 and whose

place of business is located in area A or area B shall not deliver any vehicle to the retail purchaser until the vehicle passes any inspection required by this article or the vehicle is exempt under subsection J of this section.

APPENDIX I

ORDER REGARDING PETITIONER'S MOTION TO STAY PROCEEDINGS OF ORDERS OF THE UNITED STATES TAX COURT PETITION CASE DOCKETS 2516-21W AND 36146-21W

FILED AND ORERED DATE:_ 02/22/2023 - Docket 36146-21W and 03/29/2023 - Docket 2516-21W

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•"USTC" - Docket 2516-21W - Filed: 01/13/21 Served: 03/26/21; *Daniel Allen Villa, Petitioner v. Commissioner of Internal Revenue Service, Respondent*

•"USTC" - Docket 36146-21W - Filed: 08/03/21 Served: 01/25/22; *Daniel Allen Villa, Petitioner v. Commissioner of Internal Revenue Service, Respondent*

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-- Redacted for Publication --

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UNITED STATES TAX COURT

Washington, DC 20217

USTC'S: 2516-*21W*

Entered and Served 03/29/23

DANIEL ALLEN VILLA,

Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

Docket Electronically File
Docket No. 2516-21W

Document No. 34

Motion to Stay Proceedings

It is **ORDERED** as follows:

This motion is **DENIED** as moot

- -

(Signed) Kathleen Kerrigan

Chief Judge

UNITED STATES TAX COURT

Washington, DC 20217

USTC'S: 36146-*21W*

Entered and Served 02/22/23

DANIEL ALLEN VILLA,

Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

Docket Electronically File
Docket No. 36146-21W

Document No. 38

Motion to Stay Proceedings

It is **ORDERED** as follows:

This motion is **DENIED** as moot

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(Signed) Kathleen Kerrigan

Chief Judge