

ORIGINAL

In the District Court of the United States for the District of Columbia

Mark Crumpacker,	§	
Plaintiff	§	
v.	§	District Cause No. 1:16-CV-1053 (CRC)
Ms. C. Ciraolo-Klepper, et al,	§	
Defendants	§	
<hr/>		
United States of America,	§	
Counterclaim Plaintiff,	§	
v.	§	COUNTERCLAIM
Mark Crumpacker,	§	
Michael Ellis, and	§	
Robert McNeil,	§	
Counterclaim Defendants,	§	

**ELLIS & McNEIL OPPOSITION TO Motion FOR SHOW CAUSE
&
MOTION TO NOTICE IRS SUSPENSION OF
“ASFR” RECORD FALSIFICATION PROGRAM**

For multiple reasons shown herein, Counterclaim Defendants Ellis and McNeil suggest that Ryan McMonagle’s recent Motion seeking an order to find them in contempt of this Court’s pre-filing sanction is meritless, filed solely to harass, and not for any legitimate purpose.

Notice Requested

In a stunning development, the Court is requested to notice the announcement on September 26, 2017 by Matthew Weir, Assistant Inspector General of the Office of the Treasury Inspector General for Tax Administration (TIGTA), that IRS is suspending operation of the IRS record falsification program¹ whereby IRS uses computers to fabricate the appearance it prepares substitute income tax returns on claimed dates, when no such thing occurs.

¹ Announced unofficially here: <http://procedurallytaxing.com/automated-substitute-for-return-asfr-program-suspended/>. To confirm, contact phone for Mr. Matthew Weir of TIGTA: 202- 622-3837.

SEP 28 7

Background

After uncovering the ASFR record falsification program (whereby IRS manipulates two data bases to create records reflecting that it supposedly prepares substitute income tax returns concerning targeted nontaxpayers, prior to initiating liens, levies, seizures, forfeitures or criminal prosecutions of victims), Counterclaim Defendants repeatedly filed requests with the Office of the Treasury Inspector General of Tax Administration, seeking an investigation into the IRS ASFR scheme. Ellis and McNeil even met with a TIGTA investigator.² Ellis and McNeil also filed in federal district courts numerous suits on their own behalf and on behalf of other rights-
raped, robbed, unjustly incarcerated Americans, all seeking to enjoin the ASFR program.³

Results of Ellis & McNeil's efforts to date

TIGTA's investigation⁴ only now has resulted in the suspension of the program created to subvert courts on behalf of the IRS and to surreptitiously destroy the due process rights of victims.

But, in every civil case filed in U.S. District Courts, including those before Judges Amy Berman Jackson, Chris Cooper, Rosemary Collyer, etc., the involved attorneys *en masse* falsified the record of the cases to reflect that victims were supposedly attempting to "enjoin IRS preparation of substitute income tax returns," despite victims' explicit ACTUAL core complaint allegation that IRS never prepares substitute income tax returns on any date shown in IRS' digital records falsified as the initial step in the ASFR program.

² See Exhibit A - Letter to TIGTA SAC Ruben Florez.

³ See, for examples, the first pages of Complaints in D.C.D.C. causes 14-471, 15-1288, 15-2039, Exhibits B, C and D respectively.

⁴ IRS will likely conceal the true reason for the suspension of the program, to limit the Government's liability for the massive injustice resulting from the scheme.

Attorneys have no authority to falsify the relief sought by victims, (holding/finding that victims supposedly seek to enjoin an assessment activity of IRS), hence the attorneys appear to have brought each suit by fraud within the ambit of Anti-Injunction Act prohibitions.

More specifically, victims of the ASFR scheme do not complain primarily of an assessment activity, but instead complain of a ***non-act***: the FAILURE of IRS to prepare substitute income tax returns on any date shown in IRS records falsified pursuant to the ASFR scheme. The AIA does NOT prohibit suits complaining of NON-ACTS concealed by the institutionalized falsification of federal records.

Most importantly, it appears to Defendants, and any impartial observer, that no court has ever adjudicated the merits of their cases. Accordingly, in their recently filed suit, (17-1720) they justly seeking a simple declaratory judgment as to whether or not the merits of their cases were adjudicated, and if not, what impact do the dismissals have on the unadjudicated merits.

Sanction Imposed by Mr. Cooper

After falsifying the record of five cases dismissed on December 31, 2016 with respect to victims' allegations and relief sought,⁵ The Honorable Judge Christopher R. Cooper enjoined Defendants from

“filing, or assisting in the filing of, any civil action in any United States District Court... asserting, or purporting to assert a claim under the United States Constitution or the Administrative Procedure Act *challenging actions taken by the IRS in preparing to assess and assessing income tax liabilities...* [and/or] *challenging actions taken by the Department of Justice to defend against [such] suits and/or suits to collect income tax liabilities.*” (emphasis added.)

⁵ Mr. Cooper fabricated that victims supposedly allege “IRS’s preparation and use of substitute tax returns amounts to a ‘record-falsification scheme’” See Opinion and Order, December 31, 2016, Pg. 2, Fourth sentence.

Mr. Cooper also falsified the record in his sanctions order by pretending victims *seek relief they never requested*, i.e., to supposedly enjoin “IRS’s preparation or alleged falsification of SFRs.” [See Mem. Op., April 19, 2017, Pg. 6, first full sentence.] Victims categorically denied making such allegation, or seeking such relief. Instead, they allege IRS uses the ASFR program to falsify federal records, and sought expressly to terminate that program.

Thus, by its express terms, the sanction forbids filing any claim **challenging actions taken by the IRS or by the DoJ**, and is OBVIOUSLY inapposite to the newly filed case 17-1720, which only seeks declaratory judgment concerning the actions of attorneys appointed to adjudicate class cases.

Three (3) Reasons Mr. McMonagle claims support sanctions

Clearly caught unaware that IRS was terminating the ASFR record falsification program targeted by victims for enjoinder by the Courts, Ryan O. McMonagle claims that Defendants have violated the pre-filing leave requirements of the injunction, based on the most specious, attenuated reasoning ever presented in a U.S. Court. He claims:

1. "This new action... is no less a challenge to 'actions taken by the IRS in preparing to assess and assessing income tax liabilities'"; [Mem. of Law, Pg. 6, last sent.]
2. "This new action purports to assert claims arising under the Constitution", [Mem. Pg. 7, first sentence] hence ostensibly banned by the injunction. Restated, according to him, 17-1720 violates the pre-filing ban solely because the Complaint mentions the Constitution, that excellent bulwark created to protect Americans from vicious attorney-led, attorney-concealed, and attorney-prolonged record falsification operations, such as the ASFR program.
3. "There is no evidence McNeil or Ellis filed the required Application seeking leave to file." [Mem. Pg. 7, Second ¶, first sentence.]

Five (5) Reasons McMonagle is wrong

1. Ryan McMonagle apparently was not apprised by IRS, at the time of the filing of his Motion, that it was terminating the ASFR record falsification program, an event that justifies Plaintiffs' attempts to end it, and repudiates every attempt attorneys have made in class cases to shield and prolong operation of the underlying felonious program.

2. Ryan O. McMonagle failed to notice the express language of the sanctions order, which enjoins Defendants from filing any case challenging actions "taken by the IRS or DoJ." In their Complaint filed to initiate their new suit, Ellis and McNeil challenge no action taken by either

the Service or Department, and seek no judgment against either. Instead, as noted above, they seek a narrow declaratory judgment as to whether the merits of their cases to terminate the ASFR record falsification program were ever adjudicated. [The merits were not addressed or decided in any case, and Mr. McMonagle knows it. Thus he is seeking to harass Defendants and prevent that blatant abortion of due process, with his full participation, from being litigated. He has a personal interest in the outcome of this Motion, as does Christopher R. Cooper. He should recuse.]

3. Ryan O. McMonagle would have this court believe that by seeking declaratory judgment as to whether or not class victims' cases were ever adjudicated on the merits, "is just another way of saying that their underlying claims should not have been dismissed." [See Mem, pg. 6, footnote 2.] Apparently, even though he is an attorney, he does not comprehend that should the declaratory judgment requested issue as Ellis and McNeil seek in 17-1720, (to the effect that no judge in any filed case to date adjudicated victims' claims concerning the ASFR program), such judgment would NOT, of itself, PROVE IRS falsifies its records, uses falsified records, or that DoJ knowingly uses falsified IRS records. In other words, the declaratory judgment sought in 17-1720 would not end the controversy between victims and the IRS/DoJ, but would simply allow the victims to refile cases to secure a determination on the still-undecided merits concerning the now-suspended ASFR record falsification program.

4. Mr. McMonagle failed to note, or take into account, that in their Complaint in 17-1720, Ellis and McNeil expressly eschewed any attempt to litigate any act of the IRS or DoJ, stating:

"Plaintiffs respectfully request the Court judicially notice that:

- a. They DO NOT SEEK in this case to adjudicate whether or not IRS falsifies its records concerning nontaxpayers, or whether or not DoJ knowingly conceals the program and uses its fruit. In fact, **Plaintiffs are not challenging in this suit any actions taken by the Internal Revenue Service or by the DoJ to enforce the income tax.**"

Thus, there is zero intent on the part of Ellis and McNeil to secure any determination concerning IRS or DoJ in 17-1720. McMonagle's opinion that "even though this action is brought against judicial officers, it is no less a challenge to 'actions taken by the IRS in preparing to assess and assessing income tax liabilities...'", is a gross, attenuated overreach, a deliberate misconstruction of the clear words of the sanction order, particularly when viewed in light of the sudden termination of the ASFR record falsification program by TIGTA.

5. Assuming, arguendo, Mr. McMonagle was correct, that Plaintiffs filed suit in 17-1720 to secure an imaginary judgment against the IRS and DoJ, (they didn't), his request to fine his victims \$665 PER DAY is grossly disproportionate to the pretended "contempt". This is especially true in light of the fact the ASFR program has finally been terminated by IRS, much to its victims' delight and great appreciation, and Mr. McMonagle's presumed chagrin.

Summary

Ryan O. McMonagle filed the Motion under consideration without knowledge of IRS' pending termination of the ASFR record falsification program, of which Plaintiffs have justly complained for years. That suspension has obliterated and repudiated, at one stroke, every rationale he offers justifying sanction, and every filing he made to conceal and support the criminal operation.

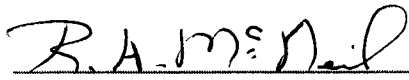
Further, McMonagle ignores the plain wording of the sanctions order, which makes it applicable only to cases raising IRS or DoJ actions for consideration. (Plaintiffs in 17-1720 do not). He deliberately and falsely equates 17-1720 as though identical to other cases filed by Plaintiffs, despite the FACT no relief is sought concerning IRS or DoJ actions. Then, he requests outrageous monetary relief, when the government has been committing outrageous misconduct while operating a surreptitious, felonious, institutionalized record falsification program damaging Americans.

In short, Ryan O. McMonagle has embarrassed himself, committing repeated acts of misprision to shield the underlying criminal ASFR record falsification program, as has every attorney involved in class cases to date. Subverting courts and due process, in abject defiance of their oaths of office and the Rule of Law, the attorneys have made an overwhelmingly strong case for the abolition of the federal bar.

Relief Requested

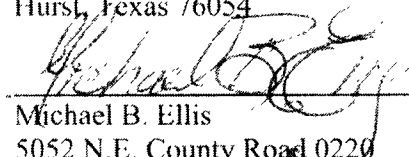
In light of the termination by IRS of its ASFR program, and the other argument presented above, Ellis and McNeil suggest that the Motion be denied in its entirety. They also request costs associated with having to confront Mr. McMonagle's outrageous misconduct in filing such a ridiculous, unjust document, solely to harass his victims.

Sincerely,



Robert A. McNeil
729 Grapevine Hwy. #148
Hurst, Texas 76054

Dated: 9/27/17



Michael B. Ellis
5052 N.E. County Road 0220
Rice, Texas 75155

Dated: Sept. 27, 2017

Verification/Declaration

Comes now Counterclaim Defendants, declaring under penalty of perjury, pursuant to 28 U.S.C. § 1746, that every single word in the foregoing Opposition to sanctions.... is true and accurate to the very best of their knowledge and belief. This filing is not intended to harass anyone, but by the open statement of the truth, commend ourselves to everyone's conscience, in the sight of God.



Michael B. Ellis

Sept. 27, 2017
Date:



Robert A. McNeil

9/27/17
Date:

CERTIFICATE of SERVICE

I certify that a copy of the forgoing Opposition to Sanctions was served via United States Mail on or about 28 September 2017, to the following:

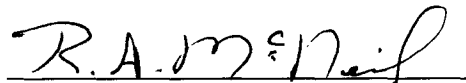
Ms. Loretta Lynch
United States Attorney General
Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Mr. John Koskinen
Commissioner, IRS
Attn: Office of Procedure and Administration
1111 Constitution Ave. NW, Room 5503
Washington, D.C. 20224

Mr. Channing D. Phillips
U.S. Attorney for the District of Columbia
Attn: Civil Process Clerk
555 Fourth Street, NW
Washington, D.C. 20530

Ms. Caroline D. Ciraolo-Klepper
Acting Assistant Attorney General
Tax Division
U.S. Department of Justice
950 Pennsylvania Avenue, Room 4603
Washington, D.C. 20530

Mr. Ryan O. McMonagle
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 227, Ben Franklin Station
Washington, D.C. 20044



Robert A. McNeil

Exhibit A

SAC Ruben Florez
c/o TIGTA
1919 Smith Street
Mail Stop 3300
Room 2270
Houston, Texas 77002

RE: Complaint No. 55-1402-0077-C

May 21st, 2014

Dear Mr. Florez,

I hope you recall my letter of May 6th asking your assistance to stop what appears to me to be the largest IRS record fraud case which has ever existed, namely the Automated Substitute for Return IMF record falsification Program. (My letter was signed for at your office by "C Salinas" on Wednesday, May 7th at 11:53.)

In the letter, I asked for assistance to properly resolve Complaint No. 55-1402-0077-C, and, more specifically, requested you consider:

- “1. Re-opening it, (which Mr. Klawiter closed),
2. Setting a meeting at a reasonable time in any office convenient for you to review the evidence of fraud we have uncovered in the IRS IMF records,
3. Then, if you deem it the correct course, set a further meeting asking Mr. Fletcher, Mr. Carson and anyone else at IRS to discuss the results of our initial meeting.”

Please understand Mr. Florez I am respectfully requesting your help to review the documentation I have uncovered from the files of IRS, and see if there is any error in my understanding of that evidence. If you see anything that is incorrect, I would greatly appreciate your assistance to show me precisely where I have erred in my understanding.

I also mentioned in my May 6th letter that

“[E]veryone to whom I have spoken with at IRS during the course of my several year effort to end the record fraud scheme has a habit of simply going ‘silent’ while doing nothing about it”.

I added:

“I believe TIGTA was created to stop this type of institutionalized fraud, and the use thereof by IRS staff who refuse to see the obvious.”

So, you can see, Mr. Florez, I am not attempting to merely stop some sort of collection activity by any single officer or group, but instead hoping to secure TIGTA's assistance to end IRS' document falsification scheme, as well as any use by IRS or DoJ of fraudulent documents produced pursuant thereto. But, disappointingly, I have not heard any response to my previous letter.

That said, would it be too much to ask of you, in light of the serious computer/document fraud I and the United States courts are looking at, to simply respond to this letter in some fashion, either by a phone call to my home, or a written response?

If, however, for any reason you are unable to respond by May 28th to help either correct any misunderstandings you find that I may have, or to confirm the existence of almost inconceivable IRS/DoJ fraud, I will on that date send the attached letter to Mr. J. Russell George seeking his direct assistance in the Complaint numbered above.

Once again, I look forward to your direction at your very earliest convenience, Mr. Florez.

Respectfully submitted for your consideration,

Michael Ellis
5052 N.E.C.R. 0220
Rice, Texas 75155
903-326-6263

CC: Russell Klawiter
Christopher Fletcher
Tom Carson

Exhibit B

**In the District Court of the United States
For the District of Columbia**

Michael Ellis,

Plaintiff

V.

**Commissioner , Internal Revenue
& United States Attorney General,
Defendants**

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District Cause No. 1:14-CV-00471

**SECOND AMENDED COMPLAINT
(Proposed)**

Preliminary Statement

1. Plaintiff has discovered that in cases involving those whom the Internal Revenue Service labels “income tax non-filers”, IRS circumvents
 - a.) the exercise by citizens of their protected 5th Amendment right,
 - b.) IRS’ apparent lack of authority to perform substitute *income tax* returns, and
 - c.) restrictions written into the IMF software,
 by triggering the “Automated Substitute for Return” (ASFR) record-falsification scheme.
2. Employees of IRS enter false information in one part of the Defendant IRS’ computer system to induce the appearance a substitute for return was executed. Taking advantage of compartmentalization of the agency, making it impossible for employees to view more than the small step assigned to each, the system is repeatedly used for purposes not intended, while each employee assumes their work to be lawful.
3. But certain IRS attorneys and technicians of IRS’ computer system of records know it is being abused to defraud individual victims and U.S. courts. Further, attorneys of the Defendant Attorney General knowingly use records falsified by the IRS scheme (in violation of 18 USC §1001),¹ take deliberate steps to conceal the IRS scheme (in violation

1. The DoJ’s 2012 Criminal Tax Manual, Section 40.03[9][c] discusses IRS Certificates in the context of hearings: “Admissibility of IRS Computer Records. The introduction of the actual Individual Master File (IMF) transcript of account through a witness can open the witness to cross-examination by the defense about every code and piece of information contained in the transcript. **In order to avoid this problem, it may be wiser to simply offer IRS computer records at trial in the form of Certificates of Assessments and Payments, certified documents reflecting tax information kept on file at the IRS.**” [Emphasis added.] That deliberately improper instruction/advice to U. S. Attorneys, in conjunction with a recent filing by the Attorney General’s employees in Plaintiff’s now-withdrawn appeal, confirms the DoJ is compromised and complicit in the scheme, as shown below.

Walt Koon

JUN - 4 2014

Angela D. Caesar, Clerk of Court
U.S. District Court, District of Columbia

Exhibit C

FILED

AUG - 7 2015

**In the District Court of the United States
For the District of Columbia**

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**Robert A. McNeil,
Plaintiff**

V.

**Commissioner, Internal Revenue
& United States Attorney General,
Defendants**

701 N. Hwy 281
Suite E #193
Marble Falls, Tx
78654
(713) 806-5199

Case: 1:15-cv-01288
Assigned To : Kollar-Kotelly, Colleen
Assign. Date : 8/7/2015
Description: FOIA/ Privacy Act (I)

1111 Constitution Avenue, NW, Washington, D.C. 20530
DOS, 950 Pennsylvania Avenue, Washington, D.C. 20530

ORIGINAL COMPLAINT, with AFFIDAVIT and EVIDENCE appended

Preliminary Statement

1. In cases involving those whom the Treasury Department's Internal Revenue Service labels "income tax non-filers", IRS uses the "Automated Substitute for Return" (ASFR) record-falsification scheme to circumvent
 - a.) citizens' protected 4th, 5th and 13th Amendment rights,
 - b.) IRS' apparent lack of authority to perform substitute *income tax* returns, and
 - c.) restrictions written into the "Individual Master File" (IMF) software.
2. Employees of IRS enter false information in one part of the Defendant IRS' computer system to induce the appearance a substitute 1040A return was requested by a victim, and that one was supposedly executed by IRS, when neither event happens.
3. IRS attorneys and technicians of IRS' computer system of records know it is being abused to defraud individual victims and U.S. courts. Further, attorneys of the Defendant Attorney General knowingly use records falsified by the ASFR scheme, take deliberate steps to conceal it, and are involved in a conspiracy against rights by deliberately using falsified records as the foundation of civil and criminal cases against those who do not surrender their protected Fifth Amendment right by voluntarily filing a "1040" income tax return.
4. The scheme is renewed annually in cases involving those the government labels 'non-filers'. In such cases, IRS systematically falsifies the "Individual Master File" (IMF) record it maintains, concerning each victim, using the ASFR scheme.
5. Specifically, the IMF module/record of any so-called "non-filer" for each tax year is made to falsely reflect that IRS supposedly performed a "Substitute For Return" (SFR) on a specified "Return Received Date" at *the supposed request of the victim*, despite the facts **no such election was made, nor was any substitute for 1040 income tax return performed on any date claimed in the IMF record.**

RECEIVED

Exhibit D

**In the District Court of the United States
For the District of Columbia**

Louis Ronald DePolo,
Plaintiff

V.

Caroline Ciraolo-Klepper,
Personally
Comm’r., Internal Revenue, &
United States Attorney General,
Defendants

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Case: 1:15-cv-02039
Assigned To : Collyer, Rosemary M.
Assign. Date : 11/18/2015
Description: FOIA/Privacy Act (I Deck)

ORIGINAL COMPLAINT, with Affirmation Appended

Preliminary Statement

1. Although he disagrees, the Internal Revenue Service labels Plaintiff an “income tax non-filer” in its records. IRS uses the “Automated Substitute for Return” (ASFR) record-falsification scheme to circumvent his exercise of his protected 4th, 5th and 13th Amendment rights, and IRS’ apparent lack of authority to perform substitute 1040 *income tax* returns, as Plaintiff can prove from restrictions written into the “Individual Master File” (IMF) software IRS uses to control all Service employee interactions with individual Americans.
2. Specifically, for any given year, employees of IRS enter false information in one part of the Defendant IRS’ computer system to induce the appearance a delinquent substitute 1040 return was requested by Plaintiff, pursuant to 26 USC 6020(a), and that one was supposedly executed by IRS on a claimed date, when neither event happens. Then IRS creates contradicting, false public-facing certifications claiming it executed a substitute 1040 income tax return for the same year return pursuant to 6020(b), upon which certifications IRS bases seizures, and DoJ attorneys justify criminal cases.
3. The Defendants’ scheme violates numerous provisions of federal law, particularly 18 USC §1519, which criminalizes the act of falsifying IRS Individual Master File records to influence the investigation and proper administration of the income tax laws within the jurisdiction of Treasury/IRS. Fabricating evidence is not an authorized law enforcement act.
4. DoJ attorneys, led by Defendant Ciraolo are defending, concealing and prolonging the scheme in multiple courts at this time, in apparent obstruction of the due administration of justice, in a conspiracy against rights in violation of 18 USC§241, and in unarguable personal violation of 18 USC §4. DoJ criminal prosecutors are imputed by law to know of, are using, and may use at any moment against Plaintiff, records falsified by IRS’ ASFR scheme.

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Mail Room
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Angie D. Case, Clerk of Court
U.S. District Court, District of Columbia

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PHONE (713) 826-5199

Robert H. McNeil
729 Grapevine Hwy #148
Hurst, TX 76054

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Hon. Angela M. D. Cresate
Chief, US District Court for DC
333 Constitution Ave NW
Washington, DC
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PO Zip Code 76021	Scheduled Delivery Date (MM/DD/YY) 9/28/17	Postage \$ 2375	
Date Accepted (MM/DD/YY) 9/27/17	Scheduled Delivery Time <input type="checkbox"/> 10:30 AM <input type="checkbox"/> 3:00 PM <input checked="" type="checkbox"/> 12 NOON	Insurance Fee \$	COD Fee \$
Time Accepted 555	10:30 AM Delivery Fee \$	Return Receipt Fee \$	Live Animal Transportation Fee \$
Special Handling/Fragile \$	Sunday/Holiday Premium Fee \$	Total Postage & Fees 2375	
Weight Flat Rate	Acceptance Employee Initials DC		

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	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Attempt (MM/DD/YY)	Time	Employee Signature
	<input type="checkbox"/> AM <input type="checkbox"/> PM	

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