

RECEIVED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 17 2011

GREGORY C. LANGHAM
CLERK

February 13, 2011

DISTRICT COURT OF THE UNITED STATES

UNITED STATES OF AMERICA
v.
RICHARD KELLOGG ARMSTRONG

Case No. 10-cr-00317 - REB
Case No. 10-cv-01073

Richard Kellogg Armstrong
20413-298
Federal Detention Center Englewood
9595 Quincy Avenue
Littleton, CO 80123

NOTICE OF CHALLENGE OF JURISDICTION AND DEMAND FOR DISMISSAL WITH PREJUDICE FOR VIOLATION OF MY CIVIL AND CONSTITUTIONAL RIGHTS OF 1787 AND THE BILL OF RIGHTS 1791. ALSO, CHALLENGE OF TITLE 18 AS NOT CONSTITUTIONAL LAW AND CHALLENGE OF IRS AUTHORITY AS NOT BEING AN AGENCY OF THE UNITED STATES GOVERNMENT AND NOT ENTITLED TO REPRESENTATION BY THE D.O.J. I EXPLICITLY RESERVE MY RIGHTS UCC-1-308 AND ASK FOR JURISDICTION AT COMMON LAW.

NOTICE TO PRINCIPAL IS NOTICE TO AGENT - NOTICE TO AGENT IS NOTICE TO PRINCIPAL

REQUEST THAT THE COURT RECOGNIZE

Haines v. Kerner, 405 U.S. 519, 30 Led 652, 92 S.Ct 594 Rel den 405 U.S. 948, 30, Led 2d 819, 92 S.Ct 963

COMES NOW: Richard Kellogg Armstrong, de jure, a native born American, always appearing by special RESTRICTED visitation, never by general visitation. This district court is to secure my inalienable rights of the Constitution, 1787 and the Bill of Rights 1791, the Constitution for the Republic of Arizona and the Arizona Enabling Act which guarantees a republic form of government. Failure to do so would be a violation of the accused' rights (See: Article IV, Section 4 of the united States Constitution 1787).

The accused is not surrendering any rights or my standing in law as a man standing on the land. This is evidenced by my filing of my UCC-1 and other legal documents with numerous state, federal and international agencies. These legal recorded filings declare that Richard Kellogg Armstrong has canceled all adhesion contracts that the U.S. corporate government and Arizona State corporate government had fraudulently enacted. These contracts were never disclosed from the beginning or the accused would never have participated from the start without proper notice. These were intended to defraud Richard Kellogg Armstrong and the American people.

The District Courts for the united States are empowered by the people through Article III of the Constitution of the united States of America 1787, to protect and defend their inalienable rights, most importantly their right to Life, Liberty and the pursuit of Happiness. This is the only court that can hear this case, not a territorial court of the UNITED STATES DISTRICT COURT that operates under statutes, rules and regulations or as an administrative Article I or Article IV court that has no jurisdiction over a sovereign State Citizen of the Republic of Arizona. Any violation or attempt to overthrow the Constitution is a violation of any and all court officers who have taken an oath of office to uphold that great document.

As a sovereign State Citizen of the Republic of Arizona, the laws of Congress do not extend into limits of the States, but have force only in the District of Coulmbia and places that are within the exclusive jurisdiction of the national government (See: Caha v. United States 152, U.S. 24, 215, 14 S.Ct 513, 1894). The accused is bound only to the constraining certainty of the united States Constitution 1787 itself, and absolutely nothing else.

Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them. "Miranda v. Arizona" 384 U.S. 436, 491; 86 S.Ct 1602; 16 L Ed 2d 694, 1966".

Constitutional rights would be of little value if they could be indirectly denied (See: *Gumillion v Lightfoot* 364 U.S. 155, 1966. Cited also in *Smith v. Allwright*, 321 U.S. 694, 644).

Any judge or attorney who does not report a judge for treason as required by law may themselves be guilty of misprison of treason, 18 U.S.C., Section 2382.

The court, to date, has failed to recognize my challenge of jurisdiction, even though the Supreme court has ruled that the challenge of jurisdiction can be challenged anytime during the trial (See: *Menlo v. United States and Rhode Island v. Massachusetts* 39 U.S. 657, 1838 "Once jurisdiction is challenged, all proceedings must cease. The government of the U.S. may, therefore, exercise all, but no more than all the judicial power provided by the Constitution").

The court has failed to represent my inalienable constitutional Rights before this court. By the several judges' denial of bail, they have treated the Constitution with contempt, even though they took an oath of office and an oath of affirmation that is required for all judges, officers or court officials to abide by (See: *Cooper v. Paron* 385 U.S. 1, 78 S.Ct1401, 1958. "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it). The court and officers erred by, but not limited to, a violation of my Eighth Amendment right by denial of bail. Eighth Amendment to the Constitution 1787 - "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted". The several judges in four different courts elected to hold the accused in detention (now nearly nine months) pending trial on the basis of their unwarranted belief that the accused was a risk of flight, in violation of his Constitutional rights.

Article III, Section 1 "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior and shall, at stated times, receive for their services a compensation, which shall not be deminished during their continuance in office".

The Supreme Court ruled that where the Grand Jury process is abused and the accused objects to the indictment before trial, the indictment should be dismissed where there is a showing that the abusing party....substantially influenced the Grand Jury's decision to indict, or if there is great doubt as to whether it had such effect (1d78). The Fifth Amendment was violated by not allowing the accused to be present from the very beginning of the process, denying due process of law. Also, the jury was not of my peers as they were U.S. citizens, not sovereigns.

If everything that might influence a jury must be disclosed, then the only way a prosecutor could discharge his Constitutional duty would be to allow complete discovery of his files as a matter of routine practice (See: *U.S. v. Agurs* 427 U.S., 97, 109, 49, Led 2d 342, 96 S.Ct 2392, 1976). It is obvious that the AUSA Harmon fraudulently misrepresented evidence to the Grand Jury by failure to disclose the accused' filing of his UCC-1 declaring his non-citizenship of the corporate UNITED STATES OF AMERICA.

The Internal Revenue Service is not an agency of the United States Government and their employees are not employees of the United States Government. The D.O.J. had no legal or lawful right to charge the accused with Title 18 U.S.C., 287, 1341 and 2.

In 1944, Washington, DC, was deeded to the International Monetary Fund (IMF) by the Breton Woods Agreement.

The IRS is not a United States Government agency, it is an agency of the IMF (See: *Diversified Metal Products v. T. Bow Co.* and IRS Case No. 93-4117). The IRS is a successor of the Bureau of Internal Revenue Service, Puerto Rico, and does not have lawful authority in States of the Union. In that case, U.S. Attorney, Betty H. Richardson, answered on behalf of the IRS in her response to Ohman's #4 averment filed in that case, made the following correction: "DENIED" that the IRS is an agency of the United States Government, but admits that the United States of America (a corporation) would be a proper party to this action". These charges made against RICHARD KELLOGG ARMSTRONG prove to be generated by fraud by the D.O. J. and their agents. This case must be dismissed.

Congress did not legislatively create a Bureau of the IRS (See: Public Law 94-564, Senate Report 94-1148, Page 5967, Reorganization Plan No. 26, Public Law 102-391. Also see: U.S.S.C. case *Chrysler v. Brown*). The Supreme Court researched all the way back to the Civil War and IRS could not be found.

On December 8, 1998, Richard Bufkin of Dundee, Illinois, sent a Freedom of Information Act request to the IRS for documentation of authority for the Department of Justice to defend IRS personnel in civil and criminal litigation. On August 2, 1999, Leslie Hayward, a disclosure program assistant in the IRS national office answered Attorney Bufkin as follows: "A search was performed with the Office of Tax Crimes (criminal investigation), and with the Assistant Chief Counsel, DISCLOSURE LITIGATION, and we have no document responsive to your request. However, you may forward a copy of your request to the U.S. Attorney General's office within the Department of Justice".

In September, 1999, Attorney Bufkin sent the request to the Department of Justice. On January 1, 2000, Thomas J. McIntyre, Chief of the Department of Justice Freedom of Information Privacy Act Unit, made the following response: "We have conducted a search of the appropriate indices to Criminal Division records and did not locate any records responsive to your request". If the court and prosecution continue to move forward and deny this factual presentment, the accused will subpoena the above parties of interest to testify before this court.

IRS agents and personnel are agents of a government foreign to the United States and do not have lawful access to government funded defense. They are agents of a foreign government invading the several States of the Union in which the territorial courts, judges and D.O.J. have fraudulently protected them. These acts are treason, sedition and perjury.

The IRS agent Greg Flynn, Complainant, who has no authority in this Article III Court, charged the accused with the filing of forms 1099-OID for refunds of income taxes in the aggregate of \$1.4 million that the accused never paid in which he contended that the accused knew (not alleged!) to be false, fictitious and fraudulent citing Title 18 U.S.C., Section 1341, apparently referring to Title 26 U.S.C., Sections 1271 - 1275. However, the IRS agent knew that the accused' filings addressed a different accounting method known to be an absolutely lawful filing. Therefore, the IRS agent's claims against the accused are fraudulent at best and have caused the accused irreparable harm, especially in view of the fact that the entity with which he is employed has no authority whatsoever.

To the accused' knowledge, proper form was used for the filing and there was never a complaint sent from the IRS as to the form or the filing. The only complaint received from the IRS was they "erred" in the issuance of the checks. Isn't there a system of validation within their system before sending out checks in those amounts, which included interest calculated by someone? For all of our lives, my wife and I have never been involved in anything that would be outside of the law, our record is clean. I believed that this was a legal filing to pursue the course of reimbursement or the IRS would never have issued the checks, especially when they have a special department to review large disbursements.

Lawful OID Process -

First send 1099-A to the bank, etc., to identify the interest; 1099-OID reports the withholding of the interest; 1040 is to claim a return of the interest to the principal (ME). I created the money with my signature (See HJR-192 and PL 73-10, 1933). File a 1040 to claim a return of the interest to the principal. If it's not claimed within three years, the bank will claim it as abandoned funds.

OID = Redemption of value of a debt instrument (Ex. a check) at maturity - its issue price. Ex., a \$1,000 check minus issue price \$0 = \$1,000.

Step 1- Send 1099-A to identify the interest.

Step 2- Report those funds as interest income; so far they've been withheld (1099-OID).

Step 3- Make claim (1040). The bank is the payor and I am the recipient. Schedule B, the total of the OID as interest income withheld, a taxable event. This is a lawful process and there is no evidence to the contrary.

Should the interest income be taxable, the IRS should have sent me a bill. However, the supposed \$1.6 million derived from the OID filing was returned to the IRS by the submission of fifteen different payments over the period 1/08 to 2/09 so no income was derived from the OID filings. In addition, the form 1040 for 2008 was amended around 4/10 to delete the OID filing so as to temporarily alleviate an argument with the IRS.

In addition to the fraudulent charges made against the accused, the IRS has committed further fraud by the unlawful levy of the accused bank account, the fraudulent placement of liens and lis pendens on the accused' real properties, all without due process, and the unlawful seizure of the accused' aircraft, all in violation of my rights secured by the Constitution 1787 and the Bill of Rights 1791 as well as the Arizona Constitution. The IRS is in violation of their own rules and regulations by denying the accused of due process. They failed to adhere to any of the legal processes by circumventing a court hearing for the accused where the accused was denied a trial. Amendment VII states "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of common law".

When a felony crime has been brought to the attention of one of authority to act and they do nothing to notify someone of authority to correct, they will be participating in that crime. When the government and their systems have become oppressive and the justice system has turned a blind eye upon the people by usurping and overthrowing the Constitution with denial and contempt, the public officials fail to operate under the limits of their oaths of office to uphold the State Constitution and the Constitution of the United States 1787.

It is the belief of the accused that the IRS has processed (cash) the fifteen payments sent via Certified U.S. Mail with return receipts in the aggregate amount of approximately \$8 million so, should the IRS be unable or unwilling to produce the originals in court, the accused should be credited with an overpayment of about \$6.4 million and will expect to receive a refund check for that amount within thirty (30) days from the date shown hereon. I also expect to have all fraudulently acquired liens and lis pendens removed from our real properties, the \$10,000 fraudulently taken from our B of A account and our fraudulently seized aircraft returned to the Prescott, Arizona airport, with full tanks.


JUDICIAL QUALIFICATION FOR BIAS OR IMPARTIALITY - The U.S. Supreme Court (has) held that "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality" *Liteky v. U.S.*, 114 S.Ct 1147, 1162, 1994. "should a judge not disqualify himself, then the judge is in violation of the Due Process Clause of the U.S. Constitution." *United States v. Sciuto*, 521 F.2d 842, 845 (7th cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause"). Section 455(a) "Requires a judge to recuse himself in any proceeding in which (t)he(i)r impartiality might reasonably be questioned". *Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989). In *Pfizer, Inc. v. Lord*, 456 F.2d 532 (8th Cir. 1972), the Court stated that "It is important that the litigant not only actually receive justice, but that he believes that he has received justice". This is also to advise that Richard Kellogg Armstrong has joined the Extraordinary class action lawsuit that was recently served on the Tenth National Tribunal Court of Colorado, Case No. GB 110106-70091410000134484684, against the following defendants (See Exhibits A-1 and A-2 attached).

Referring to the Supreme Court case *Downes v. Bidwell*, 182 U.S. 244, 1901, the Government of the United States was born of the Constitution and all powers which it enjoys or may exercise must be either derived expressly or by implication from that instrument. Even then, when an act of any department is challenged because it was not warranted by the Constitution, the existence of the authority is to be ascertained by determining whether the power has been conferred by the Constitution. The Constitution guarantees a Republic form of government. Failure to do so would be in violation of the accused rights (See: Article IV, Section 4 of the Constitution 1787).

On December 18, 2010, I, Richard Kellogg Armstrong, filed into the District Court of the United States through James C. Duff, Director, Administrative Office of the U.S. Courts, notification to the court that I have occupied the office of Executor of the RICHARD KELLOGG ARMSTRONG Estate, as evidenced by Certified U.S. Mail so the Court is reminded that no further intrusion or trespass into the subject estate will be tolerated. The demands made in that filing are still valid and the court, to date, has been nonresponsive.

Wherefore, Richard Kellogg Armstrong demands his immediate release from confinement at the Federal Detention Center Englewood and the dismissal of Case Nos. 10-cr-00317-REB and 10-cv-01073 due to the facts of law presented into evidence by the above statements. This territorial court has no authority over a sovereign State Citizen of the Republic of Arizona whose legal character is on file at www.getnotice.info/rka.html, recorded with Washington State as well as more than twenty state, federal and international agencies including Timothy Geithner, Secretary of the Treasury and Douglas Shulman, Commissioner of the IRS.

February 13, 2011

Signed 
Richard Kellogg Armstrong
Sovereign
Executor of the Estate

CC:
Supreme Court of the United States, Hon. John Roberts, Chief Justice
Arizona Supreme Court, Chief Justice
Colorado Supreme Court, Chief Justice
Tenth Circuit Court of Appeals
Republic of the United States of America
Republic Arizona Grand Jury, Foreman
International Trade Court
Administrative Office of the U.S. Courts, James C. Duff, Director
Douglas Shulman, Commissioner, IRS and Fiduciary

**NAMES OF PLAINTIFFS
FILING THIS CASE
INCLUDED AS STATED
IN "Plaintiffs, List" BELOW:**

**IN THE NATIONAL TENTH TRIBUNAL [CIRCUIT] COURT
Established And Located On Alleged United States Property
Near Denver, Colorado**

PLAINTIFFS, Being the People Contained In The Attached List Of People, Signed, With Addresses, And Incorporated Herein as the Plaintiffs; Continuing As the People (hereinafter as "Plaintiffs, List")

See Plaintiffs' Further Description In Body, Below

Plaintiffs / Insiders, Guaranteed Persons/Parties,

v.

All Departments, Whether or Not Existing Under Color of Name, of the United States [central] government; The [Alleged] United States District Court For The [Alleged] District Of Colorado – As Being De facto; All Judges And Magistrates Thereof, And All Judges Thereof As Lacking Standing As Wrongly Constructed Court; Harley G. Lappin; Douglas H. Shulman; Eric H. Holder, Jr.; The U.S. Department of Justice And Such Department(s) Or Agencies It May Represent; John & Jane Doe Members of the [alleged] Congress; The [alleged] President of the [alleged] United States; the alleged United States Government As Commenced UnLawful Establishment, September 17, 1787, - Second Session; - Under The Proposed Constitution For The Proposed United States Nation (Any Other Form of United States Denied All Actual Existence); the Illegal United States As Commenced Establishment 01/01/1945, et al, AS:

Guarantor's Defendants (Charged with Breach)

And Those Acting In Unlawful Concert Therewith

) Tribunal Court (En Banc Petitioned For):

) Tribunal Court Case #

) The People's Case #: -

) GB 110106-70091410000134484684

) Entered As: Guarantee Breach ("GB") Year # / Month # / State # / Federal Delivery # of Breach of Guarantee Lawsuit

) Assignment Of Clause 9 - Five Justice Tribunal (or "En Banc") Called Upon;

) EXIGENT DEMAND TO TAKE JUDICIAL NOTICE OF ALL EXHIBITS AS EVIDENCE.

) AN ARTICLE IV, SECTION 4 – SUPERSEDING SUPREME LAW – BREACH OF GUARANTEE BY U.S. GOVERNMENT GUARANTOR – EXTRAORDINARY LAWSUIT- EXISTENT AS FACT, - NOT UNDER "THE" RULES

) Incorporate U.S. Lower [Court] [Case] Numbers:

) PREVIOUS ALLEGED CASE FILINGS:

) *District [Court] #: (see attached "Plaintiffs, List")

) *Bankruptcy Court #: (see attached "Plaintiffs, List")

) *NOT Cognizant of A Claim of Jurisdiction Legality

) Exhibited Complaint: v. Colorado;

) Case #: GB 110106484684

**A LAWSUIT ARISING UNDER ARTICLE IV, SECTION 4 –
BREACH OF GUARANTEE BY GOVERNMENT GUARANTOR –
ALL THREE BRANCHES THEREOF**

**BY REQUISITE SUBMISSION UNDER ARTICLE IV, SECTION 4
AND UNDER THE FIFTH AMENDMENT'S "DUE PROCESS" CLAUSE THEREOF**

physical location (the courthouse names being irrelevant) as a legal entity - in its entire "legal" existence as an Established Institution (compare to an *incorporation*) - of the [alleged] District Court of the [alleged] District of Colorado, each and ever judicial officer thereof, both as to judges and magistrate judges, therein, but not excluding any judge not known at the time of this filing, if any, the same being:

The Defendant [alleged district] Judges, making up the primary judicial part of the Defendant [alleged] United States District Court Of The [alleged] District Of Colorado, are as follows:

Defendant Wiley Y. Daniel; Defendant Richard P. Matsch; Defendant John L. Kane; Defendant Zita L. Weinshienk; Defendant Lewis T. Babcock; Defendant Walker D. Miller; Defendant Marcia S. Krieger; Defendant Robert E. Blackburn; Defendant Philip A. Brimmer; Defendant Christine M. Arguello; Defendant David M. Ebel;

The Defendant [alleged] Magistrate Judges, making up the secondary or alleged magistrate offices of the Defendant [alleged] United States District Court Of The [alleged] District Of Colorado, are as follows:

Defendant Michael J. Watanabe; Defendant Boyd N. Boland; Defendant Craig B. Shaffer; Defendant Michael E. Hegarty; Defendant Kristen L. Mix; Defendant Kathleen M. Tafoya; Defendant Gudrun J. Rice; Defendant David L. West;

The Defendant [alleged] Bankruptcy Court Judges, making up the alleged part of the Defendant United States [alleged] U.S. Bankruptcy Court Of The [alleged] District Of Colorado, are as follows:

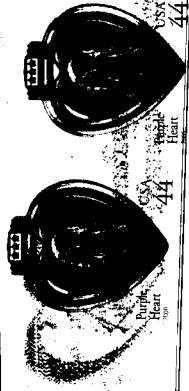
Defendant Howard R. Tallman; Defendant Sidney B. Brooks; Defendant Elizabeth E. Brown; Defendant A. Bruce Campbell; Defendant Michael E. Romero;

Additional non-judicial Defendants include:

Defendant Eric H. Holder, Jr.; Defendant John E. Potter; Defendant Douglas H. Shulman ; Defendant Harley G. Lappin; Defendant Julius Genachowski; Defendant Michael J. Copps; Defendant Robert M. McDowell; Defendant Mignon Clyburn; Defendant Meredith Attwell Baker; Defendant Mary L. Schapiro; Defendant Kathleen L. Casey; Defendant Elisse B. Walter; Defendant Luis A. Aguilar; Defendant Troy A. Paredes; Defendant Jon

RICHARD K. ARMSTRONGS
20113-298
FEDERAL DETENTION CENTER ENCLOSURES
93-95 QUINCY AVE.
LITTLETON, CO 80123

DENVER CO 800
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