

The False Lawsuit Claim That Our Refunds Were Made In Error

In the complaint in 2006 by which the bogus lawsuit was launched asking Judge Nancy Edmunds to order my wife, Doreen, and I to testify at the government's dictation and create bases for the assertion that we owed it taxes for 2002 and 2003, the responsible DOJ attorney claimed that the complete refunds made to us were just big mistakes. The pretense was that these refunds were made because the IRS had no information other than our returns, and was therefore misled.

This pretense was necessary because the suit had to be brought under the "recovery of an erroneous refund" statute (26 USC §7405). The same attorney made this same assertion in the "findings of fact" he included in the "[Amended Judgment and Order of Permanent Injunction](#)" he wrote for Judge Edmunds to sign:

9. Because Defendants reported that they had no income, the IRS, unaware that Defendants' report was false, treated the withheld federal taxes as a tax overpayments...

and

16. Because Defendants reported that they had no income, the IRS, unaware that Defendant's report was false, treated the withheld federal taxes as tax overpayments...

But like everything else involved with this suit, and the "Amended Judgment", these are outright lies. Happily, it proved possible to get admissions to this during Doreen's trials on a charge of "criminal contempt of court" for resisting the orders. See the following transcript pages from the second trial, where these admissions are made, and also where Doreen introduces undisputed testimony and evidence concerning the extensive wide-eyed IRS attention paid to our claims before those refunds were issued.



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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 13-20371

-vs-

DOREEN HENDRICKSON,

Detroit, Michigan

Defendant.

July 23, 2014

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TRANSCRIPT OF TRIAL - VOLUME THREE
BEFORE THE HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a Jury.

APPEARANCES:

For the Government:

Melissa Siskind, Esq.

Jeffrey McLellan, Esq.

For the Defendant:

Doreen Hendrickson, Pro Per

Standby Counsel:

Andrew Wise, Esq.

Proceedings taken by mechanical stenography, transcript
produced by computer-aided transcription

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14 Q. (By Ms. Hendrickson continuing) Okay. Mr. Metcalfe, the lawsuit you wrote
15 claimed that the refunds you wanted back had been issued in error, didn't you?

16 A. That's correct.

17 Q. Had the Government received W-2's from the company my husband worked
18 for during those years?

19 A. You're talking about 2002 and 2003?

20 Q. Yes.

21 A. Yes.

22 Q. So okay. Let's go back to it's my 550, but your Number One.

23 THE COURT: Your 550 is not in evidence.

24 MRS. HENDRICKSON: Okay. I'm sorry. I had it listed in my notes as
25 550. Okay.

1 Q. This is the third page of Number One. Could you read what's highlighted
2 please on your copy?

3 A. The amounts listed as withheld on the W-2 it's submitted are correct however.
4 (sic)

5 Q. And this is for second to last page. It's of Number Four of yours?

6 A. The amounts listed as withheld on the W-2 it's submitted are correct however.

7 Q. Do you see where my husband directed the Government's attention to those
8 W-2's then? I can put it back up.

9 A. I don't know what --

10 Q. (Interjecting) I said do you see where he directed the Government's, the IRS's
11 attention to the W-2's?

12 A. You mean in the highlighted language?

13 Q. Yes.

14 A. Yes.

15 Q. Had the Government received 1099's from Una Dworkin who paid me for
16 tutoring during those years?

17 A. To the best of my knowledge, yes.

18 Q. If you'd go to -- I guess you're on Number Four now. Might as well just stay
19 right there. This is -- I'm sorry. Go back to Number One. It's the same as the one in
20 Number Four in any case. Okay. This is the rebuttal of the 1099's included with our
21 returns. Would you please read the highlighted portion?

22 A. To rebut a document known to have been submitted by the party identified
23 above as payer which erroneously alleges a payment to the party identified above as
24 the recipient of gains, profit or income made in the course of a trade or business.

25 Under penalty of perjury I declare that I have examined this statement and to the best

1 of my knowledge and belief it is true, correct and complete.

2 Q. So does it appear that I'm directing the Government or the IRS to the original
3 1099?

4 A. I think what you're trying to do is to rebut the original Form 1099 that was sent
5 to the IRS by Una Dworkin.

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 13-20371

-vs-

DOREEN HENDRICKSON,

Detroit, Michigan

Defendant.

July 24, 2014

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TRANSCRIPT OF TRIAL - VOLUME FOUR
BEFORE THE HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a Jury.

APPEARANCES:

For the Government:

Melissa Siskind, Esq.

Jeffrey McLellan, Esq.

For the Defendant:

Doreen Hendrickson, Pro Per

Standby Counsel:

Andrew Wise, Esq.

Proceedings taken by mechanical stenography, transcript
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1 MRS. HENDRICKSON: Yeah.

2 MS. SISKIND: May I approach?

3 THE COURT: Yes.

4 MRS. HENDRICKSON: That's what number? Do you have it?

5 MR. WISE: Government's Exhibit 15.

6 MRS. HENDRICKSON: I have it.

7 Q. That first line of paragraph 16 of that Order reads: Because Defendants
8 reported they had no income, the IRS unaware that Defendants' report was false,
9 treated the withheld Federal taxes as tax overpayments. Is that right?

10 A. Yes.

11 Q. Do you believe that the IRS was actually unaware of anything in your returns?

12 A. I have some certainty. I do not believe that they were unaware. They were not
13 unaware of those returns at all.

14 Q. Why do you say that?

15 A. They underwent significant scrutiny on the way between us filing the returns
16 and us getting the refunds, months of scrutiny. We would get notices, we're holding it
17 up for this reason and now we have to check that and I don't remember all of them
18 specifically. This was back in the early 2000's, but we would get notices of why there
19 was a delay in issuing our refunds and after some period of time, three or four notices
20 maybe and then we would get the refund. Or in the case of the 2002 we didn't get the
21 refund, but they sent us a statement of how they were applying our refund.

22 Q. I would like you to take a look at Defendant's Exhibit 559 and 560.

23 A. Yes.

24 Q. Could you tell me what those are?

25 A. These are some of the Notices that we received. The first one is -- this is

1 relevant to the tax year ending 2002, and this Notice is dated September 29th, 2003.

2 Q. What about 560?

3 A. Well, I have a few Notices here in 559. Do you want me to just do the top
4 ones?

5 Q. Just tell me what 559 and 560 are.

6 A. Okay. These are a collection of the various notices that we received. So
7 apparently for 2002 I have four Notices before finally having the return processed. So
8 they seem to have settled any problems that they had with our return. And then this
9 one is on -- date of notice, the first date of notice was May 24th, 2004 and I have here
10 another four pages, so four Notices at various times saying we're checking this, we're
11 checking that. And then eventually the last page on page 560 is the refund check that
12 we were issued.

13 Q. So these are Notices that the IRS sent to you regarding your 2002/2003
14 income tax returns?

15 A. Yes, it was.

16 Q. And based on -- these Notices caused you to form your belief that the IRS was
17 fully aware of what was on the income tax returns?

18 A. Yes, I believe they were. These Notices, for example the 2002, September
19 29th, 2003, November, 2003 --

20 THE COURT: Mrs. Hendrickson, it was just a yes or no question. I think
21 your answer is yes. What's your next question or are you moving these into
22 evidence?

23 MR. WISE: I'll move for the admission of 559 and 560.

24 MS. SISKIND: No objection.

25 THE COURT: 559 and 560 are in.

1 Q. (By Mr. Wise continuing) I'll put 559 on the screen and could you tell me what
2 the date of that correspondence is?

3 A. September 29th, 2003.

4 MS. SISKIND: Your Honor, I'm sorry. I don't know if they're aware
5 there's personal identifying information on this document. I'm pointing it out to the
6 Court.

7 MRS. HENDRICKSON: I'm not worried about it.

8 MR. WISE: Appreciate that.

9 MS. HENDRICKSON: I don't think I have too many enemies.

10 Q. (By Mr. Wise continuing) And could you read the text of the Notice?

11 A. This says: We received your Form 1040 income tax return for the year 2002
12 which shows a refund of \$10,152.96. According to our records, you haven't filed your
13 tax returns for the tax years 2000/2001. We have reason to believe you will owe
14 taxes for the unfiled years. Therefore, we are holding your tax refund until you file
15 your return or explain why you haven't filed. If you have filed the returns or if you
16 aren't required to file them, please contact us. If you are required to file, please send
17 the returns to this office at the address shown. You must respond within 30 dates. If
18 we don't receive your returns or an acceptable explanation for not filing by October
19 the 29th, we may prepare the returns for you based on the information we have which
20 may not be to your advantage. If you are already working with an IRS employee to
21 resolve this matter, you should let that person know that your refund is being held.
22 Otherwise, if you have any questions about this letter, please call our representative
23 at the number shown above or write to us at the address shown above.

24 Q. And what did that cause you to believe about the validity of your 2002 income
25 tax return?

1 A. Well, it appears that they accepted the return and it was just being delayed
2 because they were alleging that we didn't file returns for 2000/2001.

3 Q. Turning to page two of that document. Could you tell us what the date of that
4 is?

5 A. That's November 3rd, 2003. About a month later.

6 Q. And could you read the text of that letter?

7 A. It says: Overpaid tax applied to other Federal taxes owed on secondary Social
8 Security number. Our records show that you owed other Federal taxes under Social
9 Security number and da da da. Therefore, \$1699.86 of the overpayment on your tax
10 return for the above year has been applied to the unpaid amount. The figures below
11 show the amount of any refund due you. If so, a check will be sent to you for the total
12 amount due if it is less than -- oh -- if it is more than a dollar and you owe no other
13 obligations. However, if the amount due you is less than one dollar, it will be sent to
14 you only if you ask for it, and then it shows the tax statement, the numbers. Your
15 overpaid tax on return was the amount that we had requested, \$10,152.96. Amount
16 of overpaid tax applied and then they subtracted that and came out with amount to be
17 applied to other obligations refunded or applied to your estimated tax, \$8452.10.
18 And if you are due a refund, your check will be mailed in six to eight weeks. Any
19 interest due you will be added, and then it shows how they applied it.

20 Q. And page three of that document. What did -- again, did this document cause
21 you to have any concern about the validity of your 2002 tax return?

22 A. No it didn't. It confirmed that the return had been accepted as filed.

23 Q. I'll show you page three and ask if you can tell us what the date on that
24 document is?

25 A. It's just about a month later again, December 22nd.

1 Q. And could you read the text of that document?

2 A. This one I imagine was a copy that was sent to both me and then a copy to my
3 husband 'cause it's only got my name on it, but it was for the account of Peter E. and
4 Doreen M. Hendrickson, overpaid tax applied to other taxes you owe. We applied
5 \$6,521.11 of the overpaid tax on your 2002 tax return to the unpaid balance of other
6 Federal taxes which our records show you owe. You may still be due a refund if we
7 applied only part of over payment to other taxes. You also may be due a refund if you
8 have recently made a payment against the other taxes that we have not -- that we had
9 not credited when we applied your overpayment. In either case, you will receive a
10 check for any refund due you as long as the amount is greater than one dollar. You
11 must request a refund of less than one dollar. If you have questions, please call us at
12 the number listed above, and then they're showing their calculations, the figures
13 below. How we applied your overpayment. Amount of overpaid tax on your return,
14 \$8,453.10. Amount due you, \$8,453.10. Total amount applied, \$6,521.11. Amount
15 you will you receive as a refund, any interest due you will be added \$1,931.99. Then
16 it shows where we applied your overpayment for tax period Forms 1040, tax period
17 ending in December 31st, 2001. Amount applied, \$6,521.11

18 Q. You can stop there. Was there anything about this correspondence that
19 caused you to question the validity of your 2002 tax return?

20 A. No. It confirmed once again that my return had been accepted as filed.

21 Q. And turning to the last page of that document. Could you tell us the date of this
22 Notice?

23 A. Notice is January 5th, 2004. Again about a month later, so I assume it's
24 winding its way through the system.

25 Q. And could you read at least the first couple paragraphs of this text?

1 A. Again for the account of Peter E. and Doreen M. Hendrickson, overpaid tax
2 applied to other taxes you owe. We applied \$1,931.99 of the overpaid tax on your
3 2002 tax return to the unpaid balance of other Federal taxes which our records show
4 you owe, and it's got the same stuff about getting a refund. And then they show the
5 calculations, that the amount of over paid tax was \$1,931.99 and that was the amount
6 due us and they applied that total amount to other taxes. It says they applied to the
7 1040A for the tax period ending in December 31st, 2000 and then it shows that a
8 balance remaining for that year was \$5,435.91.

9 Q. Anything about this correspondence that caused you to question the validity of
10 the 2002 tax return?

11 A. Nothing at all. Again confirmed that they had accepted the return.

12 Q. And it says that your over payment of taxes will be applied to other tax years,
13 therefore you would not be getting a refund?

14 A. Yes, I believe it says that. Each copy contains the same -- I don't know where
15 it is on there. They do tell you that they're applying it, but yeah, it's the standard
16 statement about they're going to apply the refund to other taxes.

17 Q. Now turning your attention to Defendant's Exhibit 560, the first page. Could
18 you tell us what the date of that Notice is?

19 A. This Notice is dated May 24th, 2004.

20 Q. And could you tell us what tax period this Notice is concerning?

21 A. This is for the following year, the year ending December 31st, 2003.

22 Q. And could you read the text of this Notice?

23 A. This Notice was sent to my husband apparently. I don't know where mine is
24 but delay in processing your refund. We are sorry, but there's a delay in processing
25 your overpayment for the above tax period because we must check to make sure you

1 do not owe other Federal taxes. This will take about six to eight weeks. Your
2 overpaid tax shown on return, \$4,676.56. If you owe other Federal taxes, all or part of
3 your overpaid taxes may be applied. If you requested a refund and don't owe other
4 Federal taxes, a check will be sent to you for the amount you overpaid. Any interest
5 due you will be included in the check. No further action is required of you.

6 Q. Anything about this notice cause you to question the validity of your 2003 tax
7 return?

8 A. No.

9 Q. Turning to page two. Could you tell us what the date of this Notice was?

10 A. This is the same date, May 24th, 2004 for the same tax period. This was an
11 explanation I see.

12 Q. Could you tell us what the text of the Notice says? Read the text of the Notice
13 please.

14 A. Yes. We applied \$5,551.44 of the overpaid tax on your 2003 tax return to the
15 unpaid balance of other Federal taxes which our records show you owe. You may still
16 be due a refund if we applied only part of your overpayment to other taxes. You also
17 may be due a refund if you recently made a payment against the other taxes that we
18 had not credited when we applied your overpayment. In either case, you will receive
19 a check for any refund due you as long as the amount is greater than one dollar, and
20 the same stuff. The figures below show our calculation.

21 Q. We can probably skip the figures at this point.

22 A. Okay.

23 Q. It's similar notice to the one you received for 2002, correct?

24 A. Yes, it is.

25 Q. Did it cause you to have any concern about the validity your 2003 income tax

1 return?

2 A. No, it did not. It confirmed that they were processing it.

3 Q. Turning to page three. I'll ask you to tell us what the date on that Notice is?

4 A. June 30th, 2004, about a month after the first Notice.

5 Q. And could you tell us what the text of this Notice is?

6 A. Dear taxpayer: This is to let you know that you have an overpayment of
7 \$4,676.56 on your Form 1040 for the tax period shown at the top of this letter. We
8 applied part of your overpayment to the civil penalties we charged you as shown at
9 the end of this letter. If you have any questions, please call us toll free at
10 1-800-829-0922. If you prefer, you may write to us at the address shown at the top of
11 the first page of this letter. Whenever you write, please include this letter and in the
12 spaces below give us your telephone number with the hours we can reach you. Keep
13 a copy of this letter for your records and it's Deborah K. Hurst, Operations Manager
14 Collection. It's from the Treasury IRS.

15 Q. Then turning to the next page. That essentially -- can you -- that essentially
16 explains how they're applying overpayment and civil penalties?

17 A. Yes, it does. It shows which year, which form and how they're applying it.

18 Q. Then turning to the last page, can you tell us what that is?

19 A. This was our refund check after they took what they wanted for the civil
20 penalties and for the money they said that we still owed on the previous years, so this
21 is what remained, a check for \$3,172.30.

22 Q. Now what did these Notices that you were getting from the IRS with regard to
23 your 2002/2003 tax years lead you to believe about the validity of those returns?

24 A. I believed that they were perfectly all right. They had been thoroughly vetted
25 and been looked at all the way along and then we did not get anything back for 2002,

1 but we got something back for 2003.

2 Q. And did you form a belief about the level of attention that the IRS was paying to
3 those returns?

4 A. I was pretty amazed every like once a month going to the mailbox and getting a
5 letter from the IRS, but it confirmed that it was -- to my knowledge it's confirmation
6 that they had been thoroughly looked over.

7 Q. Did you ever receive from the IRS a Notice of Deficiency suggesting that you
8 owed more tax than what was calculated on your original 2002/2003 returns before
9 you were served with a civil lawsuit in front of Judge Edmunds?

10 A. No, we did not. We never received a Notice of Deficiency in an effort to try to
11 reclaim that money from us.

12 Q. Prior to filing the lawsuit, did the IRS ever send anything to you stating your
13 returns for 2002 or 2003 were false?

14 A. Never once.

15 Q. What does all that mean to you?

16 A. Means my returns were okay.

17 Q. Did it give you any impression about the validity of the lawsuit that the
18 Government had brought against you?

19 A. I was pretty shocked to be sued civilly in 2006 over these returns that we filed
20 for 2002 and 2003, and the usual method would be for the IRS to send you a Notice
21 of Deficiency if they take exception to the returns that you filed and having never
22 received any Notice of Deficiency and all of a sudden you have a lawsuit that's being
23 served on you, it didn't make any sense to me. I couldn't understand where this was
24 coming from.

25 Q. Did you form an opinion as to why they decided to file a civil lawsuit against