

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

ROBERT DETRICK, )  
 )  
 Plaintiff, ) No. 020197F  
 )  
 v. )  
 )  
 JACKSON COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

Plaintiff's appeal concerns the 2000-2001 tax year. The property is listed as Account No. 1-026415-2 by the Jackson County Assessor. The issue in the case is whether the property is exempt from taxation.

**STATEMENT OF FACTS**

A case management conference in the above-entitled case was held on May 1, 2002. The court allowed the parties to submit additional materials after the status conference. A status conference was held on June 10, 2002. Plaintiff submitted additional information on June 17 and 20, 2002. Robert Detrick appeared for himself. Ed Good, of the assessor's office, appeared for Defendant.

Plaintiff filed his Complaint on March 14, 2002, listing "ROBERT DETRICK ENS LEGIS Robert P. Detrick, AGENT SECURED PARTY" as the plaintiff. (Ptf's Complaint at 1.) "Ens legis" is defined as "[a] creature of the law; an artificial being as opposed to a natural person." *Black's Law Dictionary*, 552 (7<sup>th</sup> ed 1999). In his Complaint, Mr. Detrick claims his property should be exempt from taxation because "property tax board felt unqualified to make a legal tax determination." (Ptf's Complaint at 1.)

At the initial case management conference, Mr. Detrick stated that he could conditionally accept the tax under certain conditions. He also stated that he would like

to redeem the bond against the property. He stated that he had redeemed the straw man, "ROBERT DETRICK" by filing a UCC<sup>1</sup> filing, with "Robert Paul Detrick" as the secured party. (See Ptf's ltr dated May 15, 2002, at 11.) Mr. Detrick submitted some material on May 9, 2002. Defendant responded to the material by filing a Motion to Dismiss on May 14, 2002. Mr. Detrick then submitted his "conditional acceptance" with an attached affidavit on May 23, 2002.

The "conditional acceptance" has 37 conditions; the affidavit has 39 assertions of fact. In the "conditional acceptance" Mr. Detrick stated that "[t]he conditions \* \* \* require satisfaction, prior to full acceptance." (Ptf's ltr dated May 15, 2002, at 1.) Conditions 6 and 9 are illustrative of the types of conditions submitted by Mr. Detrick. Condition 6 requires "[p]roof of claim that our present Jackson County Court System does not rely on Admiralty/Maritime/Bankruptcy law all in conformity with the Federal Bankruptcy of 1933." (*Id.* at 2.) Condition 9 requires "[p]roof of claim that the United States Government did not assign all the land, private property as collateral and security to their creditors as condition of the loan from the Federal Reserve System." (*Id.*) Paragraph 5 is representative of the affidavit. It states that "[a]ffiant has never been provided the corporate act and statute of the legislature of The State of Oregon creating the purported and alleged Federal corporate form STATE OF OREGON to function in a Federal territorial capacity and believe that none exists." (*Id.* at 5.)

Defendant did not respond to the material Plaintiff submitted on May 23, 2002. As a result, Mr. Detrick asked for a default judgment.

## **PLAINTIFF'S ARGUMENTS**

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<sup>1</sup> UCC stands for Uniform Commercial Code. A version of it has been enacted by all states except Louisiana.

In providing background for his theory of the law, Mr. Detrick quotes extensively from an alleged speech before the House of Representatives, allegedly made by former Congressman James Traficant on March 1, 1993, and reported in the Congressional Record. According to Mr. Detrick, this speech "provides a credible historical background to the formation, of *our secret governmental identity/entity*." (Ptf's ltr dated May 5, 2002, at 1.) (Emphasis added.)

Congressman Traficant made a speech before the House of Representatives on March 17, 1993, not March 1, 1993. 103 Cong Rec H1303 (Mar 17, 1993). The topic of debate was House Concurrent Resolution 64, Concurrent Resolution on the Budget, Fiscal Year 1994. *Id.* The speech starts out as follows:

"Mr. Speaker, we are here now in chapter 11.

"Members of Congress are official trustees presiding over the greatest reorganization of any bankrupt entity in world history, the U.S. Government.

"We are setting forth hopefully a blueprint for our future. There are some who say it is a coroner's report that will lead to our demise.

"I am going to support the rule. I am not sure yet if I will support this budget."

*Id.*

The first three paragraphs are the start of Mr. Detrick's quoted material. The speech continues; however, none of the speech contains the balance of the material quoted by Mr. Detrick.<sup>2</sup> (*Compare id.* and Ptf's ltr dated May 5, 2002.) Notwithstanding the unknown source of the quotation, it appears to be the basis of Mr. Detrick's

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<sup>2</sup> The court was easily able to locate the language quoted by Mr. Detrick. It performed an internet search using Google on September 17, 2002. The search terms were "Traficant" and "bankrupt." The search resulted in 1,540 sites. The court found the language at [home.hiwaay.net/~becraft/CRTraficant.htm](http://home.hiwaay.net/~becraft/CRTraficant.htm) and [www.iahf.com/usa/20011228.html](http://www.iahf.com/usa/20011228.html). The court is confident that many more of the 1540 sites contained the same language.

understanding of the law. According to the material,<sup>3</sup> in March 1933, the United States federal government was dissolved as bankrupt and insolvent by the Emergency Banking Act. Further evidence of the alleged dissolution is supposedly found in a June 1933, Joint Resolution that suspended the gold standard. These acts of Congress apparently rendered the United States Constitution nugatory as well. The receivers of this bankruptcy are "the International Bankers, via the United Nations, the World Bank and the International Monetary Fund."<sup>4</sup> (Ptf's ltr dated May 5, 2002, at 1.)

As a result of this "dissolution" of the United States, the bankruptcy receivers adopted a new form of government, "an established Socialist/Communist order under a new governor for America." (*Id.*) (Emphasis omitted.) The Secretary of the Treasury became governor of the International Monetary Fund. The International Monetary Fund is a branch of the Federal Reserve system which is a "sovereign power structure separate and distinct from the federal United States government." (*Id.* at 2.) (Emphasis omitted.) As a result of the "bankruptcy," the Federal Reserve system "agreed to extend the federal United States corporation" credit. (*Id.*) Accordingly, "all of the present and future properties, assets and labor of their 'subjects,' the 14<sup>th</sup> Amendment U.S. citizens" was pledged as security "as collateral against the unpayable federal debt." (*Id.*) (Emphasis omitted.) Thus, according to Plaintiff's theory, individuals became chattel as collateral for this debt.

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<sup>3</sup> Mr. Detrick's quoted material refers to at least two acts of Congress and their alleged effect on the federal government. Given that the material does not exist in the Congressional Record as cited by Mr. Detrick, the court does not rely on the authenticity of the acts or their alleged effects.

<sup>4</sup> The court is curious who the "receivers of the United States Bankruptcy" were before 1945 since the United Nations, the World Bank and the International Monetary Fund were all formed as a result of World War II.

According to Mr. Detrick, "[t]he OREGON TAX COURT maintains jurisdiction ONLY over the fictitious, straw man or woman, protecting the right of the Federal Reserve System to service the promulgated-hypothecated 'debt.'" (Ptf's ltr dated May 5, 2002, at 3.) Federal Reserve Notes, i.e., paper currency, are not money, they are a "debt obligation of the federal United States government." (*Id.* at 2.) Gold and silver is the only "lawful money." (*Id.*) Further, according to Mr. Detrick, "[b]ecause of the conditional acceptance, the court has assumed a ministerial capacity[.] \* \* \* No judgment can be rendered, only court rules administered." (Ptf's ltr dated June 17, 2002, at 2.)

### **COURT'S ANALYSIS**

Mr. Detrick argues that the United States became bankrupt in 1933 and the government was dissolved. According to him, a new government was formed. The United States pledged to the Federal Reserve system all property, including future labor and birth certificates as collateral. Thus, people in the United States became chattel or straw men, because they are collateral for this massive debt. He asserts that he has reclaimed the straw man by virtue of a UCC filing. According to him, the court has jurisdiction over only the straw man. Because he has reclaimed the straw man, the court has no jurisdiction over him or his property. Alternatively, Mr. Detrick argues that because of his "conditional acceptance" of the debt, the court's functions are only ministerial; it may not substantively rule on the matter.

#### Jurisdiction

The court's jurisdiction is set forth in ORS 305.405<sup>5</sup> and ORS 305.410.

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<sup>5</sup>All references to the Oregon Revised Statutes (ORS) are to 1999.

ORS 305.405 sets forth the powers of the court "in cases within its jurisdiction pursuant to ORS 305.410." ORS 305.410(1) provides that:

"Subject only to the provisions of ORS 305.445 relating to judicial review by the Supreme Court and to subsection (2) of this section, the tax court shall be the *sole, exclusive and final judicial authority for the hearing and determination of all questions of law and fact arising under the tax laws of this state.*"

(Emphasis added.)

The Oregon Supreme Court discussed the jurisdiction of this court in *Sanok v. Grimes*, 294 Or 684, 662 P2d 693 (1983). In *Sanok*, the plaintiff had a number of claims against the county assessor and three county appraisers, both individually and in their official capacities. The plaintiff alleged tortious conduct by the assessor and his employees. The main issue was whether the plaintiff's property qualified for forest land special assessment. In determining whether the alleged tortious conduct was within the tax court's jurisdiction, the court stated that:

"Our cases set two boundaries. On the one hand, questions which must be resolved in order to decide taxability or the amount of tax do arise under the tax laws. On the other hand, a precondition to taxation does not arise under the tax laws if jurisdiction to decide that precondition has been affirmatively located in another court or if a decision on the precondition has substantial non-tax consequences."

*Id.* at 697 (footnotes omitted).

The issue in this case is whether the subject property is exempt from taxation. Such an issue is the quintessential example of the type of issue that arises under the tax laws of this state. Plaintiff's appeal is within the court's jurisdiction, both procedurally and substantively.

#### Merits of Claim

Plaintiff quotes extensively from a "speech" given by former Representative James Traficant to explain his theory of why individuals are chattel. As noted above,

the bulk of language "quoted" by Plaintiff was not in the speech as reported in the Congressional Record. However, whether former Representative Traficant actually said the words attributed to him is not material to the court's decision. That is because "[t]he only possible interpretation of law leads to the inescapable conclusion that plaintiffs' arguments are totally without merit." *Sesma v. Dept. of Rev.*, OTC-MD No 001078F, WL 958920, \*4 (July 31, 2001) (awarding \$2,000 in damages for pursuing a frivolous appeal).<sup>6</sup>

### Damages

The court has authority to award damages under ORS 305.437. That statute states that:

"(1) *Whenever it appears to the Oregon Tax Court that proceedings before it have been instituted or maintained by a taxpayer primarily for delay or that the taxpayer's position in such proceeding is frivolous or groundless, damages in an amount not to exceed \$5,000 shall be awarded to the Department of Revenue by the Oregon Tax Court in its judgment. Damages so awarded shall be paid within 10 days after the judgment becomes final. If the damages remain unpaid, the department may collect the amount awarded in the same manner as income taxes are collected under ORS 314.430.*

"(2) As used in this section, a taxpayer's position is 'frivolous' if there was no objectively reasonable basis for asserting the position."

(Emphasis added.)

In *Leitch v. Dept. of Rev.*, 13 OTR 115 (1994), a property tax case, the court awarded damages. The taxpayer in *Leitch* had argued for a "lower assessed value for his property based on the theory that paper money is illegal." *Id.* Similarly, the court also awarded damages in a case where the taxpayer argued that Federal Reserve notes were not legal and the federal and state governments were "collecting

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<sup>6</sup> The *Sesma*'s subsequently appealed to the Regular Division of the Oregon Tax Court. See *Sesma v. Dept. of Rev.*, \_\_\_ OTR \_\_\_ (2002), WL 1025940, \*2. Not only did the court increase the award of damages to \$2,500, it awarded attorney's fees as well.

commercial debt under the federal law merchant and not taxes under the internal revenue code." *State ex rel Mendonca v. Dept. of Rev.*, 11 OTR 236, 238 (1989) (citation omitted).

Plaintiff's beliefs may be sincerely held, if misguided. The court has previously held that "[o]rdinary citizens without legal training are free to interpret the laws any way they choose. However, if their interpretations are contrary to those of the legislature and the Supreme Court, they do so at their peril." *Harvey v. Dept. of Rev.*, 11 OTR 407, 409 (1990). In a case affirming the dismissal of a taxpayer's petition as frivolous and upholding the imposition of a penalty, the Fifth Circuit Court of Appeals stated:

"An appeal that lacks merit is not always - or often - frivolous. However, we are not obliged to suffer in silence the filing of baseless, insupportable appeals presenting no colorable claims of error and designed only to delay, obstruct, or incapacitate the operations of the courts or any other governmental authority. \* \* \* The government should not have been put to the trouble of responding to such spurious arguments, nor this court to the trouble of 'adjudicating' this meritless appeal."

*Crain v. Com.*, 737 F2d 1417, 84-2 US Tax Cas (CCH) ¶ 9721 (5<sup>th</sup> Cir 1984).

Nonetheless, in spite of the frivolous and groundless nature of Plaintiff's appeal, the court declines to award damages under ORS 305.437. While the court has the authority to raise the issue *sua sponte*, it will not award damages when Plaintiff was not aware of the possibility of damages. Nor did Defendant raise the issue.

## CONCLUSION

The court's view of Plaintiff's theories is best expressed by paraphrasing Judge Learned Hand in a case involving bankruptcy. See *In re Abesbaum*, 70 F2d 628 (2<sup>nd</sup> Cir 1934). The stories of taxpayers who believe that they are not required to pay taxes

"have assumed a form almost as conventional as the plots one finds in the plays of Plautus and Terence. Indeed, if they were told with art and possessed more fertility of imagination, a new anthology might be gathered for American literature from the ['tax protestor'] field. As it is,



they contain little more than standardized forms of falsehood so often reiterated as to be neither credible nor interesting."

*Id.* at 628-29. Plaintiff presented no legitimate reasons why his property should be exempt from taxation. Now, therefore,

IT IS THE DECISION OF THIS COURT that Defendant's Motion to Dismiss is denied.

IT IS FURTHER DECIDED that Plaintiff's appeal is denied.

Dated this \_\_\_\_\_ day of October, 2002.

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SALLY L. KIMSEY  
MAGISTRATE

**IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97301-2563. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON OCTOBER 23, 2002. THE COURT FILED THIS DOCUMENT ON OCTOBER 23, 2002.**