

No. 94-2094

---

In the

**SUPREME COURT OF THE UNITED STATES**

OCTOBER TERM, 1995

---

In re: ERIC AARON LIGHTER,

dba Wells Fargo Protective Alarm Services Company, Petitioner

---

**Petition for a Writ of Mandamus**

---

ERIC AARON LIGHTER, Petitioner  
*Sui Juris and In Propria Persona*  
P.O. Box 2556  
Honolulu, Hawaii 96804  
Telephone: (808) 533-8801

**QUESTIONS PRESENTED**

1. Can the U. S. Grand Jury be sued, especially pursuant to Rule 9(a) of the Federal Rules of Civil Procedure?
2. Once the U. S. Grand Juries are sued, should the Clerk of the U. S. District Court issue default on defendant U. S. Grand Juries for failing to answer suit on said U.S. Grand Juries, especially pursuant to Rule 55(a) of the Federal Rules of Civil Procedure?
3. If the U. S. Grand Juries can not be sued, then can the U. S. District Court Chief Judge, or agent judge thereof, be sued in the capacity as manager and/or supervisor of the U. S. Grand Juries?
4. If neither suit and/or default may be made on the U. S. Grand Juries or said judge as manager and/or supervisor of the U. S. Grand Juries, and in whatever capacity such judge has related to assisting any witness or target before any U.S. Grand Jury, then is our U.S. Grand Jury system then inquisitional rather than accusatorial?
5. How can formal felony information be reported to the the U. S. Grand Jury pursuant to its indedpendant U.S. Constitution Fifth Amendment Presentment function, other than through the U. S. Department of Justice?

**1.** To the Honorable, the Chief Justice of the United States, and the Associate Justices of the Supreme Court states:

The Petitioner, ERIC AARON LIGHTER, Individually, and dba WELLS FARGO PROTECTIVE ALARM SERVICES COMPANY, ("**Lighter**"), *sui juris* and *in propria persona*, prays that a Writ of Mandamus issue to order United States District Court ("**USDC**") for the District of Hawaii, and order same to enter due default, pursuant to **Rules 9(a) and 55(a)** of the Federal Rules of Civil Procedure ("**FRCP**"), on Third-Party Defendants Four Hawaii Federal Grand Juries and the San Francisco, California Federal Grand Jury in Cr. 93-059VRW, USA v. Philip Marsh, et al. (together "**Grand Juries**").

#### **OPINIONS BELOW**

**2.** On or about February 14, 1995 Lighter filed his Petition for Writ of Mandamus in the U.S. Court of Appeals for the Ninth Circuit ("**9th Circuit Court**"), Appendix Exhibits ("**AP.EX.**") "A00002-44", which was denied by Order dated April 6, 1995 and entered in the USDC for the District of Hawaii on April 11, 1995, AP.EX. "A00001". This is Lighter's forth submission of the instant Petition in effort to comply with U.S. Supreme Court Rule 33, timely filed pursuant thereto and related written and telephonic communications with the Clerk of the U.S. Supreme Court.

#### **JURISDICTION**

**3.** This Petition is brought pursuant to Rule 20 of the Rules of the Supreme Court of the United States, under the jurisdiction of **Title 28 of the United States Code ("U.S.C.") § 1292, U.S.C. § 1651(a)**, and all other applicable laws and rules, Rule 21, Federal Rules of Appellate Procedure, including **18 U.S.C. § 4, 18 U.S.C. § 1504** and **18 U.S.C. § 3501(d)**, and the **Fifth Amendment** of the organic United States ("**U.S.**") Constitution. One or more appeals of the instant case may be before the 9th Circuit Court, but none on points herein.

#### **STATUTORY PROVISION INVOLVED**

**4.** **Rule 55(a) FRCP** provides that:

"When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk **shall** [*emphasis added*] enter the party's default."

**Rule 9(a) FRCP** provides that:

"It is not necessary to aver the capacity of a party to sue or be sued or the authority to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, except to the extent required to show the jurisdiction of the court. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, the party desiring to raise the issue shall do so by specific negative averment, which shall include supporting particulars as are peculiarly within the pleader's knowledge."

**5.** On 6-18-94, Lighter sued certain U.S. Grand Juries named herein, AP.EX."A00059-90" (Certified Record [**"CD"**] No. 78), as a proper reporting of various serious felonies, including by Plaintiffs and cohorts in the instant case in their attempts to "set up" whistleblower Lighter (late arrival keeper of the records, authorized substitute tax return preparer and former CEO of HPW, Inc.) to take the blame for their crimes which includes intense tax fraud (similar to other cases Lighter was involved in, see 5-31-91 Federal Register, pages [**"p.s"**] 24836-24843). On 8-24-94, Lighter filed the appropriate affidavit and request for default thereon, AP.EX. "A00127" (CR No. 129). On 8-24-94, the Court which permitted the suit, and the request for default, ordered the Clerk of the USDC for the District of Hawaii to not enter such default, with no reason given, AP.EX. "A00123-126" (CR No. 128). On 8-26-94, Lighter filed a second request for default on Defendants U.S. Grand Juries, AP.EX. "A00128-131" (CR No. 133). The Court has refused to respond. Lighter has since that time continuously labored to obtain clarification on the issue. On 12-5-94, the Department of Justice ("**DOJ**") told the Court that it did not represent the U.S. Grand Juries, AP.EX. "A000185-198". On 12-20-94 and despite protest by the DOJ, the Court granted Lighter's request to dismiss without prejudice the Third-Party Complaint against certain officers and agents of the U.S. Government both personally and professionally, including an Assistant U.S. Attorney, AP.EX. "A00184" (CR No. 187). Said dismissal left intact the Third-Party suit against Defendants U.S. Grand Juries, as well as Lighter's continued demand for access to the Defendants U.S. Grand Juries that Lighter properly sued. Lighter continued to demand that his material be honestly placed before a sitting U.S. Grand Jury before same could indict Lighter for committing and

confessing to the same crimes committed by the tortuous Plaintiffs and cohorts, which Lighter did in order to have further standing before the U.S. Grand Juries the Court below tampered with or allowed to be tampered with. Said U.S. Grand Juries have never even received their U.S. mail, as well as bonds made to cover cost of their scrutiny of matters herein, formal petitions, and more. The matters have therefore been supplementally taken to U.S. Grand Juries on one or more other districts.

**BRIEF RESTATEMENT OF THE CASE AND OVERALL REASON FOR INSTANT PETITION**

**6.** A Writ of Mandamus is sought to order the succeeding Court of the recently deceased Honorable Harold M. Fong, judge in the USDC for the District of Hawaii, in Civil No. 94-00179-HMF, to order the Clerk of the USDC to enter default on Defendants Hawaii Federal Grand Juries and the San Francisco Federal Grand Jury In Cr. 93-0592VRW. The succeeding Court is, appropriately, that of the Honorable Alan C. Kay, USDC Chief Judge for the District of Hawaii. Judge Kay is responsible for supervising and/or managing Defendants Four Hawaii Federal Grand Juries. It has been about nine (9) months since Lighter has demanded default upon said Defendants U.S. Grand Juries, for cause, pursuant to proper procedure and argument.

**a.** Lighter sued Defendants U.S. Grand Juries as a proper reporting thereto of felonies duly recorded, including such as made by Lighter in order to enforce conviction of the perpetrators by joining them in their misdeeds and attempts to coverup same. These parties include a few corrupt federal officers and agents in a normally honest government. Lighter's suit was also made in order to insure Lighter that the ongoing "set up" against him by the Plaintiffs and cohorts, in the USDC case herein, is terminated.

**b.** If this Court deems it appropriate to deny this Petition for Writ of Mandamus, then Petitioner will be deemed given reprieve from the felony confessions. Nevertheless and importantly, Lighter will be thereby additionally granted license to then sue on his felony confession against one or more sitting U.S. Grand Juries--to be given the opportunity to indict Lighter--and TOGETHER WITH the oncoming Defendant Chief Judge of the District (and any agent judges and/or magistrates) **ONLY** in the capacity as supervisor and/or manager of the U.S. Grand Juries. There must be someone who IS competent in the U.S. Grand Jury process besides the Department of Justice, who certainly is not the U.S. Grand Jury. Lighter sued Defendants Grand Juries, in essence and/or expressly, for failure to indict Lighter for crimes he committed in order to have inalienable standing to address one or more U.S. Grand Juries for actual and/or attempted serious crimes against Lighter and the public. Lighter has done so in order to **(a)** bring the tortuous matters before a tribunal supplement and alternate to the USDC: the U.S. Grand Juries, and **(b)** either bring justice and due safety to Lighter or demonstrate that the U.S. Grand Juries are tampered with, partially due to valid and responsible logic formulated in instances the only method available when there is statutory secrecy, i.e. inductively.

**7.** One of the key issues is that Lighter properly filed an amended corporate tax return for Defendant HPW, Inc. (a formerly active juice and water wholesaler conducting about \$2 million in gross sales annually for about four years, whereupon Lighter became CEO for a few months after contracting to buy half the firm's stock as a bailee without clear notice of alleged conditions thereon)--based on the evidence supported by Lighter's affidavits, formal declarations and more--which alleged fraud and a difference from the original return of some \$1.5 million in (un)reported income; primarily for the first fiscal year of HPW, Inc., 10-1-89 through 9-30-90. Lighter was duly authorized to be the Secretary and CEO of HPW, Inc., as well as the custodian of records. Lighter was duly authorized to conduct an audit the firm and to file tax returns for HPW, Inc. The three year statute of limitations has passed on the tax return for the primary period concerned; thus removing the Court's jurisdiction to challenge Lighter's tax return except for fraud, which the Court has not done. The local Internal Revenue Service refused to cooperate in Lighter's strong demand to pay HPW, Inc. and other taxes, no doubt due to standing issues and facts discussed by Lighter in abovesaid 5-31-91 Federal Register. Lighter made a felony confession to Defendants U.S. Grand Juries, stating that if Lighter was wrong he was feloniously wrong, including pursuant to **18 U.S.C. § 3501(d)**. Lighter has also agreed that if Lighter is wrong on the tax returns he filed, that Lighter will thereafter nationally promote the thereby sanctioned tax fraud that Lighter exposed. Lighter was "set up" to be blamed for crimes actually committed by the tax fraud perpetrators, Plaintiffs and cohort Hideo Kobayashi (defaulted representative of four defendants herein), et al. Lighter's work is based, as custodian of records, on over 61 bankers boxes of records, with over seven bankers boxes being filed on public microfilm.

**8.** Plaintiffs have provided no substantive challenge, and have prevailed thus far only by the USDC deciding to ignore Lighter's many affidavits (the Court ordered sums due plaintiffs but not expressly due from the first fiscal year, and no express ruling was made on or against Lighter's tax return's or key first fiscal year accounting for HPW, Inc.), formal declarations (pursuant to **28 U.S.C. § 1746**) and tax returns, and a huge amount of high quality, empirical evidence; as well as a felony confession made directly to Judge Fong (at the 5-16-94 hearing before Judge Fong in the USDC see paragraph ["par."] no. 70 below). The Court ignored the high quality evidence demonstrating that the essential basis for Plaintiffs's claims was a perjurious affidavit of a party who claimed under oath to be under serious mental strain. The DOJ told Lighter in writing that his material was presented to a sitting U.S. Grand Jury in Hawaii (which appears to be mere "lip-service"), but Lighter has good cause to believe there was and is serious tampering with the U.S. Grand Juries in Hawaii. Lighter is and remains at serious risk of imminent indictment by one or more of Defendants U.S. Grand Juries, even up to years from this date. Lighter has a right and duty pursuant to the **Fifth Amendment of the U.S. Constitution** for the therein provided U.S. Grand Jury Presentment, in order to have access to and bring the *prima facie* felony information before the U.S. Grand Juries, as well as provided pursuant to **18 U.S.C. § 1504**, which states, "Nothing in this section shall be construed to prohibit the communication of a request to appear before the grand jury".

**9.** The Hawaii USDC's refusal to default Defendants U.S. Grand Juries is a form of injunction against Lighter to have and confirm access to the U.S. Grand Jury for matters that leave Lighter at risk of imminent indictment, a risk arising for reasons including the mere formal reporting of felonies Lighter was "set up" to be blamed for by Plaintiffs in the instant case. Another view is that injunction has been leveled against Lighter to have and confirm access to the U.S. Grand Jury until "after the coast is clear" and whistleblower Lighter alone can be indicted for crimes of those who "set up" Lighter to take the blame for their crimes. Lighter guaranteed the risk, of his indictment AND the necessity to scrutinize alleged felonies by others being exposed by Lighter, by providing a \$10,000 bond and more to one or more U.S. Grand Juries to cover their cost of scrutiny of the matters herein, including Lighter's felony confession; which confession provides Lighter with inalienable standing to communicate with the U.S. Grand Juries, including those that are Defendants herein.

**10.** No doubt there are no minute or other orders that can be produced that prove Defendants U.S. Grand Juries indeed even know they were sued, given any bond(s), or had petitions made to them.<sup>1</sup>

---

<sup>1</sup> On 9-23-94, a petition was filed by Cathy Pergola of the Grand Jury Awareness Council, "In The United States Grand Jury For The District of Hawaii" in Misc. Case No. 94-00115-DAE, entitled Petition To the Four Federal Grand Juries For The District of Hawaii To Accept Evidence of Extrajudicial Misconduct By Officers And Agents of The United States, Including Tampering With And of the Four Federal Grand Juries For The District of Hawaii, As Detailed In Amended Tax Returns, Or In The Alternative (1) Demand to Change Venue For Competent, Non-Tampered With Grand Jury Tribunal And/Or (2) Quash Related Grand Jury Subpoenas, Exhibits "A" Through "J". The long list of Petitioners required a style 67 pages. Lighter was not a Petitioner, but a witness and duly authorized tax representative for Petitioners. No action had been taken by any Court on this Petition until USDC Judge David A. Ezra, moved to avoid the entire issue with a "red herring" baseless threat of jail on a party for filing an *amicus curiae* petition. The party's cause ended up being dismissed without prejudice after Judge Ezra reversed his own original order dismissing same with prejudice. Later, a certified copy of the docket sheet shows the original petition, and a backdated order dismissing same, were expunged from their own docket sheet. In retaliation, Lighter was mysteriously named as original Defendant in an "In re" petition with no defendant, together with the *amicus* petitioner who entered the case some five months after the original petition was filed. Lighter's two related (filed long after the apparent backdating of said order) Declarations therein included details of how Lighter's involvement halted indictment of the principals of some 10,000 trusts led by the trustee of the famous, vastly wealthy Mellon Estate (apparently the Internal Revenue Service refunds are issued out of the Mellon Bank, whose Mellon Financial Services arm even accepts mail for the IRS in Los Angeles, California) even despite (a) the promise by the DOJ to imprison one or more of same by Thanksgiving 1994, and (b) some seventy five (75) U.S. Grand Jury subpoenas being issued by Operation Phoenix related thereto. The IRS Criminal Investigation Division ("IRS-CID") agents testified at trial in the case of the herein Defendant San Francisco, California Federal Grand Jury in Cr. 93-0592VRW, that (a) they received U.S. Presidential citations for bringing said case to trial in about Fall of 1994: as part of Operation Phoenix and (b) said case was a top Operation

**11.** It appears that Judge Fong may have held prejudice against Lighter pursuant to Complaint of Judicial Misconduct application sent to Lighter by the Circuit Court on 8-31-92 CR No. 65, Exhibit ["Ex."] "L"). This application was not sent at the request of Lighter, but rather at the request of Judge Fong. Lighter did not respond to the request for complaint to the Judicial Council of the Ninth Circuit. However, Lighter was then involved in the matter by other parties in their attempts to take felonies to the Hawaii U.S. Grand Juries while Judge Fong was Chief Judge, and thus responsible over same. Current Chief Judge Alan C. Kay was involved with the incident<sup>2</sup>. Related, the 9th Circuit Court denied Lighter's Petition for Writ of Mandamus, AP.EX. "A00002-44", by Order entered in the USDC for the District of Hawaii on 4-11-95, AP.EX. "A00001". Yet, Lighter comes in prayer for Writ of Mandamus to issue from this Honorable Court, and with the following conditions: **(a)** Lighter has clean hands to bring the instant Petition; **(b)** Lighter is innocent of laches to detriment of the Respondent herein; **(c)** granting of the Writ of Mandamus would not result in injustice, and in fact will result in at the minimum a proper reporting to the U.S. Grand Juries of vital felony matters; **(d)** the

---

Phoenix project, jointly run (and until this case, covertly) between the DOJ and IRS-CID (matters related to the herein, including Lighter's intense, defensive involvement therein apparently helped cause a hung jury). Said Cr. 93-0592VRW is apparently now the largest tax case in America, where the IRS-CID publicly announced it would audit over 10,000 people related thereto, as well as probably indict a number of other parties. Lighter's defensive intervention assisted in causing a five and one half month federal fugitive released on only oral recognizance, caused by the delay in reporting to the Court being correctly based on reporting to the U.S. Grand Jury regarding felony behavior related to the U.S. Grand Jury that issued the fugitive's indictment. On 2-16-95, Lighter was even allowed into the U.S. Grand Jury room as a "spectator", with consequences still being contemplated. Strangely, television new crews apparently and routinely know when indictments are being issued long before any USDC clerks.

2 The case involved some 10,000 acres of Hana, Maui island land, including its precious water rights. A Royal deed was granted with apparently no valid Grantor signatures, even though the rightful owners were Alii, or Hawaiian Royalty. At issue are related affidavits describing how important Royal Crown Jewels were laundered by U.S. Trustees through a company Lighter, et al. purchased subject to a Chapter 11; for more details see abovesaid 5-31-91 Federal Register. Former U.S. Senator "Spark" Matsunaga assisted the heirs, both Hawaiian High Priests who live on their own sacred temples (heiau). On public television for nearly a year, the elder Priest invoked a citizen's arrest on USDC Judge Ezra, alleging (a) Senator Matsunaga met with foul play (alleged by some sovereignists, apparently a chemically induced heart attack), and both Hawaii USDC Judges Fong and Kay (plus, per that Vietnam war hero--and very upset thereby--9th Circuit Court Chief Judge J. Clifford Wallace) were calling the High Priest at home asking to have him remove Judge Ezra's citizen's. This was rejected due to, (a) there being discovered two (2) different 9th Circuit Court signed and filed ORIGINAL key Orders for the same vital hearing--regarding potentially the disposition of even Statehood per the DOJ--during a climate of intense sovereignty issues, and (b) the High Priest's insistence on attempting to keep the matter before the U.S. Grand Juries requiring USDC level status. Eventually, in 1994, President William Clinton signed Resolution 19, which apologized for the U.S. invading and conquering the sovereign nation of the Kingdom of Hawaii. Related display ads appeared in the general circulation newspapers. At the largest Hawaii 1992 Fourth of July Parade, led by Senator Daniel Inouye, a number of parties paraded a banner describing U.S. Grand Juries being tampered with, and demanding the return of the Royal Hawaiian Crown Jewels (Lighter was told the banner carrying parties received much larger applause than Senator Inouye). Prison rallies were held, as were a number of network televised news conferences and interviews.

Of potential interest is how Plaintiff Noah Woo's cohort in the instant case, licensed architect Hideo Kobayashi, is being represented by the very attorney, Randolph Slaton, who represents the firm accused of laundering the Royal Crown Jewels. Lighter has alleged Mr. Slaton is merely using representation of Mr. Kobayashi, arrested by Bank of Hawaii (at a Honolulu Branch) for alleged theft, as a front for his richer jewelry client, especially based upon clear and serious conflicts per evidence including an affidavit of at least one attorney. Lighter was cited, on property Lighter independently purchased from Mr. Kobayashi, for significant building violations by the Honolulu Building Inspectors particularly upset because Mr. Kobayashi had been hiding from them for years while simultaneously being the architect for the scandal ridden Royal Mausoleum (missing "magic" Alii bones), the only Royal Patent Land in America. Lighter requested a hopefully neutral U.S. Grand Jury investigate due to who the parties, and what the issues, involved included.

act sought to be compelled is lawful; and in fact, same is the law of this Court codified in the FRCP; (e) the act sought to be compelled is not contrary to public policy or harmful to the public; as in fact, same is [1] the law of this Court codified in the FRCP, [2] the survival of the PRESENTMENT function of the U.S. Grand Jury guaranteed in the **Fifth Amendment of the U.S. Constitution** is at stake unless the Writ of Mandamus is granted, and [3] there has already been much public outcry over the consequences of the saga requiring the act sought, as noted in the footnotes and elsewhere in the instant Petition; (f) the grant of the Writ would not be nugatory or fruitless, as violation of the Court's Rules should be enforced; unless the Court wants to develop the logic of exception when, for example **Rule 55(a)** of the **FRCP**, none is provided for; and (g) denial of the Writ will only insure that Chief Judges and their agent judges ONLY in their role as supervisors and/or managers of the U.S. Grand Juries will be now sued for their role outside or quasi-outside their role in one of the Three Branches of Government. That is: the U.S. Grand Jury has an actual or quasi role outside the Three Branches of Government, or else it is not independent. Nevertheless, the prejudice extant herein against Lighter blocks proper reporting to the U.S. Grand Juries, yields injustice in the community plus resulting broad and specific damage, and needs the U.S. Supreme Court to cure the confusion.

#### **THE QUESTIONS BEFORE THE COURT ARE FOUR OPTIONS**

**12.** That is, to put it bluntly: **a.** If the only party in the U.S. Grand Jury room that is legally "competent" is the DOJ, there is thus no form of an adversarial system even between the DOJ, the U.S. Grand Jury and the Court. Therefore we have by default an obvious inquisitorial jurisprudence system, and the U.S. Grand Jury is definitely not independent under such circumstances. **b.** If the U.S. Grand Jury or its manager and/or supervisor judge can be sued, then a proper reporting can thus be made through the judge to the U.S. Grand Juries of felony matters. With said judge also acting at least as a referee that "advised" the witness or target who must come into the U.S. Grand Jury room without counsel, said judge has an ostensible quasi public defender role. **c.** If the U.S. Grand Jury can be sued, then the Hawaii USDC is in violation of **FRCP 9(a) and 55(a)**. **d.** If only the judge in the capacity as manager and/or supervisor of the U.S. Grand Jury can be sued, then this Petition for Writ of Mandamus will now result in license to make such proper reporting to one or more U.S. Grand Juries through the judge.

**13.** At any rate, under the last three circumstances, there are at least some adversarial remedies, even if only "after the fact" seeking of redress for prejudice: but the U.S. Grand Jury and/or the judge in his special role may be sued.. Under the first formal, there are no adversarial and thus accusatorial conditions, just an inquisitorial condition that begets what essentially amounts to political prisoners.

**14.** **Rule 9(a) FRCP** provides a crisp definition of who can sue and be sued. The legal existence of an organization association does not have to be averred. Either the U.S. Grand Juries are independent or else we have an inquisitorial system. The possible excuse that the U.S. Grand Jury hearing is only to determine probable cause, in no way lessens the need for an accusatorial system rather than fascism. Footnoted matters herein intensify due to just such fascism preventing Grand Jury access.

#### **FOUR DIFFERENT NINTH CIRCUIT RULES OPINIONS**

**15.** To reiterate, if this Court deems it appropriate to deny this Petition for Writ of Mandamus, then Petitioner will be deemed given reprieve from the felony confessions in the case herein, as well as provided same by the U.S. Supreme Court herein, except for a point. That is, Lighter will be additionally forced to then sue on his felony confession against one or more sitting U.S. Grand Juries to be given the opportunity to indict Lighter, and in order to insure Lighter that the "set up" against him is terminated. This suit will then also have to include as a Defendant the Chief Judge of the District (and any agent judges and/or magistrates) ONLY in the capacity as supervisor and/or manager of the U.S. Grand Juries. There must be someone who IS competent in the U.S. Grand Jury process besides the DOJ, who certainly is not the U.S. Grand Jury. Hundreds of thousands of prisoners, past prisoners, and pending prisoners demand to know. Groups separate from Lighter, the Law Guardians and Rights of Innocent Inmates to Grand Jury Defense ("**RIIGD**"), published a nationally circulated brochure, and are among the independent efforts that have contemporaneously sprung up related to this matter. There are four different District Court conclusions in three districts in the 9th Circuit Court regarding Defendants U.S. Grand Juries and all U.S. Grand Juries, and a differing, obtuse conclusion in a USDC from the Fifth Circuit: **(a)** suit on them is a proper reporting, AP.EXS."A00112-116"; **(b)** they are an adjunct of the DOJ, par. no. 22 herebelow; **(c)** they are independent of the DOJ and the District Court, AP.EXS. "A00047" and "A00053"; but **(d)** suit can be made on them but

no default can be taken thereon (CR No. 129), AP.EX. "A00127".

**16.** The Rules of the USDC are promulgated by the U.S. Supreme Court and have the effect of law. It is the law, therefore, that says that default must be taken against Defendants U.S. Grand Juries. Since the 9th Circuit Court refuses to address these vital yet divergent responses to these very important issues, the U.S. Supreme Court needs to address same. The prisons may well be wrongfully filling up with parties subject to clearly tampered with Grand Juries. The backlash seems to be increasing. The national media is full of quite emotional, often misrepresented views on all sides of the domestic "peace and safety" issues. A recent 1,100+ page filing of said RIIGD parties was made to the U.S. Grand Juries for the District of Columbia, another consequence of the lack of continuity in application of **FRCP Rules 9(a) and 55(a)**<sup>3</sup>. To

---

3 In a related case, a fifth judge (from the Fifth Circuit), USDC for the District of Northern Texas, Dallas Division, refused to acknowledge even understanding how a U.S. Grand Jury can be provided a proper reporting to via a formal Complaint, John Salter, et al., v. Iran Contra Special Grand Jury, et al., Case No. 3:93-CV-0440-X. However, this decision was made during the Waco, Texas Siege when it was widely believed in certain bureaucratic circles the Waco Siege would never have any real political fallout, and thus an overt coverup was supposed to be of little potential embarrassment. Yet Lighter brought therein (a) evidence of why a large militarized siege occurred August 1992 at Ruby Creek, Idaho where shot to death were a U.S. Marshal, a 13 year old boy (3 times in the back) and a Mother holding her 10 month old baby (Lighter's paperwork stopped the siege, and Lighter intervened in the ensuing criminal case pursuant to having pertinent documents filed at the Boundry County, Idaho Recorder's Office prior to and assisting in the peaceful surrender of Mr. Weaver), (b) a key part of the reason why the Waco, Texas Siege occurred, and (c) the missing top secret evidence sought by the U.S. House Judiciary Committee on the infamous INSLAW Investigation (where a number of people were murdered attempting to disclose that evidence, including a highly placed Washington, D.C. investigative reporter). The INSLAW evidence included Central Intelligence Agency ("CIA") lab reports for secret, sometimes delayed reaction poisons: apparently some of which cause chemically induced heart attacks. The hearings sought an Independent Counsel over related activities of then President George Bush. Upon receipt of the package of evidence, the same U.S. House Judiciary Committee immediately closed its Davidian Compound Hearings, turning the matter over to the U.S. Treasury Department to investigate itself (no real wrongdoing found).

Federal Bureau of Investigation's ("FBI") CID Chief Larry Potts, who allegedly oversaw both the Ruby Creek and Waco Sieges (also, Mr. Potts has been and is the the Oklahoma City Bombing FBI investigation supervisor), was promoted instead of censured (see footnote no. 7); whereupon U.S. House Speaker Newt Gingrich criticized same, and said on a recent CNN newscast that same was being considered a real reason for the Republicans to not support the Oklahoma City bombing inspired, pending Anti-Terrorist Funding Bill promoted by U.S. President William Clinton. U.S. Representative Steve Stockman of Texas wrote in the June, 1995 issue of Guns & Ammo that the federal government staged the deadly raid on the Branch Davidians near Waco, Texas in order to whip up support for gun control. However, such political volatility should be no reason to deny Lighter's proper reporting the United States Grand Juries, and in fact may well be another reason for such proper reporting.

U.S. Presidential Candidate Arlen Specter, famous for promoting the "single bullet" theory in the slightly embarrassing U.S. Supreme Court Warren Commission, has stated that an important leg in his campaign is seeking a Congressional Hearing on the Ruby Creek and Waco Sieges. Senator Specter was given notoriety in the Oliver Stone movie JFK. Larry Howard, founder of the non-government JFK Center in Dallas approximately since the assassination of U.S. President John Kennedy, was the main consultant to Oliver Stone for that movie, and personally told Lighter that the movie was over 90% accurate. Mr. Howard was apparently murdered about one day before a party closely related to Lighter was to meet with him to receive a final batch of key evidence to supplement that found in the INSLAW evidence filed by Lighter in abovesaid case no. 3:93-CV-0440-X. The day before Mr. Howard died, his car was firebombed seemingly just having missed being in the car at the instant of detonation. Third-Party Defendant Lt. Col. (ret.) John Salter ("**Salter**") had his car firebombed before he met the person from Hawaii, apparently for investigative work related to background matters herein. A benefit of the coverup in said Dallas case was how is helped cause the immediate and full reversal of a--at the time just granted--Hawaii, First Circuit Court \$48 million slander suit judgment against Lighter and a few other parties, Civil No. 97-2387 (claims of main Plaintiff were

(continued...)

quote from a nationally circulated RIIGD brochure, where membership fees for inmates is free, which shows lucid understanding now in the populace:

"Amnesty America proudly presents a project of Constitution Coalition, a National Legal and Political Lobby Group, in order to provide members with a richer range of justice. *LAW GUARDIANS*: The LAW GUARDIANS are a para-law enforcement organization who, when the system fails, moves straight to the heart of crime, and into the courtrooms. The LAW GUARDIANS head directly towards the State and Federal Grand Juries. This includes taking any crime, even corrupt bureaucrats, law enforcement officials and corrupt business people to the Grand Jury for criminal activities and covering up corruption. This protects our community, our Constitution, Declaration of Independence, and provides integrity to the entire law enforcement system. Our aim is to restore health and vigor to the entire law enforcement system. Let us once again become inspired to love our country and be proud. Help us significantly lower the cost of crime control, and increase the efficiency of honest government and its enforcement. All LAW GUARDIANS will receive an official pin to be worn proudly. LAW GUARDIANS training courses are available, including neighborhood watch groups. If you choose to join us as a LAW GUARDIAN, you must register with your local police and F.B.I., members of patriot groups may register with the Constitutional Court. This is in order to minimize potential abuses against honest citizens taking back their nation. IF NOT YOU, THEN WHO?"

**17.** Lighter has been informed that one or more independent group(s) have already begun production of one or more quality video(s) regarding the matters herein, and for national distribution in order to focus on the U.S. Grand Jury issues illustrated herein. Lighter is informed that the intention is also to assist in release or full exoneration of such (often internationally known) alleged American political prisoners as **(a)** Leonard Peltier of Wounded Knee, **(b)** Ruby Creek Siege survivor Randy Weaver, **(c)** alleged former key Illuminati member Ronn Jackson, and **(d)** release from virtual house arrest of Rodney Stich, former Federal Aviation Authority investigator, whistleblower and author of the aviation industry rocking Unfriendly Skys, and reference book Defrauding America (he was held in criminal contempt of court for daring to file an appeal to

---

(...continued)

dismissed with prejudice, but Lighter's claims remained intact). Said slander suit was seriously tortuous, and the components of which are well described in abovesaid 5-31-91 Federal Register; wherein one attorney calculated over one hundred paid attorneys (few had full knowledge) were involved in the attempt to coverup crimes including related to Iran Contra as described in said Federal Register citation.

Numerous related affidavits, court testimony and complaints, including Regulated Industries Complaints Office Complaints, were filed against now USDC Judge Ezra for his alleged wrongful role in overzealous protection of Hawaii's largest bank, Bank of Hawaii--enduring allegations include (a) his being given his federal judgeship for being Senator Inouye's "hatchetman" in the scandal ridden Hawaii Mass Transit/Convention Center saga (related to Iran Contra, see said 5-31-91 Federal Register) effort originally to include federal land at Fort DeRussey and massive federal funds, and (b) Bank of Hawaii "packing" the federal court in Hawaii. Lighter's investigation only began after Mr. Ezra became a Federal Judge; and the matter is still open based on voluminous record, and based partly on recent FBI disclosures. Potentially related, current USDC Chief Judge Kay was a longtime director of Bank of Hawaii, and per testimony at the U.S. Senate Judiciary Committee and bank annual reports rather inherited said position. A Hawaii Grand Jury was quashed by local powers mid-impementment when fiduciary funds from some 100,000 Hawaii condos and association reserves were alleged to be secretly commingled and invested in overnight bonds in New York (Lighter spent 5 hours with the top investigators from the Hawaii Attorney General's office); matters yet to be resolved.

The related IRS matters cited in said Federal Register still face an open case in the Department of Treasury Office of Inspector General, Investigation Division. These kind of activities also did do much to stop the Industrial Bank of Japan from connecting its "new Waikiki" to the old Waikiki through a formerly proposed, federally funded Mass Transit. The herein sought Writ of Mandamus is required to prevent further significant felony coverup that has already cost too many lives, as well as halt the significant tax crimes named and well evidenced in the instant case.

the U.S. Supreme Court, and by the same judge<sup>4</sup> in Defendant San Francisco, California U.S. Grand Jury In Cr. 93-0592VRW, Vaughn Walker).

### **BACKGROUND**

**18.** On 12-16-93, Lighter filed his letter to the Honorable Bankruptcy Judges Lloyd King and Jon J. Chinen, plus Hawaii USDC Chief Judge Alan C. Kay, regarding providing a real property bond to the Hawaii and San Francisco U.S. Grand Juries, in order to cover the cost of scrutiny thereof, AP.EX. "A00045". This exhibit is filed in the case similar to this case, USDC Civil No. 93-914-ACK, Hideo Kobayashi, et al. v. Eric Aaron Lighter, et al., annexed to the instant case by reference and handled jointly with the instant case for purposes of settlement conferences; see Answer by Lighter for Square Root of 25, Ltd. filed 2-24-94 ("Civ. 93-914 Answer 2/24/94"), Ex. "A", p. 9.

**19.** On 1-6-94, Lighter filed with Judge Kay a Memorandum to be forwarded to the Hawaii U.S. Grand Juries, AP.EX. "A00046"; see p. 8, Ex. "A" of Civ. 93-914 Answer 2/24/94. On 1-7-94, Judge Kay responded to Lighter, AP.EX. "A00047", see p. 7 of Ex. "A" of said Civ. 93-914 Answer 2/24/94. On 1-11-94, Lighter responded back to Judge Kay, AP.EX. "A00048-50", see p.s 5 and 6 of Ex. "A" of said Civ. 93-914 Answer 2/24/94. Lighter quotes from the Handbook For Federal Grand Jurors, produced by the Administrative Office of the U.S. Court, Washington, D.C., demonstrating again that the Federal Grand Juries are indeed independent from either the Executive or Judicial Branches of government. On 2-7-94, Lighter wrote to the DOJ as Judge Kay requested, AP.EX. "A00051-52", see p. 4 of Ex. "A" of said Civ. 93-914 Answer 2/24/94. On 2-8-94, Judge Kay again responded to Lighter, AP.EX. "A00053", see p. 3 of Ex. "A" of said Civ. 93-914 Answer 2/24/94. On 2-17-94, Lighter filed with Judge Kay an update of letter dated 2-14-94 responding back to Judge Kay, AP.EX. "A00054-57", see p.s 1 and 2 of Ex. "A" of said Civ. 93-914 Answer 2/24/94. On 3-24-94, Assistant U.S. Attorney Leslie E. Osborne, Jr., DOJ, responded to Lighter regarding my correspondence with the Judge Kay, AP.EX. "A00058" (CR 78, Ex. "1").

**20.** Based upon information and belief, Mr. Osborne falsely represented or intimated honest presentation was made to the U.S. Grand Juries (see par. no. 29 herebelow). Thus, same were therefore sued as Defendants herein by Lighter on 6-18-94 (CR No. 78), AP.EX. "A00059-90"<sup>5</sup>.

---

4 ISBN 0-932438-03-2 and ISBN 0-932438-07-5 respectively. Before his "house arrest", Mr. Stitch made over 1,800 media appearances nationwide.

5 In recent Congressional testimony for the proposed, Oklahoma City Bombing inspired, Anti-Terrorism Funding Bill proposed by U.S. President William Clinton, FBI Director Louis J. Freeh, et al. stated that the main example of who will be targeted for DOJ's request for much expanded wiretapping powers was "tax protesters". Congressional rebuttal quipped how national T.V. and radio talkshow hosts G. Gordon Liddy and Rush Limbaugh should be included. See Ex. "2" of the Lighter's Third-Party Complaint (CR No. 78), AP.EX. "A00059-90", who is not a "tax protester", which demonstrates how Operation Phoenix--explained in said Third-Party Complaint--has been successful since 1973 in convincing Federal Judges into "giving prison sentences as deterrents" to those labeled "tax protester": whether the targets knew of such label or not. In response, former Independent U.S. Presidential Candidate Lt. Col. (ret.) James "Bo" Gritz, the most highly decorated U.S. Green Beret Vietnam Commander (Lighter was national media chairman at the last part of the already highly sabotaged Presidential campaign) and together with other demolition experts, decried on national media that the Oklahoma Bombing was too perfect with far too much orchestra symmetry to have been accomplished by any non-government operation (some were even concerned how mainly no leaders were hurt in this tragedy). Ted Gunderson, a 28 year Santa Monica FBI veteran claimed in the headline article of the 5-15-95, Washington, D.C. based, nationally circulated, Populous newspaper, Spotlight, that the main bomb was "Q" clearance barometric "A-neutronic" cold-cloud, PDTN bomb, and caused the University of Oklahoma seismograph of Dr. Ken Louzza, recording a 2nd blast approximately 10 seconds after the first blast. Lighter has good cause to bring such matters before U.S. Grand Juries for review and scrutiny, and to avoid coverup of felonies. CIA copies of Ted Gunderson's internal FBI reports and the original CIA formula drawings for the bomb are exhibits to abovesaid (footnote no. 3) Dallas USDC suit, 3:93-CV-0440-X; also filed at Hawaii Bureau of Conveyances, and showing Lighter significantly caused the Waco Siege, a response to Lighter bringing IRATEGATE to the U.S. Grand Juries in Dallas (attorney Ric Tanaka told Hawaii officials he assisted Lighter related to said filing). This Petition should help halt the tax and other  
(continued...)

**21.** On 8-4-94, Third-Party Defendant Gregory Galaski filed his Answer, Crossclaim and Third-Party Complaint (CR No. 112), AP.EXS. "A00091-122". The 4-14-94 Order therein filed in the USDC for the District of Nevada, CV-S-94-00009-PMP, concludes that Mr. Galaski made a proper reporting to the U.S. Grand Jury, including via his suit against the U.S. Grand Jury in San Francisco, California that indicted Mr. Galaski. That case received a hung jury overwhelmingly in favor of the defendants therein, and the judge praised the jury. That case exposed at trial the matters sued for in Lighter's Third-Party Complaint (CR No. 78), AP.EXS. "A00059-90", especially by confirming the therein described Operation Phoenix. After Mr. Galaski properly responded to an Order to Show Cause, the Court could not find that Mr. Galaski be prevented from suing the U.S. Grand Juries for being a purported quasi-judicial body. On the contrary, Mr. Galaski was ordered, like anyone would be, that if he or anyone "believes he has information which should be called to the attention of a U.S. Grand Jury sitting at San Francisco, California, or elsewhere (*emphasis added*), he should communicate that information to the U.S. Attorney for the Federal District in question and/or the foreperson of the Federal Grand Jury at that location (*emphasis added*)." Mr. Galaski has been re-indicted in that case, apparently by federal officers and agents with their careers seriously on the line more than justice. Lighter has offered another bond in order to cover the cost of scrutiny by the U.S. Grand Juries, and provide assurance that Lighter is not ambushed by the DOJ for his involvement. The bonds also demonstrate the U.S. Grand Juries have the capacity to sue and be sued, **Rule 9(a) FRCP**. Again, even if the U.S. Grand Juries are a quasi-judicial body, "quasi" means "superficially resembling but intrinsically different," Galloway v. Truewsdehl, 422 P2d 237, 248 (Nev. 1983). In defense of allegations by the DOJ against Lighter in that case, Lighter filed an *amicus curiae* brief in that case, as yet unanswered.

**22.** On or about 5-1-92, Col. Salter filed in the USDC for the District of Montana a suit against the U.S. Grand Juries in the District of Columbia and Hawaii, and others, CV92-48-M-CCL, John Stuart Salter v. Nine Federal Grand Juries, et al. Salter made proper service upon the Defendants U.S. Grand Juries using the credible Capitol Process Services. The DOJ argued that the U.S. Grand Juries are "an adjunct of the Executive Branch, and not the Judicial Branch of government", and certainly not independent of either branch. The USDC for the District of Montana ordered that the U.S. Grand Jury was indeed an "adjunct" of the Executive Branch, granting the DOJ's absurd position. In the DOJ's 1-13-93 Opposition To Motion To Alter Or Amend Judgment And/Or For Default Judgment, which the USDC for the District of Montana GRANTED, the DOJ writes:

"In support of his motion, the plaintiff makes a number of arguments: (1) he has a solemn duty to report 'grievous and treasonous abuses and usurpations' of constitutional rights; otherwise he has committed a misprision of a felony or treason; (2) the people to whom he has reported these abuses should be held accountable; (3) there was no order dismissing his allegations against the Grand Juries, whom he also names as defendants; (4) these entities are not protected from suit by the cloak of sovereign immunity; (5) a default judgment should be entered against the Grand Juries; and finally, (6) he has standing to bring suit.

In support of his motion, he has failed to cite any pending case law or statute which requires alteration or amendment of the judgment. The members of the judiciary and the bankruptcy trustee are still immune from suit under the doctrines of sovereign immunity and judicial immunity. Furthermore, he still lacks standing to bring suit. As to the Grand Juries, he asserts<sup>6</sup> he 'served' the juries with a copy of the summons complaint by mailing a copy to a Clerk of Court or Clerk of the Grand Jury. Contrary to his argument, service of process was not accomplished. A Clerk of Court is not the 'agent' for a Grand Jury. **A Grand Jury panel is an adjunct of the Executive Branch, not the Judiciary Branch of government** [*emphasis added*]. A court merely exercises supervisory control over grand jury proceedings. Until such time as there is proper service of process, no party need take any action. However, assuming for the purposes of argument that he was to properly effect service it would be to no avail. Not only would this **Court lack in personam jurisdiction over individuals sitting on Grand Juries** (*emphasis added*) in Hawaii and the District of Columbia, the

---

(...continued)  
crimes documented herein.

6 Actually, as stated above, personal service was made on these parties, and affidavit regarding same filed in that case.

plaintiff lacks standing to sue. O'Shea v. Littleton, 414 U.S. 488, 493-494 (1974). His Motion to Alter, or Amend, or for Default should be denied."

**23.** On 8-23-94, Lighter filed the, **(a)** Affidavit of Eric Aaron Lighter, Re: Proof of Service Upon Four Hawaii Grand Juries, Exhibits "1" And "2", Certificate of Service; and **(b)** Affidavit of Eric Aaron Lighter, Re: Proof of Service Upon San Francisco Federal Grand Jury In Cr. 93-0592VRW, Exhibit "1", Certificate of Service (CR Nos. 125 & 126).

**24.** On 8-24-94, Lighter filed the Request For Entry of Default Against Defendants Four Hawaii Federal Grand Juries And San Francisco Federal Grand Jury In Cr.93-0592-VRW, Affidavit of Eric Aaron Lighter, Entry of Default Against Four Hawaii Federal Grand Juries And San Francisco Federal Grand Jury In Cr.93-0592VRW, Certificate of Service (CR No.128), AP.EXS."A00123-126". Seen on inspection is this pleading's three filestamps, all on 8-24-94: "Received", "Lodged", and "Filed".

**25.** On 8-24-94, the USDC for the District of Hawaii entered an order herein (CR No. 129), AP.EX. "A00127", which states:

"COURT ACTION: EO: On request for entry of Default by Eric Lighter, against Defendants Four Hawaii Federal Grand Juries and San Francisco Federal Grand Jury, Judge Harold M. Fong advised Mr. Chinn not to enter Default. Mr. Lighter was personally informed of this by Mr. Chinn."

**26.** On 8-26-94, Lighter filed the Second Affidavit of Eric Aaron Lighter In Support of Request For Entry On Default Against Four Hawaii Federal Grand Juries And San Francisco Federal Grand Jury In Cr. 93-0592VRW, Ex. "A" And "B", Certificate of Service (CR No. 133), AP.EXS. "A00128-131", filed as a second request for default on the U.S. Grand Juries.

**27.** On 9-15-94, the USDC for the District of Hawaii entered an order herein entitled Order Denying Motion For Order Directing Entry of Default Judgement (CR No. 138), AP.EXS. "A00132-133".

**28.** On 10-11-94, Defendant Gregory Galaski filed his Amended Ex Parte Motion of Gregory J. Galaski for Reconsideration of Request For Entry of Default Judgment, **Rule 55(b) FRCP** (CR No. 142), AP.EXS. "A00134-136", amending his Ex Parte Motion filed 10-5-94 (CR No. 141). On 10-12-94, Judge Fong entered the Order Denying Motion of Gregory J. Galaski For Reconsideration of Request For Entry of Default Judgement (CR No. 143), AP.EXS. "A00137-140". The claimed basis for the Court denying Mr. Galaski's request was that the damages accruing against Mr. Galaski were substantial but not yet quantifiable.

**29.** On 11-18-94, and in order to take the matters to the U.S. Grand Juries in one or more other states, Lighter dismissed without prejudice the Third-Party Complaint against certain Third-Party Defendants, all of which are officers and agents of the U.S. Executive Branch (CR No. 168), AP.EXS. "A00141-183". In this pleading, Lighter's last exhibit of said pleading includes his entire FBI Freedom of Information Privacy Act ("**FOIPA**") disclosure from (some three years late, see footnote no. 7) the FBI (CR No. 168, see also CR No. 60, Ex. "1"), demonstrating that former Third-Party Defendant Osborne, was a principal in a massive embezzlement and tax fraud upon Lighter, et al., and covered up same.<sup>7</sup> This pleading also brought out fine points regarding Lighter's efforts to obtain the local IRS's cooperation in allowing Lighter to pay taxes due,

---

7 The FBI-FOIPA clearly shows Mr. Osborne committed the tax and other fraud coverup and related crimes with two associates, Curtis Ching of the Office of U.S. Trustees Office and Eugene F. Glenn (CR 60, Ex. "1"), especially related to laundering the Royal Crown Jewels (see footnote no. 2). The FBI ceased wanting to "cover" for these parties after Judge Kay was compromised by "intercepting" the U.S. Mail of the U.S. Grand Jury with no forwarding thereto; a matter even Mr. Osborne's 3-24-94 letter to Lighter could not cure, see par. no. 19 above and AP.EXS. "A00045" and A00058". Mr. Glenn is now the Special Agent in Charge of the Salt Lake City, Utah FBI Office, but was stationed in the Honolulu FBI Office. Mr. Glenn later ran the above footnoted siege operations at Ruby Creek for Mr. Larry Potts. When Mr. Potts was promoted (footnote no. 3), Mr. Glenn was censured with a 15 day suspension without pay. Mr. Glenn then made a formal contest wherein he alleged that the FBI committed a coverup designed to shield FBI Director Louis J. Freeh's deputy, Larry Potts. Mr. Potts is still the overall supervisor of the investigation of the Oklahoma City Federal Building Bombing, just as he was the overall supervisor of said Ruby Creek Siege and the Waco, Texas Siege. This is another way Lighter was intimately involved in matters deserving U.S. Grand Jury investigation pursuant to the Presentment function they hold, as provided for in the **Fifth Amendment of the U.S. Constitution**.

and related issues.

**30.** On 12-5-94, the USDC heard oral arguments related to Lighter's dismissed without prejudice of those Third-Party Defendants so dismissed in said AP.EXS. "A00141-183". Said Third-Party Defendants were represented in said hearing by Michael Chun, Assistant U.S. Attorney, and Chief of the Civil Division in the Honolulu Office of the U.S. Attorney. At said hearing, Mr. Chun stated that his office did not think it represent any U.S. Grand Juries unless the USDC so ordered. The Court responded that it also did not think that his office represented any U.S. Grand Juries, although the Court could so order same *sua sponte*. The entire transcript of this hearing is located at AP.EXS. "A00185-198". This transcript demonstrates that the U.S. Grand Jury is not represented by the DOJ. That is, in the Motion to Dismiss, etc. filed 10-14-94 herein by the DOJ (CR No. 148), the government sought dismissal of the Third-Party Complaint against the Third-Party Defendants U.S. Grand Juries. Later, at the 12-5-94 hearing the DOJ retracted its position, changing its mind to state that it in fact did not represent the Defendants U.S. Grand Juries.

**31.** However, the court instead ordered the dismissal without prejudice Lighter's Third-Party Complaint as to only the Third-Party Federal Defendants Lighter requested pursuant to order filed 12-20-94 herein (CR No. 189), AP.EX. "A00184". This order also states that the government made "no responsive pleading".

#### **PETITIONER'S TAX RETURN KEY GRAND JURY EVIDENCE**

**32.** This Petition is annexed in full, including exhibits hereto, to the personal U.S. Tax Return of Lighter for all the years not subject to the three year statute of limitations against civil assessments by the Internal Revenue Service, Badaracco, Ernest v. Com., (1982, CA3) 693 F2d 298, 464 U.S. 386, *aff'd* (1984, S Ct.). The tax return of HPW, Inc., Defendant herein, was most recently amended by Lighter on 10-26-93 for first fiscal year of HPW, Inc., 10-1-89 through 9-30-90. This HPW, Inc. amendment can not be further amended except for fraud, as the three year statute of limitations has passed, Kelly v. Com., (1989, CA9) 877 F2d 756.

**33.** Said first fiscal year HPW, Inc. tax return was one of the most important tax return brought before the herein Defendants U.S. Grand Juries. Except that it rule regarding fraud, this passing of the statute of limitation caused the USDC in the District of Hawaii to lose jurisdiction to rule on the veracity of the allegations of Lighter regarding the first year of HPW, Inc.'s operation, the critical source year of the tax fraud alleged by Lighter. That is, Lighter alleged the tax fraud scam of HPW, Inc. was sourced mainly in the first year of operation, a story codified in the HPW, Inc. tax return filed by Lighter and amending the tax return of the tax fraud perpetrators. As a matter of law Lighter is presumed correct in the allegations made in the now unchallengeable HPW, Inc. tax return and his personal tax return, except if there is fraud. Lighter alleged fraud in both unchallengeable tax returns, which allegations of fraud can not be challenged except for fraud. Thus, as a matter of law, Lighter pleaded a meritorious argument.

**34.** The HPW, Inc. tax returns filed by Lighter on 10-26-93, were annexed in full, including exhibits, to the personal U.S. Tax Return of Lighter for all the years not subject to the three year statute of limitations against civil assessments by the Internal Revenue Service. Portions of the HPW, Inc. tax returns filed by Lighter on 10-26-93 were on multiple occasions annexed filings by parties related only by their common concern over the tampering of the U.S. Grand Juries, together with supporting documentation--which are all part of Lighter's personal tax return as noted--in the Hawaii Bureau of Conveyances at the following locations (and elsewhere). These records include over 475 filed folders of approximately 2 1/2 to 3 inches thick each, comprising over 165,000 pages of evidence on public microfilm<sup>8</sup>. These records also include the evidence supporting the matters herein, included the footnoted events. That is, in all of these documents can be found hundreds, perhaps thousands of memorandums, letters and other communications, very many being via certified mail or receipted hand delivery, to operational and oversight personnel and offices in both the Legislative and Executive Branches of the U.S. Government. Seen also in light of the frustration sourced by the Judiciary Branch thus far, clearly administrative remedies have been exhausted perhaps more than most efforts ever attempted.

#### **ARGUMENT**

**35.** Therefore, **Rule 55(a) FRCP** gives neither the Clerk of the Court or the Court zero option regarding entering default. Default **MUST** be entered. In Enron Oil Corp. v. Diakuhara, 27 Fed Rules Serv 3d (2CA,

---

<sup>8</sup> Five of the indexes are found at Doc. No. 91-046610 filed 4-12-91; Doc. No. 91-077267 filed 6-14-91; Doc. No. 92-043187 filed 3-24-92; Doc. No. 92-189546 filed 11-20-92; and Doc. No. 94-003954 filed 1-10-94; although another approximately 170 thick relevant folders have been filed since the last index.

1992), entry of default was deemed proper if there was "a willful default or a refusal to proffer an excuse for not responding" or "a meritorious defense", which was not the case therein but is the case herein. Third-Party Plaintiff Lighter has been prejudiced due to the delay in default. Lighter made a felony confession in this case stating in sum that, if the tax returns Lighter filed are false then they are criminally false and Lighter demands to be indicted thereby. Thus, the Grand Jury's response, once actually notified of the proper reporting via the Third-Party Complaint thereon, can surely result in the arrest of Lighter irrespective of the veracity of any party herein that opposes Lighter, including for reason of covering up of tax fraud committed. Lighter's allegation that his tax filing are truthful, verses those filed before him, must be view in light of the difference being over \$1.5 million dollars in (un)reported income.

**36.** Thus, one of the meritorious arguments are that, although perhaps neither Lighter nor the Plaintiffs and cohorts are legal, it is certainly true that both sides can not have the truthful tax returns. Someone should and likely will be indicted therefore anyway. Default must be taken against the U.S. Grand Juries to whom Lighter made felony confession to, in order to further assure that Lighter is not held up to Grand Jury scrutiny and indictment only at the whim of vindictive officers and agents of the U.S. government who ignore as they please valid, voluntary and highly supported by high quality empirical evidence felony confessions. Felony confessions are admissible pursuant to **18 U.S.C. § 3501(d)**. Yet, Lighter would be willing to have this court and the courts below determine that Lighter did in fact file false tax returns, thereupon approving for mass circulation the tax frauds of the tax returns Lighter opposed in this case.

**37.** In Bleitner v. Welborn, 28 Fed Rules Serv 3d 49 (7CA, 1992), a default judgement was not imposed on the executive branch of the government for being a few weeks late in a habeas corpus petition because no harm was done AND the time was relatively short with at least the appearance of excusable neglect. In the instant case, the U.S. Grand Juries should have been defaulted, especially since there was no excusable neglect. In fact, Lighter alleges that the U.S. Grand Juries have not answered because they were tampered with, including by not having been put on notice of the Third-Party Complaint against them; and even in the face the 3-24-94 letter from the DOJ to the contrary, AP.EX. "A00058". The default should have been entered about eight months ago.

**38.** The traditional doctrine that defaults are strongly disfavored is no longer the rule in the Seventh Circuit. In fact, in order to set aside an entry of default the defendant must show good cause, quick action to correct it, and a meritorious defense to the plaintiff's complaint, O'Brien v. Sage Group, Inc., 19 Fed Rules Serv 3d 1039 (ND Ill 1991). Failure to appear by a corporation after process was served did not cure a default judgment in the Ninth Circuit with a statement by the firm's President that he would refer the matter to his attorney, Direct Mail Specialists, Inc. v. Exlat Computerized Technologies, Inc., 841 F2d 685 (CA9, 1988). In Hudson v. State of N.C., 158 F.R.D. 78 (ED NC, 1994), a motion to dismiss prevented a default judgement, although prejudice to plaintiff was a factor in considering exercise of the court's discretion on whether to enter default. In the instant case, Lighter is prejudiced by failure to enter default; and no objection has been made, let alone a motion to dismiss. On the contrary, AP.EXS. "A00185-198" demonstrates that neither the court nor the DOJ believe they did or do now represent Defendants Grand Juries. In Beck v. Atlantic Contracting Co., Inc., 157 F.R.D. 61 (D Kan, 1994), the entry of default judgement was appropriate in light of evidence that defendant received proper service and failed to respond.

**39.** As noted above, in the Motion to Dismiss, etc. filed 10-14-94 herein by the DOJ (CR No. 148), the government sought dismissal of the Third-Party Complaint against Defendants U.S. Grand Juries. Later, at the 12-5-94 hearing--transcript of which is also made part of AP.EXS. "A00185-198"--the government retreated from its position, changing its mind to state that it in fact did not represent the Defendants U.S. Grand Juries. However, the government and the Court clearly recognized that Defendants U.S. Grand Juries were indeed properly served with the Third-Party Complaint. This service was perfected even if same was also tampered with by interception of Third-Party Complaint which resulted in the Defendants U.S. Grand Juries not actually receiving said Complaint; which inductively and deductively appears to be the actual truth.

#### **CAPACITY OF THE FEDERAL GRAND JURIES**

**40.** Capacity, in the legal sense, means the qualification or competency of persons, natural or artificial, for the performance of civil acts depending on their state and condition as defined or fixed by law, Hronek v. People, 24 N.W. 861, 865. The government and the Court, pursuant to the government's pleading and the Court's response, waived the defense of capacity by not expressly so stating same as the representative of

Defendants U.S. Grand Juries; which, on the contrary, neither the Court nor the government represent by their own statements, AP.EXS. "A00185-198", which is in direct contradiction to the position of the very same DOJ as well as the Judiciary in par. no. 22 above. In Pressman v. Estate of Steinvoth, 860 F Supp 171 (SD NY, 1994), the defense of lack of capacity of the party to sue or be sued is waived if not raised in a timely manner the outset of the lawsuit. The default against Defendants U.S. Grand Juries in the instant case should have been entered about eight months ago. Failure to set forth particulars supporting plaintiff did not have requisite standing to bring suit in effect waived the capacity defense by failing to be more explicit in defendant's answer. *Id.* In Chiropractic Alliance of New Jersey v. Parisi, 854 F Supp 299 (D NJ, 1994), the capacity defense challenge was defeated by plaintiff pleading claims with specificity and particularity.

**41.** On 6-18-94, Lighter's Third-Party Complaint against the Third-Party Defendants U.S. Grand Juries expressly describes capacity with particularity, AP.EXS. "A00059-90". Moreover, on 8-26-94, Lighter did put at explicit issue the capacity of Defendants U.S. Grand Juries, AP.EXS. "A00123-131". Thereafter, neither the DOJ nor the Court made explicit defense of Defendants U.S. Grand Juries. On 10-14-94, the government filed its Motion to Dismiss, etc. (CR. No. 148), wherein the government puts itself up as the representative of the Grand Juries even to the point of requesting the Court to dismiss the Third-Party Complaint against same. The government's argument for such dismissal against Defendants U.S. Grand Juries was weak and general. Thereafter, in the 12-5-94 hearing, the transcript being part of AP.EXS. "A00185-198", shows the government changing its mind and suddenly decided it no longer represented Defendants U.S. Grand Juries, confirmed by the Court, AP.EX. "A00184". Lighter has even complied with any policy to stipulate capacity in the complaint in civil rights cases, Nix v. Norman, 879 F2d 429 (CA8, 1989).

**42.** In Wagner Furniture Interiors, Inc. v. Kemner's Georgetown Manor, Inc., 929 F2d 343 (CA7, 1991), the court held the defendant had waived the defense of no capacity to sue because defendant did not raise the lack of capacity to sue "by specific negative averment" in an appropriate pleading or amendment. See also Howerton v. Designer Homes by Georges, Inc., 950 F2d 281 (CA5, 1992), where the USDC even entered judgement in every capacity of a corporate defendant after corporation was named a defendant "in every capacity". The government's 10-14-94 Motion to Dismiss, etc. (CR No. 148), it failed to make such specific negative averment, making only tepid and general demand for dismissal of the Third-Party Complaint against Defendants U.S. Grand Juries.

**43.** In Eisenburg v. District Attorney of the County of Kings, 847 F Supp 1029 (ED NY, 1994), entry of default judgement was technically improper because entry of default was not entered first, and delay in answering complaint was not willful. Perhaps Mr. Galaski should have done this also and would thereby have avoided denial by the Hawaii USDC, see AP.EXS. "A00091-122", "A00132-133". However, Lighter ONLY and PROPERLY requested entry of default and not default judgement. Defendants U.S. Grand Juries could not have committed a willful delay if they were tampered with, and no Complaint was given to them even though service was properly made upon both the Jury Administrator for the USDC and the DOJ. It should be noted, however, that Mr. Galaski likely does have valid arguments that no doubt should have caused the default and default judgement on the Grand Jury defending against Mr. Galaski's complaint. Even a sensible and efficient use of supervisory power by the Federal Court is invalid if it conflicts with constitutional or statutory provisions, **Rule 55(a), FRCP**, see par. no. 23 above, Bank of Nova Scotia v. U.S., 108 S.Ct. 2369 (CA9, 1988).

**44.** In fact, dismissal of an indictment for non-constitutional error is appropriate if it is established the violation substantially influenced Grand Jury's decision to indict, or there is grave doubt that the decision to indict was free from substantial influence of such violation, **52(a) FRCP**, *Id.* Dismissal of indictment may be proper even when no actual prejudice has been shown to have resulted from prosecutorial misconduct before the Grand Jury, as long as there is evidence that challenged authority was something other than an isolated incident unmotivated by sinister ends, or that the type of misconduct challenged has been "entrenched and flagrant" in the circuit, U.S. v. Serubo, 604 F2d 807 (CA3, 1979).

**45.** Further, once default is entered, the only option the Court has, pursuant to **Rule 55(c) FRCP**, to avoid entering judgment is in the instance of the party being either a minor or incompetent. The question of whether a party is a minor or not is simple. By definition, Grand Juries are composed of citizens expressly not minors. Should the Grand Jury be deemed incompetent, then the question arises how anyone in the same district could ever be validly indicted. AP.EXS. "A00128-131" contains Lighter's discussion regarding how the

Clerk of the Court must enter a default against Defendants U.S. Grand Juries, just as if a "rock or a myna bird were sued". If the Grand Juries are incompetent, perhaps there are rouge U.S. Grand Jury forepersons signing indictments.

**46.** The issue of bonding the Defendants U.S. Grand Juries is vital to consideration of the capacity of these defendants to sue and be sued. No defense of immunity has been offered. No defense of lack of capacity has been offered. The DOJ and Court agree, AP.EX. "A00184", that the DOJ could represent the U.S. Grand Juries, albeit even if only ordered to do so. Defendants U.S. Grand Juries have, as an entity and by components, the capacity **(a)** to be represented, **(b)** to hold property, **(c)** to operate separately from the Court and the DOJ, **(d)** are composed entirely of adults, and **(e)** are presumably of sound mind. The U.S. Grand Juries have rejected no bonds, and do have expenses for conducting their scrutiny of matters before them. These expenses are similar to operation of any administrative body composed solely of citizens not bureaucratically aligned with the agency associated therewith, in this case the Court.

**47.** Even if the U.S. Grand Juries are adjudicated a quasi-judicial body, there is no immunity from suit except same be affirmatively made, and certainly no immunity for actions outside of the scope of the law. Tampering with U.S. Grand Juries, and allowing tampering with U.S. Grand Juries is obviously and by law a felony. Intercepting the U.S. mail, valuable bond(s), valid lawsuit, and felony related information due the U.S. Grand Juries is certainly tampering with U.S. Grand Juries. Lighter has no defense against vindictive, tampering-based indictment(s) unless the U.S. Grand Juries can indeed conduct its presentment function without corruption and coverup of corruption by forces and entities that certainly are not the U.S. Grand Juries.

**48.** To continue, certainly the U.S. Grand Jurors can hold property. The U.S. Grand Jury as an entity has significant cost and expenses. The U.S. Grand Jury obtains its budget from the U.S. Treasury, but so also do ordinary trial juries in federal cases, and this does not make them part of the U.S. government *per se*. There is not only a separation of powers in the Branches of government, but a separation between the government and the people. The U.S. Grand Jurors are the people, not the government. The people, however vested with certain powers from the Court, are not the Court. Quasi bodies can sue and be sued.

**49.** Lighter has offered another bond in order to cover the cost of scrutiny by the U.S. Grand Juries, and provide assurance that Lighter is not ambushed by DOJ for his involvement. The bonds also demonstrate that U.S. Grand Juries have capacity to sue and be sued, **Rule 9 FRCP**.

#### **REAL PROBLEM: GRAND JURY NOTICE & MAIL TAMPERING**

**50.** The real problem is not that the U.S. Grand Juries can sue or be sued, they can. The real problem is that the U.S. Grand Juries, when sued or petitioned, have such suits or petitions intercepted so that the U.S. Grand Juries never even know they were sued, petitioned, or provided with a bond to cover the cost of scrutiny in the presentment function. The real problem is so severe that not even felony confessions can be provided to the U.S. Grand Juries without same being intercepted when such confessions even slightly implicate officers and agents of the U.S. government. Such coverup of corruption as in the instant case, is certainly tampering with U.S. Grand Juries. A Writ of Mandamus is proper, long recognized as part of American common law inherited from England, Clement v. Graham, (1905) 78 Vt 290, 63 A 146; and in fact statutory authorization for same being found in virtually every State in America, Commonwealth v. Knowlton, (1807) 2 Mass 530.

#### **GRAND JURY IS LEGALLY INDEPENDENT**

**51.** The issue of whether the Grand Jury is independent from the DOJ and the Court is well settled in this Circuit Court. Annexed hereto by reference is abovesaid Handbook for Federal Grand Jurors. AP.EXS. "A00048-50" makes important quotes from this book. On p. 7 thereof,

"(1) Matters may be brought to the attention [of the Grand Jury] in three ways: (1) by the United States Attorney or his assistants; (2) by the court that impaneled it [*emphasis added*]; and (3) from the personal knowledge of a member of the grand jury or from matters properly brought to a member's personal attention. In all these cases, the grand jury must hear evidence before taking action."

On p. 23 thereof, it states,

"Just as it is hoped and expected that you will serve as the balance wheel between the power of the

government and the interests of personal liberty [emphasis added], it is also expected that you will achieve an appropriate balance in the exercise of your powers."

On p. 24 thereof, it states,

"Just as the English grand jury was independent of the king, the federal grand jury under the United States Constitution is independent of the United States Attorney [emphasis added], the prosecutorial agent of the executive branch of the federal government. The grand jury is not an arm of the Federal Bureau of Investigation; it is not an arm of the Internal Revenue Service; just as it is not an arm of the United States Attorney's office [underline added]."

On p. 34, it states,

"Within your prescribed sphere, you occupy an important and independent office in the administration of justice. The government attorneys cannot dominate or command your actions. The court may guide, but cannot dominate or command your actions [emphasis added]."

**52.** These are important matters. AP.EXS. "A00045-90" clearly show that Judge Kay was incorrect in intercepting the Grand Juries's mail, **39 U.S.C. § 3001**. The Chief Judge supervises and impanels the Grand Juries. The Chief Judge is responsible to forward communications to the Grand Juries, and same is in no way judicial intervention. Judge Kay cites two cases. In U.S. v. Chanen, 549 F 2d 1306 (9th Cir. 1977), this case elucidates how,

"under constitutional scheme, grand jury is not and should not be captive to any of the three branches of government."

However, the court,

"must compel grand jury witness to testify if, after appearing, such witness refuses to do so."

Regarding U.S. v. Chanen, in Federal Grand Jury Practice, March 1983, William French Smith, Attorney General, DOJ, p. 72, it states,

"Chanen offers an excellent discussion of the supportive and complementary roles [supposed to be] played by court and prosecutor with respect to the work of the grand jury. The discussion supports the description of the **grand jury being 'supervised' by the court** rather than as an appendage of it [emphasis added]. The district court may properly deny a grand jury use of subpoenas to engage in 'the indiscriminate summoning of witnesses with no objective in mind and in the spirit of meddling inquiry' and may curb a grand jury when it clearly exceeds its historic authority. Hale v. Henkel, 201 U.S. 43, 63 (1906)."

The Grand Jury is impaneled by the Court pursuant to **Rule 6(a)**, Federal Rules of Criminal Procedure.

**53.** The other case cited by Judge Kay is In Re Antitrust Grand Jury Investigations, 714 F.2d 347, 350 (4th Cir. 1983). This case focuses on concerns regarding quashing a Grand Jury subpoena or otherwise determining whether the Grand Jury has misused its subpoena process. This in no way relates to the matter of the Grand Jury supervisor merely passing on the mail to the Grand Jury. However, Lighter has every right to be concerned with the question, did the DOJ really deliver Lighter's material to a sitting U.S. Grand Jury as it promised in AP.EX. "A00058". The DOJ, by its own admission was working with Judge Kay on this matter. Herein, the DOJ has changed its mind on whether it represents the Grand Jury, just at the Court changed its mind on whether it can intercept rather than pass on the Grand Jury's federally protected mail.

**54.** Further, in regards to the court's supervisory or administrative function in said Federal Grand Jury Practice, p. 6, it states,

"Rule 6(c) provides: 'The court shall appoint one of the jurors to be foreman and another to be deputy foreman.' USAM 9-11.340."

The court's supervision can be broad. On p. 26 of said Federal Grand Jury Practice, it states,

"D. Disclosure Under Court Order: Rule 6(e)(3)(C)(i), 1. General Rule, Disclosure of otherwise non-disclosable matter is permitted under rule 6(e)(3)(C)(i) when the court so directs 'preliminarily to or

in connection with a judicial proceeding.' Judge Learned Hand, in the seminal case, defined "judicial proceeding" as follows: [T]he term 'judicial proceeding' includes any proceeding determinable by a court, having for its object the compliance of any person, subject to judicial control, with standards imposed upon his conduct in the public interest, even though such compliance is enforced without the procedure applicable to the punishment of crime. Doe v. Rosenberry, 255 F.2d 118, 120 (2d Cir. 1958) (*emphasis added*)."

On p. 71 of said Federal Grand Jury Practice, it states that,

"3. Power limited by district court, The grand jury is under the supervision of the courts. The grand jury must rely on the district court's subpoena and contempt powers, because it lacks its own enforcement power. Brown v. United States, 359 U.S. 41 (1959)."

and

"Although a matter should not be presented to a grand jury in a district unless it has venue, the grand jury may investigate matters even though they occurred partly outside the district. A witness cannot challenge the right of the grand jury to inquire into events that happened in another district. Blair v. United States, 250 U.S. 273, 282-3 (1919); In re May 1972 San Antonio Grand Jury, 366 F. Supp. (W.D. Tex., 1973). The grand jury has jurisdiction to investigate a conspiracy if it appears that it was formed in the district or any overt act occurred within the district. **18 U.S.C. Section 3237** [*emphasis added*]; Hyde v. Shine, 199 U.S. 62 (1905); Downing v. United States, 348 F.2d 594 (5th Cir.) *cert. denied* 382 U.S. 901 (1965)."

Thus, venue can even overlap or be changed as appropriate. **Riddle**: who do you turn a tampered with federal grand jury over to? Answer: another federal grand jury in another venue.

**55.** The Grand Jury relies upon the court for delivery of its mail. The Grand Jury is under at least quasi supervision of the Chief Judge, here Judge Kay. Asking Judge Kay to forward the mail to the Grand Jury was proper and timely, especially when a voluntary felony confession supported by redundant, *prima facie* and high quality evidence was included. To thwart such a confession could be construed as tantamount to Misprision of Felony, **18 U.S.C. § 4**, or accessory after the fact, **18 U.S.C. § 3**. The U.S. Grand Jury has jurisdiction to investigate the matters herein, and in fact was presented same by DOJ, see AP.EX. "A00058".

**56.** The DOJ may not circumvent the safeguard of the U.S. Grand Jury by overreaching conduct which deprives the U.S. Grand Jury of autonomous and unbiased judgement, U.S. v. Al Mudarris, 695 F2d 1182 (CA9, 1983). The prosecutor may not, by making prejudicial remarks to sway the U.S. Grand Jury, deny an accused his right to have his indictment be tested by the U.S. Grand Jury's independent judgement, *Id.* It is constitutionally required that an indictment be returned from a legally constituted and unbiased U.S. Grand Jury, U.S. v. Samango, 607 F2d 877 (CA9, 1977). There is no serious way the U.S. Grand Jury can actually be unbiased when it is not allowed to receive suits against it, petitions to it, felony confessions made to it, bonds to it in order to cover its cost of scrutiny, and other felony information sent to it through U.S. mail. Similarly for example, a prosecutor may not make statements or argue in a manner calculated to inflame the U.S. Grand Jury unfairly against the accused, U.S. v. Hogan, 712 F2d 757 (CA2, 1983). Dismissal of an indictment is justified to achieve either of two objectives; to eliminate prejudice to a defendant or, pursuant to court's supervisory power, to prevent prosecutorial impairment of U.S. Grand Jury's independent role, *Id.*, U.S. v. Kilpatrick, 821 F2d 1456 (CA10, 1987).

**57.** Access to the U.S. Grand Jury is constitutionally protected, and it may investigate every available clue to find if a crime has been committed. Such investigation may be triggered by hearsay including tips, rumors, evidence proffered by the prosecutor, or by personal knowledge [or observation] of the Federal Grand Jurors themselves, Schwartz v. U.S. Dept. of Justice, 494 F Supp 1268 (ED Penn, 1980). The Court cannot interfere with the prerogatives of the U.S. Grand Jury unless there is a clear basis in fact and law for doing so, *Id.*, which in the instant case there is no such basis or any such basis claimed. The same applies to the DOJ. **58.** The two provisos often used to measure prosecutorial use of hearsay, for example, are (a) that the prosecutor does not deceive grand jurors as to 'the shoddy merchandise they are getting so they can seek something better if they wish,' or (b) that the case does not involve 'a high probability that with eyewitness rather than hearsay testimony the grand jury would not have indicted,' U.S. v. Estepa, 471 F2d 1132 (SD NY, 1972). There has clearly been significant, material and prejudicial interference with Defendant U.S. Grand Juries in the instant case. Overstatements by witnesses can also cause dismissal of indictment,

*Id.*

### **CONTEMPT PROCEEDINGS CAN BE INSTITUTED**

**59.** Lighter's Third-Party Complaint was issued with a Summons, which is a Court Order. The parties who interfered with delivery to Defendants U.S. Grand Juries by intercepting the U.S. mail, valuable bond(s), valid lawsuit, and felony related information due the U.S. Grand Juries, also obstructed said Summons. Contempt of Court proceedings could be instituted therefore. More detail is seen in Federal Grand Jury Practice, March 1983, William French Smith, Attorney General, DOJ, p. 158, it states under Non-routine ex parte motions, "Most civil contempt proceedings fall under **28 U.S.C. § 1826**, controlled by statute with developing procedural niceties. See In re Sadin, 509 F.2d 1252 (2d Cir. 1975); United States v. Hawkins, 501 F.2d 1029 (9th Cir.), cert. denied, 419 U.S. 1079 (1974), which held that due process rights created under Fed. R. Cram. P. 42(b) must be observed under **28 U.S.C. § 1826**. (1) Counsel, (2) Some sort of notice of proceeding and consequence, (3) Chance to demonstrate 'just cause' for refusal to comply: (a) 5th Amendment, (b) Attorney-Client, (c) Other privileges, (d) Privacy, (e) Illegal wiretaps, (f) Flaw in service, (g) Flaw in grand jury, (h) Prosecutorial abuse, misconduct, (i) Oppressive. Note: Substantive law is same as if witness had moved to quash on all of these items."

### **FRAUDULENT RETURN WITH CONFESSION SHOULD GIVE TRUE STANDING TO PRESENT FELONY TO GRAND JURY**

**60.** In the, Handbook for Special Agents, Criminal Investigation Intelligence Division, Internal Revenue Service, annexed hereto by reference (filed in Lighter's original Answer) section 418.11 and 418.12, "A person who willfully makes and subscribes, under penalty of perjury, any return, statement, or other document which he/she does not believe to be true and correct, as to every material matter, commits a criminal offense,"

See **26 U.S.C. § 7206**, Fraud and False Statements; note also the related section **18 U.S.C. § 7207**. In the same IRS-CID Handbook section,

"(1) The elements of a criminal violation under this Code section are: (a) Making and subscribing a return, statement or other document under penalty of perjury; (b) Knowledge that it is not true and correct as to every material matter; (3) Willfulness."

Lighter's felony confession conclusively establishes Lighter's intention.

**61.** In Federal Grand Jury Practice, published by DOJ, March 1983, p.5, "The grand jury has been afforded the broadest latitude in conducting its investigations...supervised by the district court...In a joint tax and narcotics grand jury investigation approval [*for DOJ participation*] for the tax investigation must be obtained through the Tax Division...Moreover, approval [*for DOJ participation*] for RICO charges, **18 U.S.C. Sections 1961-1968**, must be obtained from the Attorney General or his agent (Organized Crime and Racketeering Section, Criminal Division)."

The instant case is regarding RICO allegations.

**62.** Lighter's Affidavits and Declarations, ignored by the Court below, including AP.EXS. "A00177-236", show this to be a tax case involving the equivalent of seventy (70) forty foot (40') seagoing containers of heavy inventory missing in about four (4) years, which equals about half (1/2) a mile of containers. There are no invoices signed for almost \$8 million in transactions between Plaintiffs and cohorts. There are: **(a)** forged checks, **(b)** a contrived warehouse eviction, **(c)** attempted "clean up" of crimes and removal of records via bankruptcy, **(d)** overwhelming alter-ego operations between alleged vendor and vendee evidenced by a huge cloud of interchangeable names, addresses, phone numbers, employees, business cards, invoices, statements, tax return documents, checks, etc., **(e)** missing corporate stock supposed to be in a bank escrow, **(f)** Twilight Zone computer run billings, **(g)** fraudulent police report and/or bribery/ coercion/blackmail/other to withdraw true police report charges, **(h)** double books to induce liquor sales\*, etc., **(i)** checks to HPW, inc. missing due to being sent to Plaintiffs post office box despite protest, Fedway v. U.S., 976 F 2d 1416 (D.C. Cir. 1992).

**63.** In other words, there is no possibility that Plaintiffs have no idea what happened to the \$1.5 million

plus that is missing from Defendant HPW, Inc., the same \$1.5 million that Lighter claims is missing at risk of a long prison term. That is, Plaintiffs knew or should have known that their tax returns, based upon their financial relationship with HPW, Inc., were fraudulent when they filed them. Lighter and Plaintiffs each know approximately the same financial facts, but with two very different allegations. IT IS VIRTUALLY IMPOSSIBLE THAT AT LEAST ONE PARTY IS NOT LYING. The U.S. Grand Jury HAS probable cause here.

**64.** Lighter and media across this country are eagerly looking forward to this Court formally announcing that two tax returns for the same business entity, including Schedule C for individuals filing form 1040s, and the same business period, can now coexist without conflict; true even though they are over \$1.5 million different in (un)reported income. The tax course has been long in preparation, but a Parade Across America is to be truly launched that will support the official position of the United States already detailed in said 5-31-91 Federal Register. The DOJ and the White House have shown continued cause to coverup the matters therein. The Office of Professional Responsibility ("**OPR**") flew from Washington, D.C. to Hawaii to meet with Lighter 6-20-91, when Lighter's work aided in the conviction of Admiral Poindexter, and more. Lighter's work was based on evaluating the misdeeds by U.S. officers and agents in context of their intentionally missing the official standard, Generally Accepted Government Accounting Standards ("**GAGAS**"). See discussion on GAGAS in AP.EXS. "A00171-172" [OPR letter, AP.EX."A00118", CR No. 112].

**65.** This Petition, together with all exhibits annexed hereto by reference and annexed by attachment are hereby annexed to the tax return of Lighter and is supplementally the property of the U.S. Grand Jury for the District of Columbia. The **26 U.S.C. § 6103(b)(1)** discusses how a "return" is any return, estimated tax declaration, information return or refund claim which is filed by, on behalf of, or with respect to any party. Further, a return also includes any amendment or supplement to the return, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return. **26 U.S.C. § 6103(b)(2)(A) and (B)** discusses how a tax return, including for a corporation, needs "return information", which is,

"in part, a taxpayer's identity, the nature, source or amount of its income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments and tax payments, whether the return is, was or will be examined or investigated, or any other data with respect to a return or determination of the existence of the liability of any party for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, plus any part of any written determination or any background file document relating to such written determination, not open to public inspection", see Church of Scientology v. IRS, 569 F Supp 1165 9th Cir.1986), cert. granted (1987, S Ct) 479 US 1063.

**66.** It may well be true that,  
"It is not within the power granted to federal courts to right every wrong that may be inflicted on individuals in our society, and a judge is not knight-errant, roaming at will in pursuit of his own ideal of beauty and goodness." McFarlin v. Newport Special School Dist., 784 F. Supp. 589 (E.D.Ark. 1992).

However, it is the Defendants that were victimized by Plaintiffs. Mere "huff and puff", "smoke and mirrors", "red herrings" and tantrums by Plaintiffs do not bring back the embezzled money or cure the problem of two very different tax returns that will indict Lighter if Lighter is incorrect.<sup>9</sup>

---

<sup>9</sup> Lighter's activities include working with the reported cooperation of the U.S. House Oversight Committee related to the now three (3) firms with two sets of filed tax returns, but with each set have a difference between each pair of over \$1.5 million in (un) reported income, well documented in abovesaid 5-31-91 Federal Register, which together with such prestigious cooperation resulted in former IRS Commissioner Shirley Peterson resigning effective the day of U.S. President Clinton's inauguration--stunning due to that office being so long touted as not being a political one, but rather and merely the supervisor of the country's largest accounting office--as Ms. Peterson was previously DOJ Assistant Attorney General, Tax Division; and thus responsible for the national embarrassment codified in said cited Federal Register (also specifically naming former U.S. Attorney Daniel Bent). Said Federal Register citation, together with

(continued...)

---

(...continued)

the abovenoted approximately 165,000 pages of evidence filed on public microfilm, detail how these matters can be seen in conjunction with and directly related to how Lighter's intervention into the Iran Contra affairs assisted in the 5 count conviction of Admiral Poindexter (supervisor to current talk show phenomenon "Ollie" North). On the day of closing arguments, during Lighter's main intervention, there are 3 pages of transcript neither sealed nor available for public review: Lighter's documents were shredded in a case about shredded documents. The efforts of Lighter, et al. aided significantly in forcing out of the vault of Aubrey Robinson, III, USDC Chief Judge of the some 100 formerly secret cassette tapes between CIA headquarters in Virginia and the Central America CIA Bureau. With the proof finally revealed that the CIA was actually involved in Iran Contra, former Central America CIA Station Chief Alan Fiers plea bargained to effectuate the indictment of the third highest CIA officer, Clare George. The most important and oldest internal affairs group in the DOJ, the OPR, came to visit Lighter and an attorney who had been an Assistant U.S. Attorney in Austin Texas. OPR (who later "fired" FBI Chief William Sessions after Lighter and Col. Gritz stopped the Ruby Creek Siege by challenging the bungling of Mr. Sessions and scandal laden Larry Potts, see footnote no. 5 above) was very concerned about Lighter's role in the Poindexter conviction, but was pacified when Lighter showed OPR how to track the foremost of the many tentacled Japanese business interests in Hawaii in a way that far surpassed the operations of Ronald Rewald, known by some to be a former Hawaii based CIA station chief for whom that attorney had worked with (in that case, Melvin Belli sued the CIA). OPR also visited USDC Judge David Ezra for his role with Bank of Hawaii as codified in said Federal Register citation.

Apparently, under threat of Rule 55(a) default (the issue in the instant Petition) on the Iran Contra Special Grand Jury, now Forbes Chairman Caspar Weinberger was indicted just one week before the U.S. Presidential election, and thus ensuring former CIA chief George Bush's reelection defeat. Apparently, partly due to still being faced with said threat of Rule 55(a) default, U.S. President Bush signed a number of presidential pardons. Thereafter, the U.S. District Court for the District of Montana issued its absurd agreement with the DOJ that the U.S. Grand Jury is an "adjunct" of the DOJ, par. no. 22 above.

Through the saga, DOJ retaliation escalated. Lighter and others were sued by DOJ--in a case involving the firm allegedly laundering the Royal Crown Jewels (footnote no. 2)--by the DOJ's Curtis Ching (footnote no. 7). The suit was designed to attempt to impose upon Lighter of Rule 11 "frivolous filings" sanctions--similar to what happened to the credible Christic Institute (who assisted Lighter) faced when they kicked off the litigation that became the Iran Contra affair, which erupted 9 months later with a "spy" plane crash in Nicaragua--and strike all the pleadings (and thus credible, albeit indicting evidence) filed by Lighter and friends. Lighter's pleadings included those of two certified public accountants who were never challenged directly by any evidence or direct certified testimony, merely by coverup. Lighter then filed tax returns formatted exactly like U.S. Trustees who embezzled over \$1.5 million in items often including gold. Lighter did this knowing that he could not be indicted unless also were the U.S. Trustees, Curtis Ching and the other corrupt officers and agents of the government were also: later it being discovered through FBI-FOIPA that same were former Third-Party Defendant herein Mr. Osborne together with the very same Ruby Creek Siege boss Mr. Eugene Glenn (CR 60, Ex. "1"). Thus, it was really the evidence the Mr. Glenn helped Mr. Osborne and Ching coverup that largely stopped the Ruby Creek Siege.

Despite having to publish in public financial reports where cost could be definitively traced and compared, the cost of even the stolen gold was arbitrarily written up and down by U.S. Trustees in order to hide the theft, and thus so was money publicly written up and down. Lighter and the trustees committed what the IRS calls tax fraud, but the Hawaii Federal Courts called "no wrong doing" as to 2 filed tax returns for the same business entity and same business period but with a difference of over \$1.5 million in (un)reported income. Eventually, the buck stopped with abovesaid DOJ's Shirley Peterson, who upon becoming Commissioner of IRS became vulnerable to being forced to step down; which she did do on President Clinton's inauguration as noted above.

One of those sued in this matter was the Gubernatorial candidate Robert Measel, Jr. from the island of Kauai, who not only filed tax returns describing how he committed such tax fraud, but confessed and then turned himself into the U.S. Grand Juries. The court ordered that he be sanctioned for daring to confess in any federal court to a felony that he actually did and proved that he did, and did so in such court. Over 3

(continued...)

**67.** Further, it is the U.S. Grand Jury who has true jurisdiction over these matters herein, rather than the Court, especially pursuant to the voluntary confession made herebelow. Overall, it is clear that this case is an obvious fraud upon the Court. There are many compelling reasons introduced or reiterated herein that should cause the Court to conclude that this case should be dismissed.

**VOLUNTARY FELONY CONFESSION OF LIGHTER VS. PLAINTIFF NOAH WOO, ET AL., PER TO 18 U.S.C. § 3501**

**68.** In order that there is no misunderstanding regarding LIGHTER's unavoidable position, LIGHTER hereby reiterates the following statement: **I, Eric Aaron Lighter, hereby voluntarily confess to tax felonies committed in this case and in this court, subject only to the court's determination that the tax returns (1) for the period 10-1-89 through 6-30-93, (2) for Noah Woo and Hideo Kobayashi and the respective companies they controlled during this period, (3) are correct; and therefore Eric Aaron Lighter is feloniously wrong because both sets of tax returns can not be correct.**

**69.** This Circuit Court is hereby on judicial notice that, and LIGHTER hereby voluntarily confesses to same pursuant to **18 U.S.C. § 3501(d)**, that either LIGHTER intentionally and feloniously filed false tax returns or he is correct. In the Handbook for Special Agents, Criminal Investigation Intelligence Division, Internal Revenue Service, section 345.22 states that,

"A **judicial confession** [*emphasis added*] is one made before a court in the due course of legal proceedings, including preliminary examinations." Section 345.23 therein states, "It is essential to the admission of a confession that it be voluntary." Section 345.151 states, "Admissions made as part of the act of committing an offense are likewise based upon understated receipts from business, the cost of goods sold and other deductions shown on the tax return are considered admissions by the tax payer [U.S. v. Hornstein, 176 F 2d 217 (CA-7), 49-2 USTC 9326; U.S. v. Stayback, 212 F 2d 313 (CA-3); 54-1 USTC 9345] which need not be corroborated."

**70.** On 5-6-94, at a USDC hearing with the late Judge Harold Fong presiding, Lighter confessed directly to the Judge regarding tax matters; whereupon the hearing was over in relatively short order.

At p. 37: "MR. LIGHTER: Your Honor, the plaintiffs didn't read the material, they didn't even read the most fundamental documents by their own admission. How can they--all that's occurred just now is a critical documents for the tax return, that are part of the tax return, have been stricken. Furthermore, I would like to have leave of the Court to file an answer, of course, with counterclaim.

THE COURT: Sure.

MR. LIGHTER: Thirdly, is, I didn't confess to IRS. I confessed to you my felony activities (*emphasis added*), unless you consider it--unless you want to say that the both tax returns are okay, and you have just stricken mine, or part of mine

THE COURT: I've stricken it because I don't think it's responsive.

MR. LIGHTER: I understand, sir, but.

THE COURT: But I don't want you to, as a caution to you, it's not prudent to go around the place saying that you did something that might get you in trouble one day.

MR. LIGHTER: No, it should get me in trouble right now or never, because I am confessing this felony confession to you for a tax return, in this case, because one of us is wrong; and the material you just struck was part of the tax return that I'm claiming is correct, as I signed it and filed it."

**71.** The Court wrongly decided at this hearing that only the DOJ had access the U.S. Grand Jury, except for requesting the Court to appoint an independent counsel to do so. The Fifth Amendment of the U.S. Constitution disagrees, inasmuch as the Presentment function includes the U.S. Grand Jury to act on information from any source it legitimately obtains it from. The subject Third-Party Complaint, as it a properly

---

(...continued)

years (an important statute of limitations period) have passed without challenge to Lighter's huge writeoffs taken to model corrupt officers and agents of the generally honest and well meaning U.S. government.

drawn lawsuit, is probably the most formal service of reporting felony activities available in the land. Note how Lighter's confession, quoted above, gives Lighter inalienable standing to address his own felonies before a U.S. Grand Jury when he is making the most formal of all reporting thereof.<sup>10</sup>

At p. 30: "THE COURT: A motion seeking grand jury is not properly addressed to this Court. Grand jury looks into criminal matters. Criminal matters can only be presented statutorily by the Department of Justice. Department of Justice is the only agency with authority to handle and take matters to the grand jury. Even this Court doesn't do anything with the grand jury, except to convene a grand jury when so requested by the United States Attorney (emphasis added). Of course, if the United States Attorney refuses--I don't want to encourage Mr. Lighter to get the U.S. Attorney to refuse to do anything in his matter--he can technically bring an issue before the Court, for the Court to convene a grand jury, naming an independent counsel, if the statute permits it, to handle this case. But we're far from that."

**72.** The Grand Jury, The Use and Abuse of Political Power, by Professor Leroy D. Clark, with a forward by Senator Philip A. Hart (September 1975), is a book that describes in detail how the Grand Juries have been abused by the Executive Branch of the U.S. government for a long time, including by President Richard Nixon and corrupt officials in his administration; United States v. Dionisio, 410 U.S. 1 (1973), U.S. v. Clandra, 94 S.Ct. 613 (1974), Mapp v. Ohio, 367 U.S. 643 (1961), Branzburg v. Hayes, 408 U.S. 665, 725 (1972). Nevertheless, a true confession such as the one above overcomes even the most intense government corruption and coverup of corruption. The above confession demands focus on the paradox of the two opposing tax returns.

**73.** However, a *bona fide*, voluntary and wholly admissible confession such the one just pronounced provides further guaranteed standing before the U.S. Grand Jury based on the substance of the filed tax returns. The seemingly personal vendetta attacks of counsel for Plaintiffs give no such standing, despite virulent attempts to diminish Lighter's honor. Lighter is the victim. If anything, such attempts to lessen Lighter's honor only points to their efforts made to conceal crimes by those attacking Lighter.

**74.** There has always been support for the position that on a "principled basis", any compelled testimony is in violation of the **Fifth Amendment** privilege against self-incrimination, per Justice Douglas, incl. Ullman v. United States, 350 U.S. 422, at 446 (1956) (*dissenting*). However, this is a voluntary, material confession redundantly supported by high quality, *prima facie* evidence. **Rule 104(c)** of the Federal Rules of Evidence state that "Hearings on admissibility of confessions shall in all cases be conducted out of the hearing of the jury." In this case, pursuant to **18 U.S.C. § 3501**, admissibility is mandatory.

**WHICH IS THE RESULTING JURISPRUDENCE SYSTEM?:  
INQUISITORIAL V. ACCUSATORIAL**

**75.** Irking J. Kleig points out, in Constitutional Law for Criminal Justice Professionals, 1992, p. 323, "A question was raised as to whether a federal court can review the voluntariness of a confession. In Miller v. Fenton, 474 U.S. 104, 106 S.Ct. 445 (1985), the court of Appeals of New Jersey had concluded that the voluntariness of a confession is a 'factual issue' which **28 U.S.C. 2254(d)** provided was a state court finding of fact, with certain exceptions, shall be presumed correct in a federal habeas corpus proceeding...The United States Supreme Court held to the contrary. It held that the voluntariness of a confession is not an issue of fact entitled to 2254(d) presumption but is a legal question meriting independent consideration in a habeas corpus proceeding."

**76.** To continue, in order to challenge Lighter's confession, one should first realize that, **18 U.S.C. § 3501**, as well as the impact of the Miranda decision, direct that voluntariness of confession must not only be determined by judge, in voir dire on in-camera examination, but also given to the jury as an issue, if the issue is raised, or if the issue of voluntariness is present. Ex parte Cobb, (1977, DC SC) 448 F Supp. 886, *aff'd*

---

10 Another party went so far as to include with a bonding of the U.S. Grand Juries and his own felony confession, a photographic "mug shot" and fingerprints spread; all to no avail because the crimes were also committed by federal officers and agents therein, and the presentation was fully truthful and highly documented.

*without op. (1978, CA4 SC) 568 F 2d 774.*

**77.** However, the Court should note that, under **18 U.S.C. § 3501**, the weight of the confession is left to the jury. United States v. Greer (1978, CA5 Ala.) 566 F 2d 472, *cert. den.* (1978) 435 U.S. 1009. Further, statements that are voluntary and admissible under requirements of Miranda are similarly voluntary and admissible under requirements of **18 U.S.C. § 3501**. United States v. Vigo, (1973, CA2 NY) 487 F 2d 295.

**78.** For background reference, O. John Pogge, in Why Men Confess, 1959, p. 15, notes, "In the 1930's and the following decades many confessed to communist inquisitors their guilt of a multitude of offenses." In the Korean War,

"It was found that the interrogation tactics of the Chinese communists inevitably led to one of three things: (a) The victim's will to resist is broken, and he responds as the enemy desires; (b) The victim becomes insane; (c) The victim dies." *Id.*, deeper is p. 26,

"Our method in the investigation of offenses and prosecution of deviants is basically different from the inquisition system. Referring to our method the federal Supreme Court in June 1949, on the occasion of invalidating confessions in three separate cases from three different states, South Carolina, Pennsylvania and Indiana, commented: 'Ours is the accusatorial as opposed to inquisitorial system.' Under the accusatorial method there is an insistence that the investigating authorities get their case from other sources than the mouth of the accused. Under the inquisitorial system the investigators try to get the case from this very source. The Supreme Court's comment represents more than 700, and in one sense more than 1,500 years of history. The accusatorial method owes its survival and growth to our grand and petit jury system. The one who laid the basis for our jury system was Henry II...(1154-89)." Harris v. South Carolina, 338 U.S. 68, Turner v. Pennsylvania, 338 U.S. 62, Watts v. Indiana, 338 U.S. 49,54.

Even so, the voluntary confession of LIGHTER is a fine fruit all of these engineers seek, handed on a silver platter for the Grand Jury to deal with.

#### **CASH & OTHER BONDS PRESENTED TO FEDERAL GRAND JURIES**

**79.** "The safeguards accorded to Article III judges were designed to protect litigants with unpopular or minority causes or litigants who belong to a despised or suspect class'," such as whistleblower Lighter in the instant case, Pacemaker Diagnostic Clinic of America v. Instomedix, 725 F2d 537, 541 (CA9, 1984). The God of the Bible said, "Woe to those who decree unjust statutes and to those who continually record unjust decisions, to deprive the needy of justice, and to rob the poor of My people of their rights..." Isaiah 10:1,2.

**80.** A member of, and on behalf of Constitution Coalition, a national legal and political lobby group, has provided solely at his own volition and liability, a \$5,000 bond in the form of a cashier's check to cover the cost of scrutiny in a few cases, including the matters of the two opposing tax returns in this instant case. Lighter did not purchase the bond, or in anyway pay for or contribute to its purchase; nor did Lighter request that the bond be purchased or provided. Lighter, however, has no objection to the U.S. Grand Juries making the requested scrutiny; and, in fact, such scrutiny should clear up a number of key issues. Lighter hereby further relies upon said U.S. Grand Jury scrutiny to investigate the key issues herein, especially the alleged fraudulent tax returns filed on the record in the instant case. A copy of only the papers for the cash bond, excluding the formal, filestamped tender offer to the clerk of the USDC, is included herewith as AP.EXS. "A00199-202". The beneficiaries of the bond are all of the U.S. Grand Juries in Hawaii and all of the U.S. Grand Juries in the District of Columbia, plus the San Francisco, California U.S. Grand Jury in Cr. 93-0592VRW. This is one of a group of other bonds separate and distinct from the additional bond Lighter is providing, as mentioned above<sup>11</sup>. Said \$5,000 bond further demonstrates that the U.S. Grand Juries have

---

<sup>11</sup> Apparently the USDC is so upset that it is, in a rare but desperate strategy after other DOJ corruption failed, allowing the prosecutor to try and find the perfectly sane and lucid bonding individual to be insane, which would be grounds to dismiss that individual's criminal case without addressing anything of substance. This ploy came immediately after said individual filed his complaints with the District of Columbia

(continued...)

the capacity to sue and be sued, **Rule 9(a) FRCP**. Other bonds have been and/or are being so provided. Said Constitution Coalition and others have also expressed serious concern about a serious Petition filed 9-23-94 to the Hawaii U.S. Grand Juries by some 400 petitioners, Misc. Case No. 94-00115-DAE, which has yet to have any U.S. Grand Jury they petitioned respond to allegations of Grand Jury tampering. The abovesaid bond also included coverage for costs of scrutiny for the USDC for the District of Columbia. The reason for this includes, **(a)** the place to report tampering of a U.S. Grand Jury is to another U.S. Grand Jury, preferably in another district, and **(b)** if it is shown, which it has been, that the U.S. Grand Juries in the District of Columbia are tampered with, and thus our nation's leaders untouchable, then much else in the country is also lawless by consequence.<sup>12</sup>

#### **GRAND JURY QUALITY EVIDENCE IGNORED BY COURT**

**81.** The late Judge Fong decided to ignore evidence presented by high quality Affidavits of Lighter supported by authentic and indicting exhibits. An example of this are four Affidavits of Lighter comprising AP.EXS. "A00203-260". Naturally, much more similarly high quality evidence was presented, but Lighter having brought forth the issue of U.S. Grand Jury tampering appears to have caused intense prejudice Lighter. It is usually only the guilty who refuse scrutiny at all costs.

**82.** Another source of prejudice against Lighter is Lighter well defending himself against attacks on his credibility, instead of being an easy "mark" when carrying a message the fate of American Jurisprudence may well rest upon. Lighter was sued expressly for having purported to play a vital role in the various scandals named herein, and one attorney even attempting to obtain an order against Lighter stating that he was so involved. Nevertheless, Lighter has and does have reason to go to the U.S. Grand Juries for cause. Besides the evidence named herein, Lighter was involved in high profile cases in this nation that was greatly intensified due to the chaos that exists in the Courts below regarding access to report legitimate felonies to the U.S. Grand Juries, including pursuant to the **U.S. Constitution Fifth Amendment** "Presentment" function and **18 U.S.C. § 1504**. A nice example is the 12-23-92 Affidavit of Sunny Mullis, the real "Sonny" of the television series Miami Vice, AP.EX."A000261-267". In trying to discredit Lighter, one attorney in this case later and corruptly attempted to obtain (in the similar case USDC Civil No. 93-00914-ACK) an injunction against Lighter claiming to be involved in high profile cases (others have tried similar approaches); and in order to try and stop Lighter's fraud audit herein (see related AP. EX. "A00177-236"), but where the U.S. Grand Jury should be tribunal pursuant to Lighter's fervent requests for same. However, Lighter did enter said Affidavit in both the USA v. Randall Weaver, et al., CR-91-EJL (USDC Idaho), case and the instant case (CR

---

(...continued)

U.S. Grand Jury that included public references to the INSLAW bomb blueprints apparently used to destroy most of Oklahoma City's Federal Building (see no. 5). In the local case, Magistrate Barry Kurren struck vital evidence Chief Judge Kay had put under seal. That evidence--publicly filed elsewhere as well-included significant compromise of the one or more federal agencies, as well as an attorney which the record alleges bragged about having Christmas dinner with said Judge Kay, yet also disclosed he had girlfriend(s) who were on serious and addictive drugs, had drug inquires made to him on his personal phone, plus had illegal gambling at his residence. The first government psychiatrist was removed in disgrace for evidence of falsifying a report that the bonding individual was incompetent, and pursuant to defense production of a doctor's report that he was sane and competent.

One of the issues that apparently infuriated the Court was another case also bonded by that individual, a case where an IRS-CID agent allegedly murdered a defendant's partner, USDC Cr. No. 90-1466 ACK. The case appeared to be a drug and money laundering case, albeit quite contrived, but said defendant appeared with a credible corroborating witness (credible Mormon elder, sibling of murdered partner) pursuant to demand for U.S. Grand Jury scrutiny thereof, said defendant was ruled insane by Judge Kay PRIOR to a psychiatric examination, and ordered for immediate placement in a mainland mental institution. When the network television showed up in an apparent federal SWAT Team operation designed to see the surrender by defendant, Judge Kay decided that a psychiatric examination could be held first.

12 For convenience, the scandal of U.S. Grand Jury tampering in our nation's capitol, and widespread results therefrom has been given a name, IRATEGATE. This Petition for Writ of Mandamus has been named THE UNPELICAN BRIEF by others, similar to the blockbuster movie regarding jurisprudence scandal.

No. 32, Ex. 5, Third-Party Defendant Salter was the key negotiator in having well known attorney Jerry Spence represent Mr. Weaver). This exhibit demonstrates quite credibly certain crimes by certain federal officers and agents that was (together with the involvement of Lighter and abovesaid former U.S. Presidential candidate Lt. Col. (ret.) James "Bo" Gritz) the main "behind the scenes" reasons for former FBI Director William Sessions was forced to retire by hereabove named OPR. The U.S. Grand Juries should at least be the tribunal supplemental to the USDC regarding such matters. Our founding fathers did not trust bureaucracy enough to allow it to own the U.S. Grand Juries, and thus left them independent and the ONLY real door felonies can be matured into criminal cases. Again, **what is at stake is whether access to the U.S. Grand Juries is via an inquisitorial or accusatorial system.**

**CONCLUSION**

**83.** There are three different Ninth Circuit USDC conclusions (four judges therein) regarding Defendants U.S. Grand Juries: **(a)** suit on them is a proper reporting, AP.EXS. "A00091-122", **(b)** they are an adjunct of the DOJ, par. no. 22 hereabove, and **(c)** they are independent of the DOJ and the District Court, AP.EXS."A00045-58", "A00185-198", but suit can not be made on them, AP.EX. "A00127". The FRCP for the USDC are promulgated by the U.S. Supreme Court and have the effect of law. It is the law, therefore, that says that default must be taken against Defendants U.S. Grand Juries. The U.S. Supreme Court needs to address these vital appeals. The prisons may well be wrongfully filling up with parties subject to clearly tampered with Grand Juries<sup>13</sup>. The 9th Circuit Court seems to have violated its own Circuit Rules 21, 40, 41 to not allow "motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions". Parts of the entire system inquisitorial.

**84.** For all of the above reasons, Petitioner Lighter prays that the U.S. Supreme Court issue a Writ of Mandamus ordering the USDC for the District of Hawaii, in Civil No. 94-00179-HMF, to order the Clerk of the Court for the USDC for the District of Hawaii to enter default on the Defendants U.S. Grand Juries pursuant to the properly made request for entry of default filed 8-24-94 herein, AP.EXS."A00123-126". Petitioner Lighter prays that no (further) retaliatory action be taken by any party discussed in the instant Petition, or that further prejudice be made against Lighter for his actions; where the truth is Lighter's actions are defensive regarding being "set up" to be blamed for tortious behavior of others Lighter exposed as part of his proper duties. This Court is requested to grant the instant Petition, as what is at stake is whether access to the U.S. Grand Juries is via an inquisitorial or accusatorial system.

Respectfully submitted, Honolulu, Hawaii, June 16, 1995.

\_\_\_\_\_  
ERIC AARON LIGHTER, dba WELLS FARGO

PROTECTIVE ALARM

*Sui Juris and In Propria Persona*

**LIST OF PARTIES**

HONORABLE CHIEF DISTRICT JUDGE ALAN C. KAY  
PJJK Federal Building; 300 Ala Moana Boulevard  
Honolulu, Hawaii 96850

Substituting Judge, Presiding Manager and/or Supervisor of U.S.  
of Hawaii

Grand Juries for the District

RONALD GRANT, ESQ.  
1800 Pioneer Plaza  
900 Fort St. Mall  
Honolulu, Hawaii 96813

Attorney for Plaintiffs HAWAII-PACIFIC WHOLESALERS, INC., a Hawaii corporation; PARADISE GOLD BEVERAGES, INC., a Hawaii corporation; and NOAH A. WOO

---

<sup>13</sup> Footnote no. 11 bonding agent was put in prison 6-5-95, the day the third version of this Petition was delivered, per seemingly trumped up contempt charges.

PRESTON GIMA, ESQ.  
547 Halekauwila Street, Suite 204  
Honolulu, Hawaii 96813

Attorney for Defendants AMERICAN UNITED TRUST; AMERICAN NATIONAL TRUST; NANCY LeROSA, Individually and as Trustee for AMERICAN PROPERTIES TRUST; HPW, INC., a Hawaii corporation; and CREDIT BUREAU INTERNATIONAL, INC., a Hawaii corporation

RANDOLPH SLATON, ESQ.  
1560 Pacific Tower  
1001 Bishop Street  
Honolulu, Hawaii 96813

Attorney for Defendants WOO-NOAH VICTIMS FUND; WOO NOAH GRAND JURY INVESTIGATION GROUP; PARADISE GOLD RECOVERY FUND; WOO TAX INVESTIGATION CRISIS GROUP

LT. COL. (RET.) JOHN SALTER  
Oswego Lake #210  
Lake Oswego, OR 97035

Third-Party Defendant, *Pro Se*  
GREGORY GALASKI  
1786 Barcelona Avenue  
Santa Jose, CA 95124

Third-Party Defendant, *Sui Juris*

OFFICE OF INSPECTOR GENERAL, INVESTIGATION DIVISION  
TREASURY DEPT.  
Treasury Building  
500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

OFFICE OF PROFESSIONAL RESPONSIBILITY  
Main Justice Building  
Constitution Avenue and 10th Streets, N.W.  
Washington, D.C. 20530

HONORABLE CIRCUIT JUDGE JAMES R. BROWNING  
Court of Appeal for the Ninth Circuit  
121 Spear Street  
P.O. Box 193939  
San Francisco, CA 94119-3939

HONORABLE CIRCUIT JUDGE SNEED  
Court of Appeal for the Ninth Circuit  
121 Spear Street  
P.O. Box 193939  
San Francisco, CA 94119-3939

HONORABLE CIRCUIT JUDGE THOMAS G. NELSON

Court of Appeal for the Ninth Circuit  
121 Spear Street  
P.O. Box 193939  
San Francisco, CA 94119-3939

HONORABLE VAUGHN R. WALKER  
450 Golden Gate Avenue, Room 1111  
San Francisco, California 94102

JANET RENO, U.S. Attorney General  
Main Justice Building  
Constitution Avenue and 10th Streets, N.W.  
Washington, D.C. 20530

DATED: Honolulu, Hawaii, May \_\_\_\_, 1995.

\_\_\_\_\_  
ERIC AARON LIGHTER, Individually and dba  
WELLS FARGO PROTECTIVE ALARM CO.  
*Sui Juris and In Propria Persona*

**CERTIFICATE OF SERVICE**

I hereby certify that the appropriate number of copies of the foregoing Petition for Writ of Mandamus filed in the United States Supreme Court will be served this day on the following parties at their respective addresses by means of mail, postage prepaid.

HONORABLE CHIEF DISTRICT JUDGE ALAN C. KAY  
PJJK Federal Building  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96850

Substituting Judge, Presiding Manager and/or Supervisor of U.S. Grand Juries for the District of Hawaii

RONALD GRANT, ESQ.  
1800 Pioneer Plaza; 900 Fort St. Mall  
Honolulu, Hawaii 96813  
Telephone (808) 524-8000

Attorney for Plaintiffs HAWAII-PACIFIC WHOLESALERS, INC., a Hawaii corporation; PARADISE GOLD BEVERAGES, INC., a Hawaii corporation; and NOAH A. WOO

PRESTON GIMA, ESQ.  
547 Halekauwila Street, Suite 204  
Honolulu, Hawaii 96813  
Telephone (808) 526-2823

Attorney for Defendants AMERICAN UNITED TRUST; AMERICAN NATIONAL TRUST; NANCY LeROSA, Individually and as Trustee for AMERICAN PROPERTIES TRUST; HPW, INC., a Hawaii corporation; and CREDIT BUREAU INTERNATIONAL, INC., a Hawaii corporation

RANDOLPH SLATON, ESQ.  
1560 Pacific Tower; 1001 Bishop Street  
Honolulu, Hawaii 96813  
Telephone (808) 532-1010

Attorney for Defendants WOO-NOAH VICTIMS FUND; WOO NOAH GRAND JURY  
INVESTIGATION GROUP; PARADISE GOLD RECOVERY FUND; WOO TAX INVESTIGATION  
CRISIS GROUP

LT. COL. (RET.) JOHN SALTER  
Oswego Lake #210  
Lake Oswego, OR 97035  
Telephone (503) 635-9129

Third-Party Defendant, *Pro Se*

GREGORY GALASKI  
1786 Barcelona Avenue  
Santa Jose, CA 95124  
Telephone (408) 264-3491

Third-Party Defendant, *Sui Juris*

OFFICE OF INSPECTOR GENERAL, INVESTIGATION DIVISION  
TREASURY DEPT.  
Treasury Building  
500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

OFFICE OF PROFESSIONAL RESPONSIBILITY  
Main Justice Building  
Constitution Avenue and 10th Streets, N.W.  
Washington, D.C. 20530

HONORABLE CIRCUIT JUDGE JAMES R. BROWNING  
Court of Appeal for the Ninth Circuit  
121 Spear Street  
P.O. Box 193939  
San Francisco, CA 94119-3939

HONORABLE CIRCUIT JUDGE SNEED  
Court of Appeal for the Ninth Circuit  
121 Spear Street  
P.O. Box 193939  
San Francisco, CA 94119-3939

HONORABLE CIRCUIT JUDGE THOMAS G. NELSON  
Court of Appeal for the Ninth Circuit  
121 Spear Street  
P.O. Box 193939  
San Francisco, CA 94119-3939

HONORABLE VAUGHN R. WALKER  
U.S. District Court, Northern District of California  
450 Golden Gate Avenue, Room 1111  
San Francisco, California 94102

JANET RENO, U.S. Attorney General

Main Justice Building  
Constitution Avenue and 10th Streets, N.W.  
Washington, D.C. 20530

DATED: Honolulu, Hawaii, June 16, 1995.

\_\_\_\_\_  
ERIC AARON LIGHTER, dba WELLS FARGO  
PROTECTIVE ALARM COMPANY  
*Sui Juris and In Propria Persona*

**AUTHORITIES**

U.S. v. Philip Marsh, et al., USDC for N. Calif, Cr. 93-0592VRW ..... 1

In re: Pergola, et al. Petition to Hawaii Federal Grand Juries,  
Misc. No. 94-00115-DAE ..... 9

Salter, et al. v. Iran Contra Special Grand Jury, et al.,  
USDC for the District of Northern Texas,  
Dallas Division, 3:93-CV-0440-X ..... 16

Hideo Kobayashi, et al. v. Eric Aaron Lighter, et al.,  
USDC for District of Hawaii, Civil No. 93-00914-ACK ..... 21

Galaski v. San Francisco Federal Grand Jury, USDC for  
the District of Nevada, CV-S-94-00009-PMP ..... 23

Galloway v. Truewsdell, 422 P2d 237, 248 (Nev. 1983) ..... 24

Salter v. Nine Federal Grand Juries, et al., USDC for  
the District of Montana, CV92-48-M-CCL ..... 25

O'Shea v. Littleton, 414 U.S. 488, 493-494 (1974) ..... 26

Badaracco, Ernest v. Com., (1982, CA3) 693 F2d 298,  
464 U.S. 386, aff'd (1984, S Ct.) ..... 30

Kelly v. Com., (1989, CA9) 877 F2d 756 ..... 30

Enron Oil Corp. v. Diakuhara, 27 Fed Rules Serv 3d (2CA, 1992) ..... 32

Bleitner v. Welborn, 28 Fed Rules Serv 3d 49 (7CA, 1992) ..... 33

O'Brien v. Sage Group, Inc., 19 Fed Rules Serv 3d  
1039 (ND Ill 1991) ..... 34

Direct Mail Specialists, Inc. v. Exlat Computerized  
Technologies, Inc, 841 F2d 685 (CA9, 1988) ..... 34

Hudson v. State of N.C., 158 F.R.D. 78 (ED NC, 1994) ..... 34

Beck v. Atlantic Contracting Co., Inc., 157 F.R.D.  
61 (D Kan, 1994) ..... 34

Hronek v. People, 24 N.W. 861, 865 ..... 35

Pressman v. Estate of Steinvorth, 860 F Supp 171 (SD NY, 1994) ..... 35

Chiropractic Alliance of New Jersey v. Parisi, 854 F Supp 299  
(D NJ, 1994) ..... 36

Nix v. Norman, 879 F2d 429 (CA8, 1989) ..... 36

Wagner Furniture Interiors, Inc. v. Kemner's Georgetown  
Manor, Inc., 929 F2d 343 (CA7, 1991) ..... 36

Howerton v. Designer Homes by Georges, Inc., 950  
F2d 281 (CA5, 1992) ..... 37

In Eisenburg v. District Attorney of the County of Kings,  
847 F Supp 1029 (ED NY, 1994) ..... 37

Bank of Nova Scotia v. U.S., 108 S.Ct. 2369 (CA9, 1988) ..... 38

U.S. v. Serubo, 604 F2d 807 (CA3, 1979) ..... 38

Clement v. Graham, (1905) 78 Vt 290, 63 A 146 ..... 41

Commonwealth v. Knowlton, (1807) 2 Mass 530 ..... 41

U.S. v. Chanen, 549 F 2d 1306 (9th Cir. 1977) ..... 42

Hale v. Henkel, 201 U.S. 43, 63 (1906) ..... 43

In Re Antitrust Grand Jury Investigations, 714 F.2d 347,  
350 (4th Cir. 1983) ..... 43

Doe v. Rosenberry, 255 F.2d 118, 120 (2d Cir. 1958) ..... 44

Brown v. United States, 359 U.S. 41 (1959) ..... 44

Blair v. United States, 250 U.S. 273, 282-3 (1919) ..... 44

In re May 1972 San Antonio Grand Jury, 366 F. Supp.  
(W.D. Tex., 1973) ..... 44

Hyde v. Shine, 199 U.S. 62 (1905) ..... 44

Downing v. United States, 348 F.2d 594 (5th Cir.),  
cert. denied 382 U.S. 901 (1965) ..... 44

U.S. v. Al Mudarris, 695 F2d 1182 (CA9, 1983) ..... 45

|  |                         |
|--|-------------------------|
| <u>U.S. v. Samango</u> , 607 F2d 877 (CA9, 1977) .....   | 45                      |
| <u>U.S. v. Hogan</u> , 712 F2d 757 (CA2, 1983) .....   | 45                      |
| <u>U.S. v. Kilpatrick</u> , 821 F2d 1456 (CA10, 1987) .....  | 45                      |
| <u>Schwartz v. U.S. Dept. of Justice</u> , 494 F Supp 1268<br>(ED Penn, 1980) .....  | 46                      |
| <u>U.S. v. Estepa</u> , 471 F2d 1132 (SD NY, 1972) .....   | 46                      |
| <u>In re Sadin</u> , 509 F2d 1252 (2d.Cir. 1975) .....   | 47                      |
| <u>United States v. Hawkins</u> , 501 F.2d 1029 (9th Cir.),<br><u>cert. denied</u> , 419 U.S. 1079 (1974) .....              | 47                      |
| <u>Fedway v. U.S.</u> , 976 F 2d 1416 (D.C.Cir. 1992) .....  | 49                      |
| <u>Church of Scientology v. IRS</u> , 569 F Supp 1165 9th Cir. 1986),<br><u>cert. granted</u> (1987, S Ct) 479 US 1063 ..... | 50                      |
| <u>McFarlin v. Newport Special School Dist.</u> ,<br>784 F. Supp. 589 (E.D.Ark. 1992) .....                                  | 51                      |
| <u>U.S. v. Hornstein</u> , 176 F 2d 217 (CA-7), 49-2 USTC 9326   | 55                      |
| <u>U.S. v. Stayback</u> , 212 F 2d 313 (CA-3); 54-1 USTC 9345  | 55                      |
| <u>United States v. Dionisio</u> , 410 U.S. 1 (1973) .....   | 57                      |
| <u>U.S. v. Clandra</u> , 94 S.Ct. 613 (1974) .....   | 57                      |
| <u>Mapp v. Ohio</u> , 367 U.S. 643 (1961) .....  | 57                      |
| <u>Branzburg v. Hayes</u> , 408 U.S. 665, 725 (1972) .....   | 57                      |
| <u>Ullman v. United States</u> , 350 U.S. 422, at 446 (1956) .....   | 57                      |
| <u>Miller v. Fenton</u> , 474 U.S. 104, 106 S.Ct. 445 (1985) .....   | 58                      |
| <u>Ex parte Cobb</u> , (1977, DC SC) 448 F Supp. 886,<br>(1978, CA4 SC) 568 F 2d 774 .....                                   | 58                      |
| <u>United States v. Greer</u> (1978, CA5 Ala.) 566 F 2d 472,<br>(1978) 435 U.S. 1009 .....                                   | 58                      |
| <u>United States v. Vigo</u> , (1973, CA2 NY) 487 F2d 295 .....  | 59                      |
| <u>Harris v. South Carolina</u> , 338 U.S. 68 .....  | 59                      |
| <u>Turner v. Pennsylvania</u> , 338 U.S. 62 .....  | 59                      |
| <u>Watts v. Indiana</u> , 338 U.S. 49,54 .....   | 59                      |
| <u>Pacemaker Diagnostic Clinic of America v. Instomedix</u><br>725 F2d 537,541 (CA9, 1984) .....                             | 60                      |
| <u>USA v. Randall Weaver, et al.</u> , CR-91-EJL (USDC Idaho) .....  | 64                      |
| 18 U.S.C. § 3 .....  | 2,45                    |
| 18 U.S.C. § 4 .....  | 2,45                    |
| 18 U.S.C. § 1504 .....   | 2,5,63                  |
| 18 U.S.C. § 1961-1968 .....  | 48                      |
| 18 U.S.C. § 3237 .....   | 44                      |
| 18 U.S.C. § 3501(d) .....  | 2,6,33,54,55,58,59      |
| 18 U.S.C. § 7207 .....   | 47                      |
| 26 U.S.C. § 6103(b)(1) .....   | 50                      |
| 26 U.S.C. § 6103(b)(2)(A) and (B) .....  | 50                      |
| 26 U.S.C. § 7206 .....   | 47                      |
| 28 U.S.C. § 1292 .....   | 2                       |
| 28 U.S.C. § 1651(a) .....  | 2                       |
| 28 U.S.C. § 1746 .....   | 7                       |
| 28 U.S.C. § 1826 .....   | 47                      |
| 28 U.S.C. § 2254(d) .....  | 58                      |
| 39 U.S.C. § 3001 .....   | 42                      |
| Fifth Amendment of the U.S. Constitution .....   | 2,5,8,12,28,47,56,57,63 |
| Rule 9(a), Federal Rules of Civil Procedure .....  | 1,2,14,16,24,40,62      |
| Rule 11, Federal Rules of Civil Procedure .....  | 52                      |

|   |                       |
|---|-----------------------|
| Rule 55(a), Federal Rules of Civil Procedure .....  | 1,2,13,14,16,32,38,51 |
| Rule 55(b), Federal Rules of Civil Procedure .....  | 27                    |
| Rule 55(c), Federal Rules of Civil Procedure .....  | 38                    |
| Rule 6(a), Federal Rules of Criminal Procedure .....  | 43                    |
| Rule 6(c), Federal Rules of Criminal Procedure .....  | 43                    |
| Rule 6(e)(3)(C)(i), Federal Rules of Criminal Procedure .....   | 44                    |
| Rule 42(b), Federal Rules of Criminal Procedure .....   | 47                    |
| Rule 52(b), Federal Rules of Criminal Procedure .....   | 38                    |
| Rule 104(c), Federal Rules of Evidence .....  | 57                    |
| Rule 21, Court of Appeals for the Ninth Circuit .....   | 2,21,65               |
| Rule 40, Court of Appeals for the Ninth Circuit .....   | 65                    |
| Rule 41, Court of Appeals for the Ninth Circuit .....   | 65                    |
| Rule 20, U.S. Supreme Court Rules .....   | 1                     |
| Rule 33, U.S. Supreme Court Rules .....   | 1                     |
| <u>Handbook For Federal Grand Jurors</u> , produced<br>by the Administrative Office of the United States<br>Court, Washington, D.C. 20544 ..... | 21,41                 |
| <u>Federal Grand Jury Practice</u> , March 1983, William French Smith,<br>Attorney General, Department of Justice, page<br>6,26,71,72,158 ..... | 42,43,44,46,47,48     |
| <u>Handbook for Special Agents, Criminal Investigation</u><br><u>Intelligence Division, Internal Revenue Service</u> , .....                    | 47,55                 |
| <u>U.S. Attorney's Manual</u> .....   | 43                    |
| <u>Federal Register</u> , May 31, 1991, pages 24836-43 .....  | 3,6,11,18,49,51,52    |
| <u>The Grand Jury, The Use and Abuse of Political Power</u> ,<br>Professor Leroy D. Clark .....   | 57                    |
| <u>Constitutional Law for Criminal Justice Professionals</u> ,<br>Irking J. Kleig, 1992, page 323 .....   | 58                    |
| <u>Why Men Confess</u> , O.John Pogge, 1959 .....   | 59                    |
| <u>Isaiah 10:1,2</u> .....  | 60                    |
| <u>Unfriendly Skys</u> , Rodney Stitch .....  | 20                    |
| <u>Defrauding America</u> , Rodney Stitch .....   | 20                    |

## INDEX OF APPENDIX EXHIBITS

- "A00001" Order of U.S. Court of Appeals for the Ninth Circuit  
APR 11, 1995 denying Lighter's Petition for Writ of Mandamus
- "A00002 - 44" Lighter's Petition for Writ of Mandamus in the U.S.  
FEB 14, 1995 Court of Appeals for the Ninth Circuit
- "A00045" Letter from Lighter U.S.District Court for the District  
DEC 16, 1993 of Hawaii Chief Judge Alan C. Kay, re: Grand Juries  
[Ex. "A", page 9, Civ. 93-914 Answer 2/24/94\*]
- "A00046" Letter from Lighter to U.S.District Court for the  
JAN 6, 1993 District of Hawaii Chief Judge Alan C. Kay , re: Grand Juries [Ex. "A", page 8, Civ. 93-914 Answer 2/24/94\*]
- "A00047" Letter from U.S.District Court for the District of  
JAN 7, 1993 Hawaii Chief Judge Alan C. Kay to Lighter, re: Grand Juries [Ex. "A", page 7, Civ. 93-914 Answer 2/24/94\*]
- "A00048 - 50" Letter from Lighter to U.S. District Court for the  
JAN 11, 1993 District of Hawaii Chief Judge Alan C. Kay, re: Grand Juries  
[Ex. "A", pages 5 and 6, Civ. 93-914 Answer 2/24/94\*]
- "A00051 - 52" Letter from Lighter U.S. Attorney, re: Grand Juries  
FEB 7, 1993 [Ex. "A", page 4 Civ. 93-914 Answer 2/24/94\*]
- "A00053" Letter from U.S.District Court for the District of  
FEB 8, 1994 Hawaii Chief Judge Alan C. Kay to Lighter, re: Grand Juries [Ex. "A", page 3 Civ. 93-914 Answer 2/24/94\*]
- "A00054 - 57" Letter from Lighter to U.S. District Court for the  
FEB 16, 1994 District of Hawaii Chief Judge Alan C. Kay, re: Grand Juries [Ex. "A", pages 1 and 2 Civ. 93-914 Answer 2/24/94\*]
- "A00058" Letter from Assistant U. S. Attorney Leslie  
MAR 24, 1994 Osborne, Jr. to Lighter [CR No. 78, Ex. "1"]
- "A00059 - 90" Lighter's Third - Party Complaint, including  
JUN 18, 1994 against Defendants Four Hawaii Federal Grand  
Juries and San Francisco, California Federal Grand Jury in CR 93-0592VRW [CR No. 78]
- "A00091 - 122" Gregory J. Galaski's Answer, Crossclaim and Third-  
AUG 4, 1994 Party Complaint [[CR No. 112]
- "A00123 - 126" Lighter's Request for Entry of Default on Third-  
AUG 24, 1994 Party Defendant Grand Juries [CR No.128]
- "A00127" Order, re: no default on Defenant Grand Juries  
AUG 24, 1994 [CR No. 129]
- "A00128 - 131" Lighter's Second Affidavit, re: default on Third-  
AUG 26, 1994 Party Defendant Grand Juries [CR No. 133]

"A00132 - 133" Order Denying Galaski's motion for Order  
SEP 15, 1994 Directing Entry of Default Judgment against Third-Party Defendants Grand Juries [CR No. 138]

"A00134 - 136" Galaski's Amended ExParte Motion for Entry  
OCT 11, 1994 of Default Judgment against Third-Party Defendant Grand Juries [CR No. 141]

"A00137 - 140" Order Denying Galaski's Motion For  
OCT 12, 1994 Reconsideration of Request For Entry of Default Judgment [CR No. 143]

"A00141 - 183" Lighter's Memorandum in Opposition to Motion to  
NOV 18, 1994 Dismiss Third-Party Complaint and dismissal of all all Third-Party Defendants without prejudice except Third-Party Defendant Federal Grand Juries [CR No. 168]

"A00184" Order Dismissing Third-Party Complaint without  
DEC 20, 1994 prejudice against all Third-Party Defendants without prejudice except Third-Party Defendant Federal Grand Juries [CR No. 187]

"A00185 - 198" Entire transcript of December 5, 1994 hearing  
DEC 5, 1994 before Judge Fong, re: Motion to Dismiss Third-Party Defendants

"A00199 - 202" Papers for \$5,000 cash bond, excluding the formal,  
DEC 5, 1994 filestamped tender offer to the clerk of the U.S. District Court for the District of Hawaii

"A00177 - 236" Affidavits in Lighter's Counter Motion (CR No.  
JAN 3, 1995 195) (a) Affidavit of Lighter, re: Actual Debt Accounting of HPW, Inc, Exhibits "CA"-  
"CC", (b) Affidavit of Lighter, re: Affidavits of Hideo Kobayashi and Noah Woo, Exhibits  
"BA"- "BF", (c) Affidavit of Lighter, Re: Hideo Kobayashi, et al. And Noah Woo, et al.  
Being Alter Egos To HPW, Inc. [*and each other*], Exhibits "DA"- "DE"

JAN 13, 1995 Affidavit of Lighter's Reply Memo (CR No. 204) Affidavit of Lighter, Exhibits "A"- "H"

"A00261 - 267" Affidavit of Carson Sunny Mullis, re: Ruby Ridge  
DEC 3, 1992

\*[Exhibit filed in similar case, USDC Civ. No. 94-914-ACK, annexed to the instant case similar to this case, USDC Civil No. 93-914-ACK, Hideo Kobayashi, et al. v. Eric Aaron Lighter, et al., February 24, 1994 Answer ("Civ. 93-914 Answer 2/24/94") filed by Lighter for Square Root of 25, Ltd.]

[Filed USDC Civil No. 94-00179-HMF (Hawaii) as Exhibit 5 of Lighter Memorandum filed May 4, 1994, CR. No. 32; Lighter also filed same in USA v. Randall Weaver, et al., CR-91-EJL (USDC Idaho)]

#### AFFIDAVIT OF CARSON SONNY MULLIS

I, Carson Sonny Mullis, SSN 267-68-6309, do hereby upon the date here unto fixed, declare that I was a Police Officer with the Dade County Sheriffs Department from 1966-1972; I was taught by different instructors of the Agencies of the United States Government, the Federal Bureau of Investigation to be the most prevalent. To name a few of my instructors from the Federal Bureau of Investigation:

- 1.) F.B.I.-Agent Maury Miller, for Constitutional Law. He was an instructor at the F.B.I. National Academy.
- 2.) F.B.I. Agent Fred Derner, for Criminal Law. He was also an instructor~at the F.B.I. National Academy.
- 3.) F.B.I. Agent Welton Merry, for Bank Robbery. He was also an instructor at the F.B.I. National Academy.
- 4.) F.B.I. Agent Robert Strong, for Use of Force, using different types of weapons, the justifiable shooting, etc. Also an instructor at the F.B.I. National Academy.

I am an expert Homicide Investigator, having helped solve approximately 200 cases of Homicide and shootings in the Dade County area between the years of 1966-1972. I was a Police Range Instructor and courses were given by Dade County and completed by me in the following areas:

- 1.) Completion of Homicide Investigation, Certified Expert. Certificate issued by Sheriff E.W. Purdy, June 1971.
- 2.) Study of Mental Illness. Certificate issued April, 1968.
- 3.) Bachelor of Law, LLB Degree, 122 Credit Hours. Certificate issued September 1969.

Courses were given by Agencies of the United States Government and completed by me in the following areas:

- 1.) Treasury Department-Bureau of Alcohol, Tobacco, and Firearms. Certificate issued April 1970.
- 2.) Justice Department. Certificate issued June 1968.
- 3.) Secret Service. Certificate issued April 1970.
- 4.) Drug Enforcement Agency. Certificate issued May 1968.
- 5.) United States Customs. Certificate issued 1970.

I also received in-service training from the United States Marshals Service, the C.I.A., etc. I was one of the officers who was instrumental in the development of the S.W.A.T. Team that is now a part of the Dade County Sheriffs Department. I have found the following in the case of the Ruby Ridge incident that took place between the dates of August 21st, 1992 through September 1st, 1992. The surveillance team that contained six (6) United States Marshals was not sent to arrest Randy Weaver. Therefore, I find the statement of Henry Hudson, Director of the United States Marshals Service, to be correct. They were sent for the purpose of termination. Thus, I find the following:

a.) That the marshals were all issued M-16 automatics, except one, who was issued a 9mm sub-machine gun with a silencer.

I had the opportunity to shoot this type of weapon under the instruction of the F.B.I. I was told at the time that this type of weapon was not standard issue. This weapon was only used to terminate with extreme prejudice. This weapon would fire enough projectiles that no return fire could be made from the opponent being terminated. The silencer was used to prevent any neighbors or person(s) nearby from hearing the firing and coming to investigate. Those six marshals were not sent to arrest Randy Weaver but to terminate Randy Weaver and all in the cabin. Thus, Henry Hudson stated correctly that the team was not sent to arrest Randy Weaver.

b.) The Randy Weaver home was said to be a fortress. The home has been examined by me and found that it is of plywood construction. The plywood would have been unable to stop the projectiles from the 9mm sub-machine gun (with a silencer) that was carried by Agent Cooper. The termination would have been complete and mission successful.

c.) U.S. Marshal William F. Degan was the one who shot the dog who got in the way of the termination team. This took place in the garden area, not down the hill as told by Agent Cooper (under oath). If Degan was shot by Harris as Agent Cooper testified (-"We were hiding when Harris and Samuel Weaver went by us. Degan jumped out and identified himself by saying "Stop! U.S. Marshal!" Then Harris turned and fired".), this

would have been at point blank range, yet William F. Degan had no powder burns on his clothes or body.

CONCLUSION:

A.) William F. Degan was shot in the garden area after shooting the dog. He was shot from a distance that would indicate he was shot by someone from the house.

B.) Agent Cooper stated that he put his machine gun from full auto to three round bursts, and that he knew he hit him because the subject went down. The subject was Samuel Weaver not Kevin Harris. By the F.B.I.'s own guidelines there are three things needed for a shooting to be within the perimeters of the Deadly Force Policy promulgated by the F.B.I. and other agencies of the United States Government. All personnel of the United States Government ( F.B.I., D.E.A., Marshals Service, B.A.T.F., etc.) are taught that they may use Deadly Force only in a situation when they or someone they have the right to protect, are in immediate and otherwise unavoidable, deadly danger. Those three criteria are Ability, Opportunity, and-Jeopardy.

ABILITY: the opponent possesses the power to kill or cripple, by use of a weapon for instance.

OPPORTUNITY: the opponent is capable of immediately employing that lethal power. If he is a block away with a knife he has the ability but not the opportunity.

JEOPARDY: the opponent is acting in such a manner that a reasonable person would conclude from his actions that the opponent intended to kill or cripple. At such a time as all three elements are present, the F.B.I., D.E.A., Marshals Service, B.A.T.F., etc. are taught to shoot to neutralize the threat and to cease fire when the threat is over. All three elements must be present for a shooting to be justified.

CONCLUSION: Samuel Weaver was running away and was no threat. Samuel Weaver was shot in the back and died instantly from shots fired by Agent Cooper. The shooting was not justified as there was no jeopardy. One part of the termination teams mission was complete. One person was terminated with extreme prejudice.

SAMUEL WEAVER. Samuel Weaver did not show signs of agonal response, both bullets struck from the back. Agent Cooper committed First Degree Murder under color of law. There can be no excuse for a trained professional to forget his training for the moment, for whatever reason. The shooting had to be intentional. In the death of Vickie Weaver we have the same termination mentality, "The F.B.I. Agent asked his superior if he could take a shot, that he had a clear shot." Permission was given. The agent took the shot hitting Randy Weaver in the arm. At this point Randy Weaver and Kevin Harris turned to run for the house. Vickie Weaver-was holding the door open. The agent did not ask for permission to take a second shot. The agent took it upon himself to take a second shot, thus hitting Vickie Weaver, killing her instantly.

CONCLUSION: The F.B.I. agent over-stepped his legal ground. There was no ability, opportunity, or jeopardy on the part of Vickie Weaver. There was no agonal response from the victim Vickie Weaver (she was struck in the head and killed instantly). The agent that fired the second shot is guilty of First Degree Murder under color of law to indict Vickie Weaver after the fact so as to protect the agent, compounds the felony act of Murder. There is no excuse for a trained professional to forget his training for whatever reason.

A.) This conclusion, based on different sources, both inside and outside the Government, point to one undeniable fact; that the Weaver family was picked for termination by someone in Government Service. The 9mm sub-machine gun with silencer is only used, and is only good for, termination with extreme prejudice.

B.) As to who shot Degan we may never know. The two daughters were allowed to leave without a test being done to see if they had fired a weapon. Randy Weaver and Kevin Harris would take the heat to protect one so young. When a child sees her dog killed by an assassin who came to terminate her and the family, she would fire

automatically, killing the terminator.

In the death of Samuel Weaver, the crimes committed, but not limited to, are:

1. First Degree Murder.
2. Aiding and Abetting by United States Marshals and others of First Degree Murder.
3. Conspiracy to commit great bodily harm.
4. Trespass.
5. Compounding a felony under color of law.

In the death of Vickie Weaver, the crimes committed, but not limited to, are:

1. First Degree Murder.
2. Compounding the felony murder by indicting Vickie Weaver after the fact to protect the agent that committed the murder.
3. Conspiracy to commit great bodily harm.

4. Trespass.

If you cannot indict before the person is terminated then doing it after is wrong. It is similar to going into a house before the warrant is issued as in the case of the Gypsies in Spokane. It is illegal and a trick that has been used by the Fascist and Nazis of our past, who are in the present also.

DATED THIS DATE December 3, 1992:

[*Jurat*]

\_\_\_\_\_/S/\_\_\_\_\_  
SIGNATURE of CARSON SONNY MULLIS



[FILESTAMPED: RECEIVED FEB 14, 1995  
U.S. DISTRICT COURT, DISTRICT OF HAWAII]

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

PETITION TO THE UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT FOR WRIT OF  
MANDAMUS ON THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII; EXHIBITS  
"A" THROUGH "S"; CERTIFICATE OF SERVICE

1. COMES NOW ERIC AARON LIGHTER, Individually, and dba WELLS FARGO PROTECTIVE ALARM SERVICES COMPANY, ("Lighter"), *sui juris* and *in propria persona*, and hereby submits this Petition to and from the United States Court of Appeals of the Ninth Circuit for Writ of Mandamus on the United States District Court for the District of Hawaii, and order same to enter due default, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure ("FRCP"), on Third-Party Defendants Four Hawaii Federal Grand Juries and the San Francisco, California Federal Grand Jury in Cr. 93-059VRW ("Grand Juries"). This Petition is brought pursuant to Rule 21 of the Federal Rules of Appellate Procedure, under the jurisdiction of Title 28 of the United States Code ("U.S.C.") § 1292, and all other applicable laws and rules.

2. A Writ of Mandamus is sought to order the Honorable Harold M. Fong, judge in the U.S. District Court for the District of Hawaii, in Civil No. 94-00179-HMF, to order the Clerk of the U.S. District Court to enter default on the Third-Party Defendants Hawaii Federal Grand Juries and the San Francisco Federal Grand Jury In Cr. 93-0592VRW. It has been approximately six months since Lighter has demanded default upon said Third-Party Defendants Federal Grand Juries, for cause, and pursuant to proper procedure and argument.

3. One of the key issues is that Lighter properly filed a corporate tax return for Defendant HPW, Inc.--based on the evidence supported by Lighter's affidavits, formal declarations and more--which alleged fraud and a difference of some \$1.5 million in (un)reported income; primarily for the first fiscal year of HPW, Inc., October 1, 1989 through September 30, 1990. Lighter was duly authorized to be the Secretary and CEO of HPW, Inc., as well as the custodian of records. Further, Lighter was duly authorized to conduct an audit of and filed tax returns for HPW, Inc. The three year statute of limitations has passed on the tax return for the primary period concerned; thus removing the Court's jurisdiction to challenge Lighter's tax return except for fraud, which the Court has not done. Lighter made a felony confession to the Third-Party Defendants Federal Grand Juries, stating that if Lighter was wrong he was feloniously wrong, including pursuant to 18 U.S.C. § 3501(d). Lighter has also agreed that if Lighter is wrong on the tax returns he filed, that Lighter will thereafter nationally promote the thereby sanctioned tax fraud that Lighter exposed. Lighter was "set up" to be blamed for crimes actually committed by the tax fraud perpetrators.

4. Lighter's work is based, as custodian of records, on over 61 bankers boxes of records, with over seven bankers boxes being filed on public microfilm. Plaintiffs have provided no substantive challenge, and have prevailed thus far only by the Court deciding to ignore Lighter's many affidavits (the Court ordered sums due plaintiffs but not expressly due from the first fiscal year, and no express ruling was made that Lighter's tax return's or first fiscal year accounting for HPW, Inc.) and formal declarations (pursuant to 28 U.S.C. § 1746) and tax returns, and a huge amount of high quality, empirical evidence, as well as a felony confession made directly to the Honorable Judge Fong (at the May 16, 1994 hearing before Judge Fong). The Department of Justice told Lighter in writing that his material was presented to a sitting Federal Grand Jury in Hawaii, but Lighter has good cause to believe there was and is serious tamperment with the Federal Grand Juries in Hawaii. Lighter is and remains at serious risk of imminent indictment by one or more of the Third-Party Defendants Federal Grand Juries, even up to years from this date. Lighter has a right and duty pursuant to the Fifth Amendment of the United States Constitution for the therein provided Federal Grand Jury Presentment, in order to have access to the bring *prima facie* felony information before the Federal Grand Juries, as well as provided pursuant to 18 U.S.C. § 1504, which states, "Nothing in this section shall be construed to prohibit the communication of a request to appear before the grand jury". The Hawaii District Court's refusal to default the Third-Party Defendants Federal Grand Juries is a form of injunction against Lighter to have and confirm access to the Federal Grand Jury for matters that leave Lighter at risk of imminent indictment, a risk arising for reasons including the mere formal reporting of felonies Lighter was "set up" to be blamed for by Plaintiffs in the instant case. Another view is that injunction has been leveled against Lighter

to have and confirm access to the Federal Grand Jury until "after the coast is clear" and whistleblower Lighter alone can be indicted for crimes of those who "set up" Lighter to take the blame for their crimes. Lighter guaranteed the risk, of his indictment AND the necessity to scrutinize alleged felonies by others being exposed by Lighter, by providing a \$10,000 bond and more to one or more Federal Grand Juries to cover the cost of scrutiny of their matters herein, including Lighter's felony confession; which confession provides Lighter with inalienable standing to communicate with the Federal Grand Juries, including those that are Third-Party Defendants herein. No doubt there are no minute or other orders that can be produced that prove the Third-Party Defendants Federal Grand Juries indeed even know they were sued, given any bond(s), or had petitions made to them.<sup>14</sup>

5. It appears that Judge Fong may hold prejudice against Lighter pursuant to Complaint of Judicial Misconduct application sent to Lighter by this Circuit Court on August 31, 1992. This application was not sent at the request of Lighter, but rather at the request of Judge Fong. Lighter did not respond to the request for complaint to the Judicial Council of the Ninth Circuit. However, Lighter was at the time involved in the matter by other parties in their attempts to take felonies to the Hawaii Federal Grand Juries while Judge Fong was then Chief Judge, and thus responsible over same. Current Chief Judge Alan C. Kay was involved with the incident.

#### BACKGROUND

6. On December 16, 1993, Lighter filed his letter to the Honorable Bankruptcy Judges Lloyd King and Jon J. Chinen, plus Hawaii District Chief Judge Alan C. Kay, regarding providing a real property bond to the Hawaii and San Francisco Federal Grand Juries, in order to cover the cost of scrutiny thereof, a true and accurate copy of the cover letter thereto annexed hereto as Exhibit "A".

7. On January 6, 1994, Lighter filed with the Honorable Alan C. Kay a Memorandum to be forwarded to the Hawaii Federal Grand Juries, a true and accurate copy of the cover letter thereto annexed hereto as Exhibit "B".

8. On January 7, 1994, the Honorable Alan C. Kay responded to Lighter, a true and accurate copy of same annexed hereto as Exhibit "C".

9. On January 11, 1994, Lighter responded back to the Honorable Alan C. Kay, a true and accurate copy of same annexed hereto as Exhibit "D". Lighter quotes from the Handbook For Federal Grand Jurors, produced by the Administrative Office of the United States Court, Washington, D.C., demonstrating again that the Federal Grand Juries are indeed independent from either the Executive or Judicial Branches of government.

10. On February 7, 1994, Lighter wrote to the Department of Justice as the Honorable Alan C. Kay requested, a true and accurate copy annexed hereto as Exhibit "E".

11. On February 8, 1994, the Honorable Alan C. Kay again responded to Lighter, a true and accurate copy annexed hereto as Exhibit "F".

12. On February 17, 1994, Lighter filed with the Honorable Alan C. Kay a correction of a letter dated February 14, 1994 responding back to the Honorable Alan C. Kay, a true and accurate copy annexed hereto as Exhibit "G".

13. On March 24, 1994, the Assistant U.S. Attorney Leslie E. Osborne, Jr., Department of Justice, responded to Lighter regarding my correspondence with the Honorable Alan C. Kay, a true and accurate copy annexed hereto as Exhibit "H".

14. Grand Juries were sued as Third-Party Defendants herein by Lighter on June 18, 1994, a true and accurate copy annexed hereto as Exhibit "I".

15. On July 30, 1994, Third-Party Gregory Galaski filed his Answer and Third-Party Complaint,

---

1 On September 23, 1994, a petition was filed by Cathy Pergola of the Grand Jury Awareness Council, "In The United States Grand Jury For The District of Hawaii" in Misc. Case No. 94-00115-DAE, entitled Petition To the Four Federal Grand Juries For The District of Hawaii To Accept Evidence of Extrajudicial Misconduct By Officers And Agents of The United States, Including Tampering With And of the Four Federal Grand Juries For The District of Hawaii, As Detailed In Amended Tax Returns, Or In The Alternative (1) Demand to Change Venue For Competent, Non-Tampered With Grand Jury Tribunal And/Or (2) Quash Related Grand Jury Subpoenas, Exhibits "A" Through "J". The Petitioners were named in the style that is some 67 pages in length due to the large number of Petitioners. Lighter was not a Petitioner, but a witness for the Petitioners. No action has been taken by any Court on this Petition.

a true and accurate copy annexed hereto as Exhibit "J". The April 14, 1994 Order therein filed in the U.S.D.C. for the District of Nevada, CV-S-94-00009-PMP, concludes that Mr. Galaski made a proper reporting to the Federal Grand Jury, including via his suit against the Federal Grand Jury in San Francisco, California that indicted Mr. Galaski. That case received a hung jury overwhelmingly in favor of the defendants therein, and the judge praised the jury. That case exposed at trial the matters sued for in Lighter's Third-Party Complaint, Exhibit "I" annexed hereto, especially by confirming the therein described Operation Phoenix. After Mr. Galaski properly responded to an Order to Show Cause, the Court could not find that Mr. Galaski be prevented from suing the Federal Grand Juries for being a purported quasi-judicial body. On the contrary, Mr. Galaski was ordered, like anyone would be, that if he or anyone "believes he has information which should be called to the attention of a Federal Grand Jury sitting at San Francisco, California, or elsewhere (emphasis added), he should communicate that information to the United States Attorney for the Federal District in question and/or the foreperson of the Federal Grand Jury at that location (emphasis added)." Lighter filed an *amicus curiae* brief in that case, as yet unanswered. It appears now that Mr. Galaski has been re-indicted in that case. Lighter has offered another bond in order to cover the cost of scrutiny by the Federal Grand Juries, and provide assurance that Lighter is not ambushed by the Department of Justice for his involvement. The bonds also demonstrate the Federal Grand Juries have the capacity to sue and be sued, Rule 9 FRCP. Again, even if the Federal Grand Juries are a quasi-judicial body, "quasi" means "superficially resembling but intrinsically different," *Galloway v. Truewdsell*, 422 P2d 237, 248 (Nev. 1983).

16. On or about May 1, 1992, Lt. Col. (ret.) John Stuart Salter ("Salter") filed in the U.S. District Court for the District of Montana a suit against the Federal Grand Juries in the District of Columbia and Hawaii, and others, CV92-48-M-CCL. Salter made proper service upon the Defendants Federal Grand Juries using Capitol Process Services. The Department of Justice argued that the Federal Grand Juries are "an adjunct of the Executive Branch, and not the Judicial Branch of government", and certainly not independent of either branch. The U.S. District Court ordered that the Federal Grand Jury was indeed an "adjunct" of the Executive Branch. EXHIBIT "K" annexed hereto is comprised of documents which show the Department of Justice's absurd position that was affirmed by the U.S. District Court for the District of Montana, Salter's arguments, and proof of service by Capitol Process Services.

17. On August 23, 1994, Lighter filed the, (a) Affidavit of Eric Aaron Lighter, Re: Proof of Service Upon Four Hawaii Grand Juries, Exhibits "1" And "2", Certificate of Service; and (b) Affidavit of Eric Aaron Lighter, Re: Proof of Service Upon San Francisco Federal Grand Jury In Cr. 93-0592VRW, Exhibit "1", Certificate of Service, true and accurate copies annexed together hereto as Exhibit "L".

18. On August 24, 1994, Lighter filed the Request For Entry of Default Against Defendants Four Hawaii Federal Grand Juries And San Francisco Federal Grand Jury In Cr. 93-0592-VRW, Affidavit of Eric Aaron Lighter, Entry of Default Against Four Hawaii Federal Grand Juries And San Francisco Federal Grand Jury In Cr. 93-0592VRW, Certificate of Service, a true and accurate copy annexed hereto as Exhibit "M". As is observable upon inspection, said Exhibit "M" hereto received three filestamps, all on August 24, 1994: (a) "Received", "Lodged", and "Filed".

19. On August 24, 1994, the United States District Court for the District of Hawaii entered an order herein, a true and accurate copy annexed hereto as Exhibit "N". Said Exhibit "N" hereto states: "COURT ACTION: EO: On request for entry of Default by Eric Lighter, against Defendants Four Hawaii Federal Grand Juries and San Francisco Federal Grand Jury, Judge Harold M. Fong advised Mr. Chinn not to enter Default. Mr. Lighter was personally informed of this by Mr. Chinn."

20. On August 26, 1994, Lighter filed the Second Affidavit of Eric Aaron Lighter In Support of Request For Entry On Default Against Four Hawaii Federal Grand Juries And San Francisco Federal Grand Jury In Cr. 93-0592VRW, Exhibits "A" And "B", Certificate of Service, a true and accurate copy annexed hereto as Exhibit "O", filed as a second request for default on the Grand Juries.

21. On September 15, 1994, the United States District Court for the District of Hawaii entered an order herein entitled Order Denying Motion For Order Directing Entry of Default Judgement, a true and accurate copy annexed hereto as Exhibit "P".

22. On October 6, 1994, Third-Party Defendant Gregory Galaski filed his Amended Ex Parte Motion of Gregory J. Galaski for Reconsideration of Request For Entry of Default Judgment, Rule 55(b) FRCP, a true and accurate copy annexed hereto as Exhibit "Q".

23. On October 12, 1994, the Honorable Harold M. Fong entered the Order Denying Motion of

Gregory J. Galaski For Reconsideration of Request For Entry of Default Judgement, a true and accurate copy also annexed hereto as part of Exhibit "Q". The claimed basis for the Court denying Mr. Galaski's request was that the damages accruing against Mr. Galaski were substantial but not yet quantifiable.

24. On November 18, 1994, Lighter dismissed without prejudice the Third-Party Complaint against certain Third-Party Defendants, all of which are officers and agents of the United States of America Executive Branch, a true and accurate copy annexed hereto as Exhibit "R". In Lighter's pleading therefore, Exhibit "R" hereto, Lighter's last exhibit of said pleading including his Freedom of Information Privacy Act disclosure from the Federal Bureau of Investigation (some three years late) demonstrating that Assistant U.S. Attorney Leslie Osborne, Jr. was a principal in a massive fraud upon Lighter, et al.

25. On December 5, 1994, the U.S. District Court heard oral arguments related to Lighter's dismissed without prejudice of those Third-Party Defendants so dismissed in said Exhibit "R" hereto. Said Third-Party Defendants were represented in said hearing by Michael Chun, Assistant U.S. Attorney, and Chief of the Civil Division in the Honolulu Office of the U.S. Attorney. At said hearing, Mr. Chun stated that his office did not represent any Federal Grand Juries unless the U.S. District Court so ordered. The Court responded that it could so order same *sua sponte*.

26. However, the court instead ordered the dismissal without prejudice Lighter's Third-Party Complaint as to only the requested Third-Party Federal Defendants pursuant to order filed December 20, 1994 herein, a true and accurate copy annexed hereto as Exhibit "S". This order also states that the government made "no responsive pleading". Also part of this Exhibit "S" is the transcript of said December 5, 1995 hearing. This transcript demonstrates that the Federal Grand Jury is not represented by the Department of Justice. The Motion to Dismiss, etc. filed October 14, 1994 herein by the United States is also included in this Exhibit "S", where in the government sought dismissal of the Third-Party Federal Complaint against the Third-Party Defendants Federal Grand Juries. Later, at the December 5, 1994 hearing--relevant portion of which is also made part of this Exhibit "S"--the government retreated from its position, changing its mind to state that it in fact did not represent the Defendants Federal Grand Juries.

#### TAX RETURN OF PETITIONER

27. This Petition is annexed in full, including exhibits hereto, to the personal U.S. Tax Return of Lighter for all the years not subject to the three year statute of limitations against civil assessments by the Internal Revenue Service, Badaracco, Ernest v. Com., (1982, CA3) 693 F2d 298, 464 U.S. 386, *aff'd* (1984, S Ct.). The tax return of HPW, Inc., Defendant herein, was most recently amended by Lighter on October 26, 1993 for the first fiscal year of HPW, Inc., October 1, 1989 through September 30, 1990. This HPW, Inc. amendment can not be further amended except for fraud, as the three year statute of limitations has passed, Kelly v. Com., (1989, CA9) 877 F2d 756.

28. Said first fiscal year HPW, Inc. tax return was one of the most important tax return brought before the herein Third-Party Defendants Federal Grand Juries. Except that it rule regarding fraud, this passing of the statute of limitation caused the U.S. District Court in the District of Hawaii to lose jurisdiction to rule on the veracity of the allegations of Lighter regarding the first year of HPW, Inc.'s operation, the critical source year of the tax fraud alleged by Lighter. That is, Lighter alleged the tax fraud scam of HPW, Inc. was sourced mainly in the first year of operation, a story codified in the HPW, Inc. tax return filed by Lighter and amending the tax return of the tax fraud perpetrators. As a matter of law, Lighter is by law presumed correct in the allegations made in the now unchallengeable HPW, Inc. tax return, except if there is fraud. Lighter alleged fraud in the unchallengeable HPW, Inc. tax return. Lighter's allegations of fraud can not be challenged except there be fraud. Such is as a matter of law a meritorious argument pleaded by Lighter.

29. The HPW, Inc. tax returns filed by Lighter on October 26, 1993, were annexed in full, including exhibits, to the personal U.S. Tax Return of Lighter for all the years not subject to the three year statute of limitations against civil assessments by the Internal Revenue Service. The main portion of the HPW, Inc. tax returns filed by Lighter on October 26, 1993 were on multiple occasions filed, together with supporting documentation--which are all part of Lighter's personal tax return as noted above--in the Hawaii Bureau of Conveyances at the following locations (and elsewhere):

|                                |                                |
|--------------------------------|--------------------------------|
| Folder 257, Doc. No. 93-143010 | Folder 265, Doc. No. 93-146844 |
| Folder 269, Doc. No. 93-152905 | Folder 270, Doc. No. 93-152906 |
| Folder 295, Doc. No. 93-176706 | Folder 296, Doc. No. 93-176707 |
| Folder 297, Doc. No. 93-176708 | Folder 307, Doc. No. 93-181484 |

|                                |                                |
|--------------------------------|--------------------------------|
| Folder 308, Doc. No. 93-181485 | Folder 309, Doc. No. 94-007990 |
| Folder 310, Doc. No. 94-007991 | Folder 314, Doc. No. 94-104616 |
| Folder 315, Doc. No. 94-104617 | Folder 316, Doc. No. 94-104788 |
| Folder 317, Doc. No. 94-105710 | Folder 318, Doc. No. 94-105711 |
| Folder 319, Doc. No. 94-106710 | Folder 320, Doc. No. 94-106711 |
| Folder 321, Doc. No. 94-106790 | Folder 322, Doc. No. 94-106791 |
| Folder 323, Doc. No. 94-107353 | Folder 324, Doc. No. 94-107354 |
| Folder 325, Doc. No. 94-107520 | Folder 326, Doc. No. 94-107521 |
| Folder 327, Doc. No. 94-108210 | Folder 328, Doc. No. 94-108211 |
| Folder 329, Doc. No. 94-108457 | Folder 330, Doc. No. 94-108458 |
| Folder 331, Doc. No. 94-108941 | Folder 332, Doc. No. 94-108942 |
| Folder 333, Doc. No. 94-109424 | Folder 334, Doc. No. 94-109425 |
| Folder 335, Doc. No. 94-110490 | Folder 336, Doc. No. 94-110491 |
| Folder 337, Doc. No. 94-111355 | Folder 338, Doc. No. 94-111356 |
| Folder 339, Doc. No. 94-111891 | Folder 340, Doc. No. 94-111892 |
| Folder 341, Doc. No. 94-112421 | Folder 342, Doc. No. 94-112422 |
| Folder 343, Doc. No. 94-112423 | Folder 369, Doc. No. 95-19167  |
| Folder 370, Doc. No. 95-19170. |                                |

#### ARGUMENT

30. Rule 55(a) FRCP states:

"When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default [*emphasis added*].

31. Therefore, Rule 55(a) FRCP gives neither the Clerk of the Court or the Court zero option regarding entering default. Default MUST be entered. In Enron Oil Corp. v. Diakuhara, 27 Fed Rules Serv 3d (2CA, 1992), entry of default was deemed proper if there was "a willful default or a refusal to proffer an excuse for not responding" or "a meritorious defense", which was not the case therein but is the case herein. Third-Party Plaintiff Lighter has been prejudiced due to the delay in default. Lighter made a felony confession in this case stating in sum that, if the tax returns Lighter filed are false then they are criminally false and Lighter demands to be indicted thereby. Thus, the Grand Jury's response, once actually notified of the proper reporting via the Third-Party Complaint thereon, can surely result in the arrest of Lighter irrespective of the veracity of any party herein that opposes Lighter, including for reason of covering up of tax fraud committed. Lighter's allegation that his tax filing are truthful, verses those filed before him, must be view in light of the difference being over \$1.5 million dollars in (un)reported income.

32. Thus, one of the meritorious arguments are that, although perhaps neither Lighter nor the Plaintiffs and cohorts are legal, it is certainly true that both sides can not have the truthful tax returns. Someone should and likely will be indicted therefore anyway. Default must be taken against the Federal Grand Juries to whom Lighter made felony confession to, in order to further assure that Lighter is not held up to Grand Jury scrutiny and indictment only at the whim of vindictive officers and agents of the federal government who ignore felony confessions as they please. Felony confessions are admissible pursuant to 18 U.S.C. § 3501(d). =====>Nevertheless, Lighter would be willing to have this court and the court below determine that Lighter filed false tax returns, and thereby approving for mass circulation the tax frauds of the tax returns Lighter opposed in this case.<=====

33. In Bleitner v. Welborn, 28 Fed Rules Serv 3d 49 (7CA, 1992), a default judgement was not imposed on the executive branch of the government for being a few weeks late in a habeas corpus petition because no harm was done AND the time was relatively short with at least the appearance of excusable neglect. In the instant case, the Federal Grand Juries should have been defaulted, especially since there was no excusable neglect. In fact, Lighter alleges that the Federal Grand Juries have not answered because they were tampered with, including by not having been put on notice of the Third-Party Complaint against them; and that even in the face the March 24, 1994 letter from the Department of Justice to the contrary, Exhibit "H" hereto. The default should have been entered almost six months ago.

34. The traditional doctrine that defaults are strongly disfavored is no longer the rule in the

Seventh Circuit. In fact, in order to set aside an entry of default the defendant must show good cause, quick action to correct it, and a meritorious defense to the plaintiff's complaint, O'Brien v. Sage Group, Inc., 19 Fed Rules Serv 3d 1039 (ND Ill 1991). Failure to appear by a corporation after process was served did not cure a default judgment in the Ninth Circuit with a statement by the firm's President that he would refer the matter to his attorney, Direct Mail Specialists, Inc. v. Exlat Computerized Technologies, Inc., 841 F2d 685 (CA9, 1988). In Hudson v. State of N.C., 158 F.R.D. 78 (ED NC, 1994), a motion to dismiss prevented a default judgement, although prejudice to plaintiff was a factor in considering exercise of the court's discretion on whether to enter default. In the instant case, Lighter is prejudiced by failure to enter default; and no objection has been made, let alone a motion to dismiss. On the contrary, Exhibit "S" hereto demonstrates that neither the court nor the Department of Justice did or do now represent the defendants Grand Juries. In Beck v. Atlantic Contracting Co., Inc., 157 F.R.D. 61 (D Kan, 1994), the entry of default judgement was appropriate in light of evidence that defendant received proper service and failed to respond.

35. In the Motion to Dismiss, etc. filed October 14, 1994 herein by the United States, included in Exhibit "S" hereto, the government sought dismissal of the Third-Party Complaint against the Third-Party Defendants Federal Grand Juries. Later, at the December 5, 1994 hearing--transcript of which is also made part of Exhibit "S"--the government retreated from its position, changing its mind to state that it in fact did not represent the Defendants Federal Grand Juries. However, the government and the Court clearly recognized that the Third-Party Defendants Grand Juries were indeed properly served with the Third-Party Complaint. This service was perfected even if said service was also tampered with by interception of the Third-Party Complaint which resulted in the Defendants Federal Grand Juries not actually receiving said Third-Party Complaint; which appears to be the actual truth.

#### CAPACITY OF THE FEDERAL GRAND JURIES

36. Capacity, in the legal sense, means the qualification or competency of persons, natural or artificial, for the performance of civil acts depending on their state and condition as defined or fixed by law, Hronek v. People, 24 N.W. 861, 865. The government and the Court, pursuant to the government's pleading and the Court's response, waived the defense of capacity by not expressly so stating same as the representative of the Third-Party Defendants Federal Grand Juries; which, on the contrary, neither the Court nor the government represent by their own statements, Exhibit "S" hereto. In Pressman v. Estate of Steinvorth, 860 F Supp 171 (SD NY, 1994), the defense of lack of capacity of the party to sue or be sued is waived if not raised in a timely manner the outset of the lawsuit. The default against the Third-Party Defendants Federal Grand Juries in the instant case should have been entered almost six months ago. Failure to set forth particulars supporting plaintiff did not have requisite standing to bring suit in effect waived the capacity defense by failing to be more explicit in defendant's answer. *Id.* In Chiropractic Alliance of New Jersey v. Parisi, 854 F Supp 299 (D NJ, 1994), the capacity defense challenge was defeated by plaintiff pleading claims with specificity and particularity.

37. On June 18, 1994, Lighter's Third-Party Complaint against the Third-Party Defendants Federal Grand Juries expressly describes capacity with particularity, Exhibit "I" hereto. Moreover, on August 26, 1994, Lighter did put at explicit issue the capacity of the Third-Party Defendants Federal Grand Juries, Exhibit "O" hereto. Thereafter, neither the Department of Justice nor the Court made explicit defense of the Third-Party Defendants Federal Grand Juries. On October 14, 1994, the government filed its Motion to Dismiss, etc., Exhibit "S" hereto, wherein the government puts itself up as the representative of the Grand Juries even to the point of requesting the Court to dismiss the Third-Party Complaint against same. The government's argument for such dismissal against Third-Party Defendants Federal Grand Juries was weak and general. Thereafter, in the December 5, 1994 hearing, the transcript of which is part of Exhibit "S" hereto, shows the government changing its mind and suddenly decided it no longer represented the Third-Party Defendants Federal Grand Juries. Lighter has even complied with any policy to stipulate capacity in the complaint in civil rights cases, Nix v. Norman, 879 F2d 429 (CA8, 1989).

38. In Wagner Furniture Interiors, Inc. v. Kemner's Georgetown Manor, Inc., 929 F2d 343 (CA7, 1991), the court held the defendant had waived the defense of no capacity to sue because defendant did not raise the lack of capacity to sue "by specific negative averment" in an appropriate pleading or amendment. See also Howerton v. Designer Homes by Georges, Inc., 950 F2d 281 (CA5, 1992), where the district court even entered judgement in every capacity of a corporate defendant after corporation was named a defendant "in every capacity". The government, in its October 14, 1994 Motion to Dismiss, etc., Exhibit "S" hereto, failed

to make such specific negative averment, but rather made only bald, weak and general demand for dismissal of the Third-Party Complaint against the Third-Party Defendants Federal Grand Juries.

39. In Eisenburg v. District Attorney of the County of Kings, 847 F Supp 1029 (ED NY, 1994), entry of default judgement was technically improper because entry of default was not entered first, and delay in answering complaint was not willful. Perhaps Gregory Galaski, Third-Party Defendants Federal herein, should have done this also and would thereby have avoided denial by the Hawaii District Court, see Exhibits "J", "P", and "Q" herein. However, Lighter ONLY and PROPERLY requested entry of default and not default judgement. The Third-Party Defendants Federal Grand Juries could not have committed a willful delay if they were tampered with, and no Complaint was given to them even though service was properly made upon both the Jury Administrator for the U.S. District Court AND the Department of Justice. It should be noted, however, that Mr. Galaski has valid arguments that no doubt should have caused the default and default judgement on the Grand Jury defending against Mr. Galaski's complaint. Even a sensible and efficient use of supervisory power by the Federal Court is invalid if it conflicts with constitutional or statutory provisions, Rule 55(a), FRCP, see paragraph no. 23 above, Bank of Nova Scotia v. U.S., 108 S.Ct. 2369 (CA9, 1988).

40. In fact, dismissal of an indictment for non-constitutional error is appropriate if it is established the violation substantially influenced grand jury's decision to indict, or there is grave doubt that the decision to indict was free from substantial influence of such violation, 52(a) FRCP, *Id.* Dismissal of indictment may be proper even when no actual prejudice has been shown to have resulted from prosecutorial misconduct before the grand jury, as long as there is evidence that challenged authority was something other than an isolated incident unmotivated by sinister ends, or that the type of misconduct challenged has been "entrenched and flagrant" in the circuit, U.S. v. Serubo, 604 F2d 807 (CA3, 1979).

41. Further, once default is entered, the only option the Court has, pursuant to Rule 55(c) FRCP, to avoid entering judgment is in the instance of the party being either a minor or incompetent. The question of whether a party is a minor or not is simple. By definition the grand jury is composed of citizens who are expressly not minors. Should the Grand Jury be deemed incompetent, then the question arises as to how anyone in the same district could ever be validly indicted. Exhibit "O" hereto contains Lighter's discussion regarding how the Clerk of the Court must enter a default against the Third-Party Defendants Federal Grand Juries, just as if a "rock or a myna bird were sued". If the Grand Juries are incompetent, perhaps there are rouge Federal Grand Jury forepersons signing indictments.

42. The issue of bonding the Third-Party Defendants Federal Grand Juries is vital to consideration of the capacity of these defendants to sue and be sued. No defense of immunity has been offered. No defense of lack of capacity has been offered. The Department of Justice and Court agree, Exhibit "S" hereto, that the Department of Justice could represent the Federal Grand Juries, albeit even if only ordered to do so. The Third-Party Defendants Federal Grand Juries have, as an entity and by components, the capacity (a) to be represented, (b) to hold property, (c) to operate separately from the Court and the Department of Justice, (d) are composed entirely of adults, and (e) are presumably of sound mind. The Federal Grand Juries have rejected no bonds, and do have expenses for conducting their scrutiny of matters before them. These expenses are similar to the operation of any administrative body composed solely of citizens not bureaucratically aligned with the agency associated therewith, in this case the Court.

43. Even if the Federal Grand Juries are adjudicated a quasi-judicial body, there is no immunity from suit except same be affirmatively made, and certainly no immunity for actions outside of the scope of the law. Tampering with Federal Grand Juries, and allowing tampering with Federal Grand Juries is obviously and by law a felony. Intercepting the federal mail, valuable bond(s), valid lawsuit, and felony related information due the Federal Grand Juries is certainly tampering with Federal Grand Juries. Lighter has no defense against vindictive, tampering-based indictment(s) unless the Federal Grand Juries can indeed conduct its presentment function without corruption and coverup of corruption by forces and entities that certainly are not the Federal Grand Juries.

44. To continue, certainly the Federal Grand Jurors can hold property, and the Federal Grand Jury as an entity has significant cost and expenses. The Federal Grand obtains its budget from the U.S. Treasury, but so also do ordinary trial juries in federal cases, and this does not make them part of the U.S. government *per se*. There is not only a separation of powers in the Branches of government, but a separation between the government and the people. The Federal Grand Jurors are the people, not the government. The people, however vested with certain powers from the Court, are not the Court. Quasi bodies can sue and be sued.

45. Lighter has offered another bond in order to cover the cost of scrutiny by the Federal Grand Juries, and provide assurance that Lighter is not ambushed by the Department of Justice for his involvement. The bonds also demonstrate that the Federal Grand Juries have the capacity to sue and be sued, Rule 9 FRCP.

#### THE REAL PROBLEM

46. The real problem is not that the Federal Grand Juries can sue or be sued, they can. The real problem is that the Federal Grand Juries, when sued or petitioned, have such suits or petitions intercepted so that the Federal Grand Juries never even know they were sued, petitioned, or provided with a bond to cover the cost of scrutiny in the presentment function. The real problem is so severe that not even felony confessions can be provided to the Federal Grand Juries without same being intercepted when such confessions even slightly implicate officers and agents of the federal government. Such coverup of corruption, as in the instant case, is certainly tampering with Federal Grand Juries.

#### GRAND JURY IS INDEPENDENT

47. The issue of whether the Grand Jury is independent from the Department of Justice and the Court is well settled in this Circuit Court. Annexed hereto by reference is the Handbook for Federal Grand Jurors, published by the Administrative Office of the United States Courts, Washington, D.C. 20544. Exhibit "D" hereto makes important quotes from this book. On page seven thereof it states, "(1) Matters may be brought to the attention [of the Grand Jury] in three ways: (1) by the United States Attorney or his assistants; (2) by the court that impaneled it [emphasis added]; and (3) from the personal knowledge of a member of the grand jury or from matters properly brought to a member's personal attention. In all these cases, the grand jury must hear evidence before taking action." On page twenty-three thereof, it states, "Just as it is hoped and expected that you will serve as the balance wheel between the power of the government and the interests of personal liberty [emphasis added], it is also expected that you will achieve an appropriate balance in the exercise of your powers." On page twenty-four thereof, it states, "Just as the English grand jury was independent of the king, the federal grand jury under the United States Constitution is independent of the United States Attorney [emphasis added], the prosecutorial agent of the executive branch of the federal government. The grand jury is not an arm of the Federal Bureau of Investigation; it is not an arm of the Internal Revenue Service; just as it is not an arm of the United States Attorney's office [underline added]." On page thirty-four, it states, "Within your prescribed sphere, you occupy an important and independent office in the administration of justice. The government attorneys cannot dominate or command your actions. The court may guide, but cannot dominate or command your actions [emphasis added]".

48. These are important matters. Exhibits "A" through "I" hereto clearly show that Judge Kay was incorrect in intercepting the grand juries's mail, 39 U.S.C. § 3001. The Chief Judge supervises and impanels the grand juries. The Chief Judge is responsible to forward communications to the grand juries, and same is in no way judicial intervention. Judge Kay cites two cases. In U.S. v. Chanen, 549 F.2d 1306 (9th Cir. 1977), this case elucidates how, "under constitutional scheme, grand jury is not and should not be captive to any of the three branches of government." However, the court "must compel grand jury witness to testify if, after appearing, such witness refuses to do so." Regarding the U.S. v. Chanen case, in Federal Grand Jury Practice, March 1983, William French Smith, Attorney General, Department of Justice, page 72, it states, "Chanen offers an excellent discussion of the supportive and complementary roles [supposed to be] played by court and prosecutor with respect to the work of the grand jury. The discussion supports the description of the grand jury being 'supervised' by the court rather than as an appendage of it [emphasis added]. The district court may properly deny a grand jury use of subpoenas to engage in 'the indiscriminate summoning of witnesses with no objective in mind and in the spirit of meddlesome inquiry' and may curb a grand jury when it clearly exceeds its historic authority. Hale v. Henkel, 201 U.S. 43, 63 (1906)." The Grand Jury is impaneled by the Court pursuant to Rule 6(a), Federal Rules of Criminal Procedure.

49. The other case cited by Judge Kay is In Re Antitrust Grand Jury Investigations, 714 F.2d 347, 350 (4th Cir. 1983). This case focuses on concerns regarding quashing a grand jury subpoena or otherwise determining whether the Grand Jury has misused its subpoena process. This in no way relates to the matter of the Grand Jury supervisor merely passing on the mail to the Grand Jury. However, Lighter has every right to be concerned with the question, did the Department of Justice really deliver Lighter's material to a sitting Federal Grand Jury as it promised in Exhibit "H" hereto. The Department of Justice, by its own admission was

working with Judge Kay on this matter. In the instant case, the Department of Justice has changed its mind on whether it represents the Grand Jury, just at the Court changed its mind on whether it can intercept rather than pass on the Grand Jury's federally protected mail.

50. Further, in regards to the court's supervisory or administrative function in said Federal Grand Jury Practice, page 6, it states, "Rule 6(c) provides: 'The court shall appoint one of the jurors to be foreman and another to be deputy foreman.' USAM 9-11.340." The court's supervision can be broad. On page 26 of said Federal Grand Jury Practice, it states, "D. Disclosure Under Court Order: Rule 6(e)(3)(C)(i), 1. General Rule, Disclosure of otherwise non-disclosable matter is permitted under rule 6(e)(3)(C)(i) when the court so directs 'preliminarily to or in connection with a judicial proceeding.' Judge Learned Hand, in the seminal case, defined "judicial proceeding" as follows: [T]he term 'judicial proceeding' includes any proceeding determinable by a court, having for its object the compliance of any person, subject to judicial control, with standards imposed upon his conduct in the public interest, even though such compliance is enforced without the procedure applicable to the punishment of crime. Doe v. Rosenberry, 255 F.2d 118, 120 (2d Cir. 1958) (*emphasis added*)." On page 71 of said Federal Grand Jury Practice, it states that "3. Power limited by district court, The grand jury is under the supervision of the courts. The grand jury must rely on the district court's subpoena and contempt powers, because it lacks its own enforcement power. Brown v. United States, 359 U.S. 41 (1959)." and "Although a matter should not be presented to a grand jury in a district unless it has venue, the grand jury may investigate matters even though they occurred partly outside the district. A witness cannot challenge the right of the grand jury to inquire into events that happened in another district. Blair v. United States, 250 U.S. 273, 282-3 (1919); In re May 1972 San Antonio Grand Jury, 366 F. Supp. (W.D. Tex., 1973). The grand jury has jurisdiction to investigate a conspiracy if it appears that it was formed in the district or any overt act occurred within the district. 18 U.S.C. Section 3237 [*emphasis added*]; Hyde v. Shine, 199 U.S. 62 (1905); Downing v. United States, 348 F.2d 594 (5th Cir.) cert. denied 382 U.S. 901 (1965)." Thus, venue can even overlap or be changed as appropriate. Riddle: who do you turn a tampered with federal grand jury over to? Answer: another federal grand jury in another venue.

51. The grand jury relies upon the court for delivery of its mail. The grand jury is under at least quasi supervision of the Chief Judge, here Judge Alan C. Kay. Asking Judge Kay to forward the mail to the grand jury was proper and timely, especially when a voluntary felony confession supported by redundant, *prima facie* and high quality evidence was included. To thwart such a confession could be construed to be tantamount to Misprision of Felony, 18 U.S.C. § 4, or accessory after the fact, 18 U.S.C. § 3. The grand jury has jurisdiction to investigate the matters herein, and in fact was presented same by the Department of Justice, see Exhibit "H" hereto.

52. The Department of Justice may not circumvent the safeguard of the Federal Grand Jury by overreaching conduct which deprives the Federal Grand Jury of autonomous and unbiased judgement, U.S. v. Al Mudarris, 695 F2d 1182 (CA9, 1983). The prosecutor may not, by making prejudicial remarks to sway the Federal Grand Jury, deny an accused his right to have his indictment be tested by the Federal Grand Jury's independent judgement, *Id.* It is constitutionally required that an indictment be returned from a legally constituted and unbiased Federal Grand Jury, U.S. v. Samango, 607 F2d 877 (CA9, 1977). There is no serious way the Federal Grand Jury can actually be unbiased when it is not allowed to receive suits against it, petitions to it, felony confessions made to it, bonds to it in order to cover its cost of scrutiny, and other felony information sent to it through the Federal mail. For example on the other side of the same coin, a prosecutor may not make statements or argue in a manner calculated to inflame the Federal Grand Jury unfairly against the accused, U.S. v. Hogan, 712 F2d 757 (CA2, 1983). Dismissal of an indictment is justified to achieve either of two objectives; to eliminate prejudice to a defendant or, pursuant to court's supervisory power, to prevent prosecutorial impairment of Federal Grand Jury's independent role, *Id.*, U.S. v. Kilpatrick, 821 F2d 1456 (CA10, 1987).

53. Access to the Federal Grand Jury is constitutionally protected. The Federal Grand Jury may investigate every available clue to find if a crime has been committed. Such investigation may be triggered by hearsay including tips, rumors, evidence proffered by the prosecutor, or by personal knowledge of the Federal Grand Jurors themselves, Schwartz v. U.S. Dept. of Justice, 494 F Supp 1268 (ED Penn, 1980). The Court cannot interfere with the prerogatives of the Federal Grand Jury unless there is a clear basis in fact and law for doing so, *Id.*, which in the instant case there is no such basis or any such basis claimed. The same applies to the Department of Justice.

54. The two provisos often used to measure prosecutorial use of hearsay, for example, are (a) that the prosecutor does not deceive grand jurors as to 'the shoddy merchandise they are getting so they can seek something better if they wish,' or (b) that the case does not involve 'a high probability that with eyewitness rather than hearsay testimony the grand jury would not have indicted,' U.S. v. Estepa, 471 F2d 1132 (SD NY, 1972). There has clearly been significant, material and prejudicial interference with the Third-Party Defendant Federal Grand Juries in the instant case. Overstatements by witnesses can also cause dismissal of an indictment, *Id.*

#### CONTEMPT PROCEEDINGS CAN BE INSTITUTED

55. Lighter's Third-Party Complaint was issued with a Summons, which is a Court Order. The parties who interfered with delivery to the Third-Party Defendants Federal Grand Juries by intercepting the federal mail, valuable bond(s), valid lawsuit, and felony related information due the Federal Grand Juries, also obstructed said Summons. Contempt of Court proceedings could be instituted therefore. More detail is seen in Federal Grand Jury Practice, March 1983, William French Smith, Attorney General, Department of Justice, page 158, it states under Non-routine ex parte motions, "Most civil contempt proceedings fall under 28 U.S.C. § 1826, controlled by statute with developing procedural niceties. See In re Sadin, 509 F2d 1252 (2d.Cir. 1975); United States v. Hawkins, 501 F.2d 1029 (9th Cir.), *cert. denied*, 419 U.S. 1079 (1974), which held that due process rights created under Fed. R. Crim. P. 42(b) must be observed under 28 U.S.C. § 1826. (1) Counsel, (2) Some sort of notice of proceeding and consequence, (3) Chance to demonstrate 'just cause' for refusal to comply: (a) 5th Amendment, (b) Attorney-Client, (c) Other privileges, (d) Privacy, (e) Illegal wiretaps, (f) Flaw in service, (g) Flaw in grand jury, (h) Prosecutorial abuse, misconduct, (i) Oppressive. Note: Substantive law is same as if witness had moved to quash on all of these items."

#### FRAUDULENT RETURN OFTEN REQUIRES FILING A RETURN THE PREPARER BELIEVES IS FALSE

56. In the, Handbook for Special Agents, Criminal Investigation Intelligence Division, Internal Revenue Service, annexed hereto by reference (filed with original answer of Lighter) section 418.11 and 418.12, it states in part, "A person who willfully makes and subscribes, under penalty of perjury, any return, statement, or other document which he/she does not believe to be true and correct, as to every material matter, commits a criminal offense," see 26 USC § 7206, Fraud and False Statements; note also the related section 18 U.S.C. § 7207. "(1) The elements of a criminal violation under this Code section are: (a) Making and subscribing a return, statement or other document under penalty of perjury; (b) Knowledge that it is not true and correct as to every material matter; (3) Willfulness." Lighter's felony confession conclusively establishes Lighter's intention.

57. In Federal Grand Jury Practice, published by the Department of Justice, March 1983, page 5, "The grand jury has been afforded the broadest latitude in conducting its investigations...supervised by the district court...In a joint tax and narcotics grand jury investigation approval [for Department of Justice participation] for the tax investigation must be obtained through the Tax Division...Moreover, approval [for Department of Justice participation] for RICO charges, 18 U.S.C. Sections 1961-1968, must be obtained from the Attorney General or his agent (Organized Crime and Racketeering Section, Criminal Division)." The instant case is a case regarding RICO allegations.

58. Lighter's Affidavits and Declarations, ignored by the Court below, show this to be a tax case involving the equivalent of seventy (70) forty foot (40') seagoing containers of heavy inventory missing in about four (4) years, which equals about half (1/2) a mile of containers. There are no invoices signed for almost \$8 million in transactions between Plaintiffs and cohorts. There are:

- C forged checks
- C a contrived warehouse eviction
- C attempted "clean up" of crimes and removal of records via bankruptcy
- C overwhelming alter-ego operations between alleged vendor and vendee evidenced by a huge cloud of interchangeable names, addresses, phone numbers, employees, business cards, invoices, statements, tax return documents, checks, etc.
- C missing corporate stock supposed to be in a bank escrow
- C Twilight Zone computer run billings
- C fraudulent police report and/or bribery/coercion/blackmail/other to withdraw true police report charges

C double books to induce liquor sales\*, etc.  
C checks to HPW, inc. missing due to being sent to Plaintiffs post office box despite protest  
\* Fedway v. U.S., 976 F 2d 1416 (D.C.Cir. 1992).

59. In other words, there is no possibility that Plaintiffs have no idea what happened to the \$1.5 million plus that is missing from Defendant HPW, Inc., the same \$1.5 million that Lighter claims is missing at risk of a long prison term. That is, Plaintiffs knew or should have known that their tax returns, based upon their financial relationship with HPW, Inc., were fraudulent when they filed them. Lighter and Plaintiffs each know approximately the same financial facts, but with two very different allegations. IT IS VIRTUALLY IMPOSSIBLE THAT AT LEAST ONE PARTY IS NOT LYING.

60. Lighter and media across this country are eagerly looking forward to this Court formally announcing that two tax returns for the same business entity, including Schedule C for individuals filing form 1040s, and the same business period, can now coexist without conflict. This would be true. even though they are over \$1.5 million different in (un)reported income. The tax course has been long in preparation, but a Parade Across America is about to be truly launched that will support the official position of the United States already detailed in the May 31, 1991 Federal Register, pages 24836-43.

61. This Petition, together with all exhibits annexed hereto by reference and annexed by attachment are hereby annexed to the tax return of HPW, Inc. The 26 USC § 6103(b)(1) discusses how a "return" is any return, estimated tax declaration, information return or refund claim which is filed by, on behalf of, or with respect to any party. A return also includes any amendment or supplement to the return, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return. 26 USC § 6103(b)(2)(A) and (B) discusses how a tax return, including for a corporation, needs "return information", which is, in part, a taxpayer's identity, the nature, source or amount of its income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments and tax payments, whether the return is, was or will be examined or investigated, or any other data with respect to a return or determination of the existence of the liability of any party for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, plus any part of any written determination or any background file document relating to such written determination, which is not open to public inspection, Church of Scientology v. IRS, 569 F Supp 1165 9th Cir. 1986), cert. granted (1987, S Ct) 479 US 1063.

62. It may well be true that, "It is not within the power granted to federal courts to right every wrong that may be inflicted on individuals in our society, and a judge is not knight-errant, roaming at will in pursuit of his own ideal of beauty and goodness." McFarlin v. Newport Special School Dist., 784 F. Supp. 589 (E.D.Ark. 1992). However, it is the Defendants that were victimized by Plaintiffs. Mere "huff and puff", "smoke and mirrors", "red herrings" and tantrums by Plaintiffs do not bring back the embezzled money or cure the problem of two very different tax returns that will indict Lighter if Lighter is incorrect.

63. Further, it is the Federal Grand Jury who has true jurisdiction over these matters herein, rather than the Court, especially pursuant to the voluntary confession made herebelow. Overall, it is clear that this case is an obvious fraud upon the Court. There are many compelling reasons introduced or reiterated herein that should cause the Court to conclude that this case should be dismissed.

VOLUNTARY FELONY CONFESSION OF LIGHTER VS. PLAINTIFF NOAH WOO, ET AL., PURSUANT TO 18 U.S.C. § 3501, see 5/31/91 Federal Register, pp. 24836-43

64. In order that there is no misunderstanding regarding LIGHTER's unavoidable position, LIGHTER hereby reiterates the following statement:

I, ERIC AARON LIGHTER, HEREBY VOLUNTARILY CONFESS TO TAX FELONIES COMMITTED IN THIS CASE AND IN THIS COURT, SUBJECT ONLY TO THE COURT'S DETERMINATION THAT THE TAX RETURNS (1) FOR THE PERIOD OCTOBER 1, 1989 THROUGH JUNE 30, 1993, (2) FOR NOAH WOO AND HIDEO KOBAYASHI AND THE RESPECTIVE COMPANIES THEY CONTROLLED DURING THIS PERIOD, (3) ARE CORRECT; AND THEREFORE ERIC AARON LIGHTER IS FELONIOUSLY WRONG BECAUSE BOTH SETS OF TAX RETURNS CAN NOT BE CORRECT.

65. This Circuit Court is hereby on judicial notice that, and LIGHTER hereby voluntarily confesses to same pursuant to 18 U.S.C. § 3501(d), that either LIGHTER intentionally and feloniously filed false tax returns or he is correct.

66. In the Handbook for Special Agents, Criminal Investigation Intelligence Division, Internal

Revenue Service, section 345.22 states that, "A judicial confession [emphasis added] is one made before a court in the due course of legal proceedings, including preliminary examinations." Section 345.23 therein states, "It is essential to the admission of a confession that it be voluntary." Section 345.151 states, "Admissions made as part of the act of committing an offense are likewise based upon understated receipts from business, the cost of goods sold and other deductions shown on the tax return are considered admissions by the tax payer [U.S. v. Hornstein, 176 F 2d 217 (CA-7), 49-2 USTC 9326; U.S. v. Stayback, 212 F 2d 313 (CA-3); 54-1 USTC 9345] which need not be corroborated."

67. The Grand Jury, The Use and Abuse of Political Power, by Professor Leroy D. Clark, with a forward by Senator Philip A. Hart (September 1975), is a book that describes in detail how the grand juries have been abused by the Executive Branch of the United States government for a long time, including by President Richard Nixon and corrupt officials in his administration; United States v. Dionisio, 410 U.S. 1 (1973), U.S. v. Clandra, 94 S.Ct. 613 (1974), Mapp v. Ohio, 367 U.S. 643 (1961), Branzburg v. Hayes, 408 U.S. 665, 725 (1972). Nevertheless, a true confession such as the one above overcomes even the most intense government corruption and coverup of corruption. The above confession demands focus on the paradox of the two opposing tax returns.

68. However, a *bona fide*, voluntary and wholly admissible confession such as the one just pronounced provides further guaranteed standing before the federal grand jury based on the substance of the filed tax returns. The seemingly personal vendetta attacks of counsel for Plaintiffs give no such standing, despite virulent attempts to diminish Lighter's honor. Lighter is the victim. If anything, such attempts to lessen Lighter's honor only points to their efforts made to conceal crimes by those attempting to attack Lighter.

69. There has always been support for the position that on a "principled basis", any compelled testimony is in violation of the Fifth Amendment privilege against self-incrimination, per Justice Douglas, incl. Ullman v. United States, 350 U.S. 422, at 446 (1956) (*dissenting*). However, this is a voluntary, material confession redundantly supported by high quality, *prima facie* evidence. Rule 104(c) of the Federal Rules of Evidence state that "Hearings on admissibility of confessions shall in all cases be conducted out of the hearing of the jury." In this case, pursuant to 18 U.S.C. § 3501, admissibility is mandatory.

69. Irving J. Klein points out, in Constitutional Law for Criminal Justice Professionals, 1992, page 323, "A question was raised as to whether a federal court can review the voluntariness of a confession. In Miller v. Fenton, 474 U.S. 104, 106 S.Ct. 445 (1985), the court of Appeals of New Jersey had concluded that the voluntariness of a confession is a "factual issue" which 28 U.S.C. 2254(d) provided was a state court finding of fact, with certain exceptions, shall be presumed correct in a federal habeas corpus proceeding...The United States Supreme Court held to the contrary. It held that the voluntariness of a confession is not an issue of fact entitled to 2254(d) presumption but is a legal question meriting independent consideration in a habeas corpus proceeding."

70. To continue, in order to challenge Lighter's confession, one should first realize that, 18 U.S.C. § 3501, as well as the impact of the Miranda decision, direct that voluntariness of confession must not only be determined by judge, in voir dire on in-camera examination, but also given to the jury as an issue, if the issue is raised, or if the issue of voluntariness is present. Ex parte Cobb, (1977, DC SC) 448 F Supp. 886, *aff'd without op.* (1978, CA4 SC) 568 F 2d 774.

71. However, the Court should note that, under 18 U.S.C. § 3501, the weight of the confession is left to the jury. United States v. Greer (1978, CA5 Ala.) 566 F 2d 472, *cert. den.* (1978) 435 U.S. 1009. Further, statements that are voluntary and admissible under requirements of Miranda are similarly voluntary and admissible under requirements of 18 U.S.C. § 3501. United States v. Vigo, (1973, CA2 NY) 487 F 2d 295.

72. For background reference, O. John Pogge, in Why Men Confess, 1959, pages 15, notes, "In the 1930's and the following decades many confessed to communist inquisitors their guilt of a multitude of offenses." In the Korean War, "It was found that the interrogation tactics of the Chinese communists inevitably led to one of three things:

- (a) The victim's will to resist is broken, and he responds as the enemy desires;
- (b) The victim becomes insane;
- (c) The victim dies."

*Id.*, page 26 it illustrates deeper, "Our method in the investigation of offenses and prosecution of deviants is basically different from the inquisition system. Referring to our method the federal Supreme Court

in June 1949, on the occasion of invalidating confessions in three separate cases from three different states, South Carolina, Pennsylvania and Indiana, commented: 'Ours is the accusatorial as opposed to inquisitorial system.' Under the accusatorial method there is an insistence that the investigating authorities get their case from other sources than the mouth of the accused. Under the inquisitorial system the investigators try to get the case from this very source. The Supreme Court's comment represents more than 700, and in one sense more than 1,500 years of history. The accusatorial method owes its survival and growth to our grand and petit jury system. The one who laid the basis for our jury system was Henry II...(1154-89)." Harris v. South Carolina, 338 U.S. 68, Turner v. Pennsylvania, 338 U.S. 62, Watts v. Indiana, 338 U.S. 49,54. Even so, the voluntary confession of LIGHTER is a fine fruit all of these mechanics seek, now handed on a silver platter for the grand jury to deal with.

#### CASH BOND PRESENTED TO FEDERAL GRAND JURIES

73. "The safeguards accorded to Article III judges were designed to protect litigants with unpopular or minority causes or litigants who belong to a despised or suspect class'," such as whistleblower Lighter in the instant case, Pacemaker Diagnostic Clinic of America v. Instomedix, 725 F2d 537, 541 (CA9, 1984). The God of the Bible said, "Woe to those who decree unjust statutes and to those who continually record unjust decisions, to deprive the needy of justice, and to rob the poor of My people of their rights..." Isaiah 10:1,2.

74. A member of, and on behalf of Constitution Coalition, a national legal and political lobby group, has provided solely at his own volition and liability, a \$5,000 bond in the form of a cashier's check to cover the cost of scrutiny in a few cases, including the matters of the two opposing tax returns in this instant case. Lighter did not purchase the bond, or in anyway pay for or contribute to its purchase; nor did Lighter request that the bond be purchased or provided. Lighter, however, has no objection to the Grand Juries making the requested scrutiny; and, in fact, such scrutiny should clear up a number of key issues. Lighter hereby further relies upon said Federal Grand Jury scrutiny to investigate the key issues herein, especially the alleged fraudulent tax returns filed on the record in the instant case. A copy of the bond is included at the end of Exhibit "S" hereto. The beneficiaries of the bond are all of the Federal Grand Juries in Hawaii and all of the Federal Grand Juries in the District of Columbia, plus the San Francisco, California Federal Grand Jury in CR 93-0592VRW. This is a bond separate and distinct from the additional bond Lighter is providing, as mentioned in paragraph no. 15 on page 5 above. Said \$5,000 bond further demonstrates that the Federal Grand Juries have the capacity to sue and be sued, Rule 9 FRCP. Said Constitution Coalition has also expressed concern about a serious Petition filed Spetember 23, 1994 to the Hawaii Federal Grand Juries by some 400 petitionors, Misc. Case No. 94-00115-DAE, which has yet to be responded to allegations of Grand Jury tampering.

#### CONCLUSION

75. There are three different Ninth Circuit District Court conclusions regarding the Third-Party Defendant Federal Grand Juries: (a) suit on them is a proper reporting, Exhibit "J" hereto, (b) they are an adjunct of the Department of Justice, Exhibit "K" hereto, and (c) they are independent of the Department of Justice and the District Court, Exhibit "S" hereto, but suit can not be made on them, Exhibit "N" hereto. The Rules of the District Court are promulgated by the U.S. Supreme Court and have the effect of law. It is the law, therefore, that says that default must be taken against the Third-Party Defendant Federal Grand Juries. The Ninth Circuit Court of Appeals needs to address these vital appeals. Also, the prisons may well be wrongfully filling up with parties subject to clearly tampered with Grand Juries.

76. For all of the above reasons, Petitioner Lighter prays that this Circuit Court issue a Writ of Mandamus ordering the U.S. District Court for the District of Hawaii, in Civil No. 94-00179-HMF, to order the Clerk of the Court for the U.S. District Court for the District of Hawaii to enter default on the Third-Party Defendant Federal Grand Juries pursuant to the properly made request for entry of default filed August 24, 1994 herein, Exhibit "M" hereto. Petitioner Lighter prays that no retaliatory action be taken by any party discussed in the instant Petition for Writ of Mandamus, or that further prejudice be made against Lighter for his actions; where the truth is that Lighter's actions are defensive regarding being "set up" to be blamed for tortious behavior of others Lighter exposed as part of his proper duties.

DATED: Honolulu, Hawaii, February 14, 1995.

/S/ \_\_\_\_\_  
ERIC AARON LIGHTER, Individually, and dba

WELLS FARGO PROTECTIVE ALARM  
*Sui Juris and In Propria Persona*

[Exhibits "A" THROUGH "S"; Certificate of Service, Verification and Jurat omitted in reprinting]

[Filestamped: RECEIVED DEC 16, 1993]

Eric Aaron Lighter  
P O Box 2556  
Honolulu, Hawaii 96804  
pager 299-8204

December 16, 1993

- a. Honorable Lloyd King  
Honorable Jon J. Chinen  
U. S. Bankruptcy Court; PJKK Federal Building  
300 Ala Moana Boulevard; Honolulu, Hawaii 96850
- b. Honorable Alan Kay, Chief Judge  
U. S. District Court  
PJKK Federal Building  
300 Ala Moana Boulevard; Honolulu, Hawaii 96850

Re: Bk. No 87-386, In re: Royal Hawaiian Heritage Co.

Your Honors,

Please be advised of the enclosed Deed that further bonds my allegations and supports my request for a six month extension to perfect my appeal. Also enclosed is my related December 7, 1993 letter to attorney Randolph Slaton, should you desire further explanation. Further, it appears that the Bankruptcy Court should probably not be the one ruling on an extension of appeal perfection, but rather the U.S. Ninth Circuit Court of Appeals. At any rate, I am pleased to inform you of the additional bonding to the various Grand Juries who should now have more reason to more fully scrutinize the issues involved.

Sincerely,

/S/

Eric Aaron Lighter  
enclosure

cc: parties in the case; various Federal Grand Jury Forepersons  
involved; U S Ninth Circuit Court of Appeal

[Filestamped: RECEIVED JAN 6, 1994]

MEMORANDUM

TO : CHIEF JUDGE ALAN C. KAY AND THE GRAND JURY CLERK, U.S. DISTRICT COURT  
FOR THE DISTRICT OF HAWAII  
FROM : ERIC AARON LIGHTER  
DATE : JANUARY 6, 1993

Greetings,

Please be advised of the filestamped copy following pleading filed January 4, 1993 in Civ. No. 93-00914 DAE:

ANSWER TO COMPLAINT AND DEMAND FOR JURY TRIAL; DEMAND FOR HONEST FEDERAL GRAND JURY TO COMPREHENSIVELY SCRUTINIZE THE EVIDENCE IN THIS CASE; REQUEST TO DISMISS CASE OR IN THE ALTERNATIVE FOR ARBITRATION; REQUEST FOR DECLARATORY RULING REGARDING HPW, INC. TAX RETURNS; DECLARATION OF ERIC AARON LIGHTER; EXHIBITS "A", "B" AND "C; CERTIFICATE OF SERVICE.

Please give this complete pleading to Chief Judge Alan C. Kay.

Please give each of the four envelopes to the four (4) forepersons of the four Federal Grand Juries for the District of Hawaii. In each envelope is a copy of the entire pleading without exhibits. Please inform each of the said forepersons see examine the exhibits to the pleading in the casefile or in the office of Chief Judge Alan C. Kay. My overnight filing instructions requesting that the grand juries each receive a copy of the pleading was somehow overlooked. This is to complete the Certificate of Service promise to deliver the pleading.

Sincerely, /S/ Eric Aaron Lighter, enclosures

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII; POST OFFICE BOX 50128  
HONOLULU, HAWAII 96850

CHAMBERS OF ALAN C. KAY, CHIEF JUDGE  
TELEPHONE (808)541-1904, FAX (808)541-1178

January 7, 1994

Mr. Eric Aaron Lighter  
P. O. Box 2556  
Honolulu, Hawaii 96804

Re: Civil No. 93-00914-DAE

Dear Mr. Lighter:

This is in response to your memorandum dated December 6, 1993 requesting this Court to "give each of the four envelopes to the four forepersons of the four Federal Grand Juries for the District of Hawaii."

If you wish the envelopes to be given to the forepersons of the Federal Grand Juries, you should contact the U.S. Attorneys Office, as it is charged with the responsibility of implementing and supervising grand jury investigations.

Your four envelopes may be retrieved from the Clerks Office.

Very truly yours,

/S/

Alan C Kay

ACK:ask

Eric Aaron Lighter  
P.O. Box 2556  
Honolulu, Hawaii 96804

January 11, 1994

Honorable Alan C. Kay, Chief Judge  
U.S. District Court for the District of Hawaii  
Post Office Box 50128; Honolulu, Hawaii 96850

Certified Mail, Return Receipt Requested: P 109 461 811

Your Honor,

Thank you for your letter dated January 7, 1994 in response to my letter to you dated January 16, 1993. In response to your letter, let us refer to the HANDBOOK FOR FEDERAL GRAND JURORS, by the Honorable C. Clyde Atkins, Chief Judge, U.S. District Court for the Southern District of Florida, dated May, 1980. For the benefit of any reader of this letter, said book is published by the U.S. Government Printing Office and distributed by the Administrative Office of the United States Court, Washington, D.C. 20544. Important excerpts therein are as follows:

Page Seven:

"(1) Matters may be brought to the attention [of the Grand Jury] in three ways: (1) by the United States Attorney or his assistants; (2) by the court that impaneled it; and (3) from the personal knowledge of a member of the grand jury or from matters properly brought to a member's personal attention. In all these cases, the grand jury must hear evidence before taking action."

Page Twenty Three

"Just as it is hoped and expected that you will serve as the balance wheel between the power of the government and the interests of personal liberty [underline added], it is also expected that you will achieve an appropriate balance in the exercise of your powers."

Page Twenty Four

"Just as the English grand jury was independent of the king, the federal grand jury under the United States Constitution is independent of the United States Attorney, the prosecutorial agent of the executive branch of the federal government. The grand jury is not an arm of the Federal Bureau of Investigation; it is not an arm of the Internal Revenue Service; just as it is not an arm of the United States Attorney's office."

Page Thirty Four:

"Within your prescribed sphere, you occupy an important and independent office in the administration of

justice. The government attorneys cannot dominate or command your actions. The court may guide, but cannot dominate or command your actions. "

Inasmuch as there have been strong allegations and evidence demonstrating criminal wrongdoing from and arising from the U.S. Attorney's Office, it is imperative that you forward the hand-delivered MAIL (correspondence) of the Federal Grand Juries directly to them. Please forward the packages to the Federal Grand Juries as requested or return them to the Grand Jury Clerk who is already instructed to give the envelopes to the Federal Grand Jury Forepersons.

Sincerely,

/S/ Eric Aaron Lighter

cc: Federal Grand Jury Clerk, U.S. District Court for the District of Hawaii  
U.S. Attorney's Office, District of Hawaii  
parties to the related cases, as appropriate to avoid ex parte action herein  
Lt. Col. (ret.) John Salter, Investigator for Credit Bureau International, Inc.

MEMORANDUM

To : U.S. Attorney for the District of Hawaii  
From : Eric Aaron Lighter, ph. (808) 538-6771  
Date : February 7, 1994

Certified Mail, Return Receipt Requested: P 101 585 670

Greetings:

On January 4, 1994, in U.S. District Court for the District of Hawaii, Civil. No. 93-00914, I filed my Answer To Complaint And Demand For Jury Trial; Demand For Recusals; Demand For Honest Federal Grand Jury To Comprehensively Scrutinize The Evidence In This Case Or In The Alternative For Arbitration; Request For Declaratory Ruling Regarding HPW, Inc. Tax Returns; Declaration Of Eric Aaron Lighter; Exhibits "A", "B" AND "C"; Certificate of Service, original filestamped copy enclosed.

On the Certificate of Service is listed the four Hawaii Federal Grand Jury Forepersons in order to present this matter before said Grand Juries. On January 21, 1994 I filed in said case my Declaration of Eric Aaron Lighter Regarding More Fraud By Hideo Kobayashi; Exhibits "A", Through "E"; Certificate of Service. This also was prepared for said Grand Juries, original filestamped copy enclosed.

On January 7, 1994, U.S. District Chief Judge Alan C. Kay sent me the attached letter asking me to send my 1/4/94 Answer to your office, copy attached. On January 11, 1994 I sent my two page reply, also attached hereto.

There is no doubt that Judge Kay has tampered with the mail of the Federal Grand Juries. On January 21, 1994 I picked up my 1/4/94 Answer plus the four packages I sent to said Grand Juries. Without prejudice to my position in my 1/21/94 letter to Judge Kay, I hereby deliver to you my 1/4/94 Answer, my 1/21/94 Declaration, plus the four packages to said Grand Juries. The packages to said Grand Juries also have enclosed a copy of this letter.

Please forward the mail for said Grand Juries to said Grand Juries. I thank you in advance for not contributing to Grand Jury tampering.

Please indict me or the Hideo Kobayashi/Noah Woo group. We have both legitimately filed four years of tax returns for the same business entity, HPW, Inc., and for the same business period. The two tax return groups are some \$1.5 million different in reported income. Perhaps you would like to further ratify the PBS Ruling (see 5/31/91 Federal Register, pages 24836 to 24843) and say that there is no wrongdoing in this case either.

Sincerely,

/S/

Eric Aaron Lighter

cc: Honorable Alan C. Kay, Chief Judge, USDC Hawaii  
Honorable David A. Ezra, Judge, USDC Hawaii  
Magistrate Barry M. Kurren  
Randolph Slaton, Esq.  
Lt. Col. (ret.) John Salter  
Other parties

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII; POST OFFICE BOX 50128  
HONOLULU, HAWAII 96850

CHAMBERS OF ALAN C. KAY, CHIEF JUDGE  
TELEPHONE: (808) 541-1904, FAX 541-1178

February 8, 1994

Mr. Eric Aaron Lighter  
P. O. Box 2556  
Honolulu, Hawaii 96804

Re: Civil No. 93-00914-DAE

Dear Mr. Lighter:

This is in response to your letter of January 11, 1994. Absent unusual circumstances constituting a "compelling reason" or a "clear basis in fact and law" warranting judicial intervention, the Court should not intervene in the grand jury process. In Re Antitrust Grand Jury Investigation, 714 F.2d 347, 350 (4th Cir. 1983); United States v. Chanen, 549 F.2d 1306 (9th Cir.), cert. denied, 434 U.S. 825 (1977). Without reviewing the information you wish presented to the grand jury, the Court is unable to reach such a determination. Accordingly, kindly inform the Court whether you wish it to review the information in your sealed envelopes.

Very truly yours, /S/ Alan C. Kay

ACK:ask

[Filestamped: *RECEIVED FEB 17, 1994*]  
MEMORANDUM

To : Honorable Alan C. Kay, Chief Judge, USDC Hawaii  
From : Eric Aaron Lighter, ph. (808) 538-6771  
Date : February 16, 1994  
Re : Civil No. 93-00914-DAE

Your Honor,

This is a corrected for spelling, etc. letter correcting the February 14, 1994 letter to you. Thank you.

Sincerely,

/S/

Eric Aaron Lighter

MEMORANDUM

To : Honorable Alan C. Kay, Chief Judge, USDC Hawaii  
From : Eric Aaron Lighter, ph. (808) 538-6771  
Date : February 14, 1994  
Re : Civil No. 93-00914-DAE

Certified Mail, Return Receipt Requested: P 101 585 671

Your Honor,

Thank you for your letter dated February 8, 1994, copy attached. Before I received your letter I sent six pages to the Hawaii U.S. Attorney, and as you requested, together with the four unsealed packages and the related pleadings. A copy of the six pages I sent are also attached. I need to address your February 8, 1994 letter, as follows:

1. I never asked you to review the mail to the Hawaii Federal Grand Juries, merely to pass on the mail to them. I gave you a copy of the mail, together with the related pleadings, for the convenience of said Grand Juries and yourself. .
2. The packages were not sealed, and you had an identical set. The packages were left unsealed in the event you wanted to check their mail before you passed the mail on to said Grand Juries.
3. You can not now review any packages except by asking the Hawaii U.S. Attorney to forward same, as you had the US District Court Clerk send back the entire bundle to me. I received said bundle late on January 21, 1994, after I filed my Declaration in this case.
4. Please ask the Hawaii Federal Grand Juries to INDICT me or the Hideo Kobayashi/Noah Woo group. There are two set of tax returns, my and theirs. The two sets of returns are at least \$1.5 million different in (un)reported income.
5. I agree the Federal Grand juries are independent, and so is their mail. However, I have given you a compelling reason to investigate this matter. This is at least the fourth time that I have presented two sets of tax returns for a single business entity and a same business period, where each set of returns is over \$1.5 million different in (un)reported income: see 5/31/91 Federal Register, pages 24836 to 24843.

I believe you are prejudiced against me, and that is why the mail to the Hawaii Federal Grand Jury was intercepted, unfortunately in a wrongful and extrajudicial manner. This results in the ability or need to change venue to Federal Grand Juries in other districts. When a (about six inches thick) Citizen's Warrant for Citizen's arrest was presented against you twice by Danny Hashimoto and Loren Hardy, you stated on the record to the effect that you knew I wrote and otherwise composed the document; see USDC Hawaii, Cr. No. 90-01466. In that case, the alleged murder of Hardy's inventor partner by a Special Agent for the Internal Revenue Criminal Investigation Division was never resolved. The credible corroborating witness still stands ready to testify. Further, in that case you adjudicated one of the Hardy brothers as insane before any psychiatric examination; and only the press showing up on the Courthouse sets at about 8:00 at night prevented that Hardy brother from being sent away for some nine months in a hellish federal mental institution (the psychiatric exam and testimony later showed he was mentally just fine, albeit that LaMarr Hardy was a federal informant).

The case involving 10,000 acres of Hana, Maui land and water rights was a farce that apparently caused the Royal Crown jewels that were being laundered through Royal Hawaiian Heritage Jewelry company to be returned. I went to the Ninth Circuit Court in San Francisco and discovered that the Court had tampered with one or more important orders in that case; which I reported to the Chief Judge there in a highly evidentiary fashion. Hawaiian High Priest (kahuna) Edward Kaiwi invoked a Citizen's Warrant for Citizen's Arrest on Hawaii USDC Judge David A. Ezra on Hawaii public television from this temple (heiau) in Kauai. My Kaiwi alleged you were directly involved in the ruckus.

I hold nothing against you, Judge, but do need to be in communication with the Federal Grand Juries in an impartial way. I have confessed to committing or conspiring to commit the same felonies as the corrupt federal officers and agents involved. I have standing in front of the Federal Grand Juries for multiple reasons, including for the reason that I cannot or should not be denied an audience with same, 18 U.S.C. § 1504.

Sincerely,

/S/

Eric Aaron Lighter

cc: appropriate parties

[SEAL]

U. S..Department of Justice  
United States Attorney  
District of Hawaii

300 Ala Moana Blvd., Box 50183  
Honolulu, Hawaii 96850 [phone numbers]

March 24, 1994

ERIC A. LIGHTER  
P.O. Box 2556  
Honolulu, Hawaii 96804

Dear Mr. Lighter:

Please be advised that the various materials that you have sent to this Office and the Chambers of Chief United States District Court Judge ALAN KAY have been delivered to the foreperson of a Sitting Grand Jury here in the District of Hawaii. I am sure that if the Grand Jury wishes any additional input, they will contact you.

Very truly yours,  
ELLIOT ENOKI  
United States Attorney

By \_\_\_\_\_/S/  
LESLIE E. OSBORNE  
Assistant U.S. Attorney

cc: HONORABLE ALAN C. KAY  
Chief U.S. District Court Judge

[Third-Party Complaint EXHIBIT "1"]

[Envelope exhibit omitted for reprinting]