739-142

AFFIDAVIT OF REVOCATION AND RESCISSION

I, Noel Hinman, of 8711 Cottage Grove, Highland, IN 46322, being duly sworn and affixing my signature to this document, do hereby make the following statement of fact, and affirm:

1. That I was unaware that a completed, signed, and submitted "Form 1040" or "income tax return" and a "W-4" "Employee's Withholding Allowance Certificate", the authorization document that allows an employer to withhold a worker's money from his pay, are voluntarily executed instruments which could be used as admissible evidence against me in criminal trials and civil proceedings to show that I had voluntarily waived my constitutionally secured rights and that I had voluntarily subjected myself to the federal income/excise tax, to the provisions of the Internal Revenue Code, and to the authority of the Internal Revenue Service (hereafter referred to as the IRS) by signing and thereby affirming under penalty of perjury that I was in effect a "person" subject to the tax.

2. That I was unaware of the legal effects of signing and filing an income tax return as shown by the decision of the United States Court of appeals for the 9th Circuit in the 1974 ruling in the case of Morse v. U.S., 494 F2d 876,880, wherein the Court explained how a citizen became a "taxpayer" by stating: "Accordingly, when returns were filed in Mrs. Morse's name declaring income to her for 1944 and 1945, and making her potentially liable for the tax due in that income, she became a taxpayer within the meaning of the Internal Revenue Code." Emphasis added.

3. That I was unaware that the signing and filing of an income tax return and other IRS forms are acts of voluntary compliance for a free sovereign individual citizen; that I was unaware that in a court of law the completed IRS documents can become prima facie evidence sufficient to sustain a legal conclusion by a judge that the signer has voluntarily changed his legal status from that of a free sovereign individual citizen who is not subject to any federal tax and who possesses all of his God-given Constitutionally secured rights when dealing with government, to the legal status of a "taxpayer" (any individual, trust, estate, partnership, association, company or corporation subject to a federal excise tax,) a "person" who is subject to a federal excise tax and is therefore subject to the authority, jurisdiction and control of the federal government under Title 26 of the United States Code, the statutes governing federal taxation and to the regulations of the IRS, thereby imposing the tax on himself and waiving his God-given Constitutionally secured rights in respect to the federal income/excise tax statutes and their administration by the IRS and establishing himself as one who has privileges only, but no rights in dealings with the IRS, the same as a corporation; that it is my understanding that the change of status resulting from the signed IRS documents is very similar to the change of status that occurs when one enlists in the military service and voluntarily takes an oath that subjects him to the authority, jurisdiction and control of the federal government under Title 10 of the United States Code, the statutes governing the armed forces and the regulations of the military service, thereby waiving his Constitutional rights in relation to dealings with the military services.

4. That my attention has recently been directed to the fact that an official Internal Revenue Service form letter (FL 1264) states: "(T)he fact that you sent us [IRS] this Form 1040 shows that you recognize your obligation to file..."; that it has never been my intention or desire to show the Internal Revenue Service or anyone else that I recognize any such obligation; that as a freeman I legally do not have such an obligation.

5. That I am a natural born free sovereign United States citizen, a freeman and I am endowed by my Creator with numerous

inalienable rights including my rights to "life, liberty, and the pursuit of happiness," which rights are specifically identified in the Declaration of Independence and protected by the United States Constitution; that my birthright to "pursuit of happiness" has been interpreted by both the framers of the Constitution and the U.S. Supreme Court as including my inalienable right to contract, to acquire, to deal in, to sell, rent, and exchange properties of various kinds, real and personal, without requesting or exercising any privilege or franchise from government; that I have learned that these inalienable property rights also include my right to contract for the exchange of my labor-property for other properties such as wages, salaries, and other earnings, that I have never knowingly or intentionally waived any of these inalienable rights.

6. That I understand that if the exercise of rights were subjected to taxation, the rights could be destroyed by increasing the tax rates to unaffordable levels; therefore courts have repeatedly ruled that government has no power to tax the exercise of any rights of citizens, as shown by the U.S. Supreme Court in the case of Murdock v. Penna., 319 U.S. 105 (1943) which stated: "A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution."

7. That for years past I have been influenced by numerous and repeated public warnings made by the IRS via radio, television, the printed press and other public communication media warning of the "deadline" for filing a "Form 1040 Income Tax Return" and/or other IRS forms and documents.

8. That in addition to the aforesaid warnings, I have also been influenced by misleading and deceptive wording of IRS publications, IRS-generated news articles, the pressure of widespread rumors and misinformed public opinion, and the advice and assurances of lawyers, C.P.A.'s and income tax preparers which misled me to incorrectly believe that the 16th Amendment to the United States Constitution authorized Congress to impose a direct tax on me, my property, my exchanges of property and/or property received as a result of exercising my constitutionally secured right to contract; that I was further misled into believing I had a legal duty and obligation to file a "Form 1040 Income Tax Return", a "Form W-4 Employee's Withholding Allowance Certificate" and/or other IRS forms and documents.

9. That I have also been further influenced, misled and alarmed by rumors, misinformed public opinion and the advice and assurance of lawyers, C.P.A.'s and income tax preparers to the effect that "the IRS will get you," and that it would be a crime punishable by fine and/or imprisonment if I did not fill out, sign and file with the IRS a "Form 1040".

10. That in addition to all of the reasons stated in paragraphs 7, 8, and 9 above, I was influenced by the common and widespread practice of employers who either knowingly or unknowingly mislead their employees to believe that they are all subject to withholding of "income taxes" from their earnings, either with or without their permission, based upon the employers' possible mistaken assumption that they, as employers, are required by law to withhold "income taxes" from the paychecks of their employees.

11. That I have also been influenced and impressed by the IRS's annual public display and indiscriminate offering of large quantities of the "Form 1040" in banks, post offices, and through the U.S. mail which also reminded me of and induced me to respond by filling out, signing, and sending to the IRS a "Form 1040".

12. That said "Form 1040" contained nom reference to any law or laws which would explain just exactly who <u>is</u> or <u>is not</u> subject to or liable for the income tax, nor did it contain any notice or warning to anyone that merely sending said completed

"Form 1040" to the IRS would waive my right to privacy secured by the 4th Amendment and my right to not having to be a witness against myself secured by the 5th Amendment to the United States Constitution, and that the "Form 1040" would in itself constitute legal evidence admissible in a court of law, that the filer is subject to and liable for the income/excise tax even though and regardless of the fact that I, as a free individual, am actually and legally not subject to or liable for any income/excise tax and have no legal duty or obligation whatsoever to complete and file a "Form 1040."

13. That at no time was I ever notified or informed by the IRS, by any of its agents, or employees, nor by any lawyer, C.P.A., or tax preparer of the fact that the 16th Amendment to the United States Constitution, as correctly interpreted by the U.S. Supreme Court in such cases as Brushaber v. Union Pacific R.R. Co., 240 U.S. 1 (1916) and Stanton v. Baltic Mining Co., 240 U.S. 103 (1916) identified the income tax as an indirect excise tax in accordance with Article 1, Section 8, Clause 1 of the United States Constitution, and that the 16th Amendment does not authorize a tax on individuals.

14. That at no time was I ever notified or informed by the IRS, its agents, or employees, nor by any lawyer, C.P.A., or tax preparer of the fact that because of various rulings of the U.S. Supreme Court in such cases as Flint v. Stone Tracy Co., 220 U.S. 107 (1911), and Pollock v. Farmer's Loan and Trust Co., 157 U.S. 492 (1895), the indirect excise tax on incomes identified by the 16th Amendment is actually a tax upon corporation privileges granted by government and measured by the amount of corporate income (see Corporations Tax Act, Statutes at Large, 1909, vol. XXXVI, section 38, page 112); that this excise tax may also be imposed on certain other privileges provided by government and measured by income; that such occupations of privilege include attorneys [see Springer v. U.S., 102 U.S. 586 (1881)]; that this excise tax may also be imposed upon criminal gains or profits.

15. That my attention has been called to Report No. 80-19A, titled "Some Constitutional Questions Regarding the Federal Income Tax Laws" published by the American Law Division of the Congressional Research Service of the Library of Congress, updated January 17, 1980; that this publication described the tax on "income" identified in the 16th Amendment of the United States Constitution as an indirect excise tax; that this report stated: "The Supreme Court, in a decision written by Chief Justice White, first noted that the 16th Amendment did not authorize any new type of tax, nor did it repeal or revoke the tax clauses of Article I of the United States Constitution, quoted above.", and further stated: "Therefore, it can clearly be determined from the decisions of the United States Supreme Court that the income tax is an indirect tax, generally in the nature of an excise tax," thus proving in my mind that the "income tax" is not a tax on ME as an individual, but is rather a tax as described by the U.S. Supreme Court in Flint v. Stone Tracy Co., 220 U.S. 107 (1911), wherein the court defined excise taxes as "... taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges.", none of which classifications apply to ME.

16. That I was unaware of the truth of the IRS's rarely publicized statement that the "income" tax system is based upon "voluntary compliance with the law and self-assessment of tax"; that it has never been my intention or desire to voluntarily self-assess an excise tax upon myself; that I always thought that compliance was required by law.

17. That I have examined sections 6001, 6011, 6012, 7203, and 7205, of the Internal Revenue Code (Title 26 U.S.C.) and I am convinced and satisfied that I am not now, and never was any such "person" or individual referred to by these sections.

18. That after careful study of the Internal Revenue Code and consultations on the provisions of the Code with lawyers, tax accountants, and tax preparers, I have never found or been shown any section of the Internal Revenue Code that imposed any requirement on ME as a free sovereign unprivileged individual to file a "Form 1040 Income Tax Return", or that imposed a requirement upon me to pay a tax on "income," or that would classify me as a "person liable," a "person made liable," or a "taxpayer," as the term "taxpayer" is defined in 26 U.S.C. Section 7701 (a) (14) which states: "The term 'taxpayer' means any person subject to any internal revenue tax."

19. That after the study and consultations mentioned in paragraph 18, the only mention of any possible requirement upon ME, as an individual, to pay a tax on "income" that I could find or was shown in 26 U.S.C. was the title of Part I under Subtitle A, Chapter 1, Subchapter A, which is deceptively titled "Tax on Individuals;" that a careful study and examination of this part of the Code showed no provision in the body of the statutes imposing any liability or requirement upon me as an individual for payment of a federal excise tax on "income;" that my study and consultations mentioned in paragraph 16 showed that the law is determined by the actual wording contained in the body of a statute, and not by the title; that the title of a statute is merely a general guide to the contents of the statute, and the title has no force or effect at law.

20. That after study and consultations mentioned in paragraph 18, my attention was called to Internal Revenue Code Chapter 21 titled "Federal Insurance Contributions Act" (social security), to Subchapter A of Chapter 21 titled "Tax on Employees," which includes Section 3101 wherein the (social security) tax is identified as a tax on "income," not as an "Insurance Contribution," and not as a "Tax on Employees," or on wages or earnings; that my attention was further called to these facts: There is no provision in the Code that imposes the tax on employees or requires them to pay the tax; a voluntarily signed completed "W-4 Employee's Withholding Allowance Certificate" allows an employer to withhold money from a worker's pay for (social security) "income" tax, even though the worker has claimed on the form to be "exempt" from the graduated "income" tax; an employer has no authority to withhold money from a worker's pay for the (social security) "income" tax, the graduated "income" tax, or any IRS imposed penalty or assessment if there is no voluntarily signed "W-4" form in force.

21. That after the study and consultations described in paragraph 18, my attention was called to Section 61 (a) of the Internal Revenue Code which lists items that are sources of "income" and to these facts: that I.R.S. Collection Summons Form 6638 (12-82) confirms that these items are sources, not "income," by stating that the following items are "sources": "wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, pensions, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money).", that sources are not income, but sources become "income" if they are entered as "income" on a signed "Form 1040" because the signer affirms under penalty of perjury that the items entered in the "income" section of the "Form 1040" are "income" to the signer; that Section 61 (b) clearly indicates which Sections of the Code identify and list items that are included in "income" by stating: "For items specifically included in gross income, see Part II (sec. 71 and following)."

22. That my attention was then called to the said Part II, titled: "Items Specifically Included in Gross Income;" that I studied sections 71 through 87 and noticed that wages, salaries, commissions, tips, interest, dividends, pensions, rents, royalties, etc., are not listed as being included in "income" in

those sections of the code; that, in fact, those items are not mentioned anywhere in any of these sections of the Internal Revenue Code.

23. That after further study it appears clear to me that the only way that property received by me as a free, sovereign, unprivileged individual in the form of wages, salaries, commissions, tips, interest, dividends, rents, royalties, and/or pensions could be, or could have been legally considered to be "income" is if I voluntarily completed and signed a "Form 1040 Income Tax Return," thereby affirming under penalty of perjury that information on the "Form 1040" was true and correct, and that any amounts listed on the "Form 1040" in the "income" block are "income," thereby acknowledging under oath that I am, or was subject to the tax and have, or had a duty to file a "Form 1040 Income Tax return" and/or other IRS forms, documents, and schedules, none of which instruments I have ever signed with the understanding that they were voluntarily signed.

24. That with reliance upon the aforementioned U.S. Supreme Court rulings and upon my constitutionally protected 5th and 9th Amendment rights to lawfully contract, to work, and to lawfully acquire and possess property, I am convinced and satisfied that I am not now, nor was I ever subject to, liable for, or required to pay any income/excise tax, that I am not now and never was a "taxpayer" as the term is defined and used in the Internal Revenue Code, and that I have never had any legal duty or obligation whatsoever to file any "Form 1040" or make any "income tax return," sign any "Form W-4 Employee's Withholding Allowance Certificate," or other Internal Revenue forms, submit documents or schedules, pay any income tax, keep any records, or supply any information to the IRS.

25. That both the U.S. Congress and the IRS, by deceptive and misleading words and statements in the Internal Revenue Code, as well as IRS publications and IRS-generated news articles committed constructive fraud by misleading and deceiving me, as well as the general public, into believing that I was required to file "Form 1040 Income Tax Returns," "Form W-4 Employee's Withholding Allowance Certificates," and other IRS forms, documents, and schedules, and also to keep records, supply information, and to pay income taxes.

26. That by reason of the aforestated facts, I do hereby exercise my rights as a free sovereign U.S. citizen, upheld by various court decisions to revoke, rescind, cancel and to render null and void, both currently and retroactively to the time of signing, based upon the constructive fraud perpetrated upon me by the U.S. Congress and the Internal Revenue Service, all "Form 1040 Income Tax Returns," all "Form W-4 Employee's Withholding Allowance Certificates," all other IRS forms, schedules, and documents ever signed and/or submitted by me, and all my signatures on any of the aforementioned items, to include the "SOCIAL SECURITY" account, bearing the account number **146-32-1654**; that this revocation and rescission is based upon my rights in respect to constructive fraud as established in, but not limited to the cases of Tyler v. Secretary of State, 184 A.2d 101 (1962), and also El Paso Natural Gas Co. v. Kysar Insurance Co., 605 Pacific 2d. 240 (1979) which stated: "Constructive fraud as well as actual fraud may be the basis of cancellation of an instrument."

27. That further, I do hereby declare that I am not and never was a "taxpayer" as that term is defined in the Internal Revenue Code, a "person liable" for any Internal Revenue tax, or a "person" subject to the provisions of that Code, and declare that I am, and have always been, a "nontaxpayer"; that courts have recognized and acknowledged that individuals can be nontaxpayers, "... for with them Congress does not assume to deal and they are neither of the subject nor of the object of revenue laws...", as stated by the Court in Long v. Rasmussen, 281 F. 236

(1922), and also Delima v. Bidwell, 182 U.S. 176, 179 and Gerth v. United States, 132 F. Supp. 894 (1955).

I now affix my signature to these affirmations:

Noel Hinman
Affirmant (Seal)

Subscribed and sworn to before me, a Notary Public, of the State of Indiana, County of Lake, this 8 day of September, 1987.

Martin J. Hinman
Notary Public

My Commission Expires On: 5-5-89