No. 12-16775

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CLIFFORD JOHNSON
Plaintiff - Appellant

v.

UNITED STATES DEPARTMENT OF THE TREASURY
and TIMOTHY F. GEITHNER
Defendants - Appellees

On Appeal from the United States District Court
for the Northern District of California

EXCERPTS OF RECORD
VOLUME III [pre-judgment]

Clifford Johnson, Appellant *pro se*
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CONTENTS

AUTHENTICATION

I, Clifford Johnson, Plaintiff-Appellant in this action, do hereby swear under penalty of law that, based on my personal knowledge, the below documents are true and correct copies of the record in the district court, as listed above.

December 13, 2012 _____

Clifford Johnson

Clifford Johnson
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Clifford Johnson, *Plaintiff* v. Department of the Treasury of the United States, et al., *Defendants*	**No. CV 11-06684 WHA** PLAINTIFF'S OBJECTION TO REPLY EVIDENCE; DECLARATION [Civil L. R. 7-3 (d)(1)] Date: June 21, 2012 Time: 8:00 a.m. Place: Courtroom 8, 19th Floor Judge: Hon. William Alsup

The Treasury's Reply introduced the following new evidence and argument:

> Plaintiff's Responses should not be considered by the Court because Plaintiff's Memorandum in Opposition to Defendants' Motion dated May 13, 2012 was not timely received by Defendants…
>
> Defendants did not receive Plaintiff's Memorandum in Opposition to Defandants' [sic] Motion dated May 13, 2012 until May 15, 2012, 15 days after the filing of Defendants' Motion to Dismiss.

Owing to difficulty accessing his new ECF account (declaration below), on May 14, 2012, the day his opposition was due, Johnson served (by mail) and personally filed paper opposition to the motion to dismiss.

The Treasury admits that: **(1)** on May 15, 2012, it received the mailed opposition, and in any case the opposition was then electronically uploaded; and **(2)** on May 16, 2012, Johnson's corrected memorandum was electronically uploaded.

As the below declaration explains, Johnson's paper filing was reasonable under General Order No. 45 Section VII part A (Manual Filing). However, because of the access problem, Johnson could not "file electronically a Manual Filing notification setting forth the reason(s) why the [opposition could not] be filed electronically."

Johnson admits fault and apologizes for not having sooner made sure that his ECF account was working properly. However:

(1) Johnson's opposition was timely filed and served.

(2) The Treasury's remedy is specific, per Civil L. R. 5-5, which provides that, when a pleading or paper is served by mail rather than by electronic filing, *3 days are added to the time in which a party must respond.*

Because the Treasury received Johnson's opposition the day after it was filed, the Treasury in fact *benefitted* from Johnson's otherwise unfortunate paper filing, by having *two extra days* in which to reply.

May 24, 2012 s/ C. Johnson
Clifford Johnson, Plaintiff pro se

DECLARATION OF PLAINTIFF JOHNSON

I, Clifford Johnson, do hereby declare:

1. I completed drafting the opposition papers about noon May 14, 2012 in Gualala, Mendocino. Then I failed to log on, my password wasn't working. *I should have tested the system before the filing day.* I concede the fault, and apologize for it.

2. I knew that I *should* be able to fix the problem by remote calls. But I worried it *might* not work out that afternoon – and I still had just enough time to print copies, drive 120 miles to San Francisco, and file in person. I decided not to risk electronic filing this first time.

3. I thought that the court would electronically scan my papers into the case database that day, *as it had with all my prior paper filings*. When I filed the corrected memorandum on May 16, 2012, I made sure that it would be scanned in that day.

4. I could not electronically file the required notices of manual filing because my problem was a failure to get access to the system. The problem is now resolved.

I hereby declare under penalty of perjury that the foregoing is true and correct, based on personal information and belief.

May 24, 2012 s/ C. Johnson

Clifford Johnson, Plaintiff pro se

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CLIFFORD JOHNSON, Plaintiff, v. U.S. DEPARTMENT OF THE TREASURY, et al., Defendant.	No. CV 11-06684 WHA **DECLARATION OF EVAN H. PERLMAN IN SUPPORT OF DEFENDANTS' REPLY TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFANDANTS' [SIC] MOTION TO DISMISS AND TO [CORRECTED] PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFANDANTS' [SIC] MOTION TO DISMISS**

I, Evan H. Perlman, declare as follows:

1. I am an Assistant U.S. Attorney in the U.S. Attorney's Office for the Northern District of California ("USAO"). I am licensed to practice law in Massachusetts, am employed by the U.S. Department of Justice, and may appear before this Court within the scope of my employment. As such, I have personal knowledge of the following facts and could testify regarding the following facts if called to do so. I submit this declaration in support of Defandants' [sic] Reply to Plaintiff's Memorandum in Opposition to Dismiss and To [Corrected] Plaintiff's Memorandum in Opposition to Defandants' [sic] Motion to Dismiss.

2. On March 1, 2012, the USAO received a copy of Plaintiff's First Amended

Complaint dated February 29, 2012 by Registered Mail on March 1, 2012.

3. On March 22, 2012, the Court granted Plaintiff's Motion for Permission for Electronic Case Filing. *See* Docket No. 21.

4. On April 30, 2012, I timely electronically filed Defendants' Notice of Motion and Motion to Dismiss [Plaintiff's] First Amended Complaint ("Motion to Dismiss").

5. Local Rule of Practice in Civil Proceedings before the U.S. District Court for the Northern District of California ("Civil Local Rule") 7-3 provides, among other things, "Any opposition to a motion must be served and filed not more than 14 days after the motion is served and filed. . . ."

6. On May 15, 2012, at 1:33 p.m., 15 days after I electronically filed Defendants' Motion to Dismiss, the USAO untimely received Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss dated May 13, 2012, Plaintiff's Declaration in Opposition to Defendants' Motion to Dismiss dated May 3, 2012, and an undated Proof of Service by U.S. Mail in a manila envelope with a postage stamp marked, among other things, "U.S. Postage Paid San Francisco, CA 94110 May 14, 12 Amount $2.50."

7. On May 15, 2012, at 4:13 p.m., I received notification from the Court's electronic case filing system that Plaintiff filed his Response to Defendant's Motion to Dismiss and shortly thereafter I retrieved another copy of this document by clicking on the link within the Court's e-mail.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Signed this 22nd day of May, 2012, in San Francisco, California.

/s/ Evan H. Perlman

EVAN H. PERLMAN

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CLIFFORD JOHNSON, Plaintiff, v. U.S. DEPARTMENT OF THE TREASURY, et al., Defendants.	No. C 11-06684-WHA **DEFENDANTS' REPLY TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFANDANTS' [SIC] MOTION TO DISMISS AND TO [CORRECTED] PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFANDANTS' [SIC] MOTION TO DISMISS** Date: June 21, 2012 Time: 8:00 a.m. Place: Courtroom 8, 19th Floor

The U.S. Department of the Treasury ("Treasury") and Treasury Secretary Timothy F. Geithner ("Defendants") hereby submit their reply to Plaintiff's Memorandum in Opposition to

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Defandants' [sic] Motion dated May 13, 2012 and [Corrected] Plaintiff's Memorandum in Opposition to Defandants' [sic] Motion to Dismiss dated May 15, 2012 ("Plaintiff's Responses").

Plaintiff's Responses should not be considered by the Court because Plaintiff's Memorandum in Opposition to Defandants' [sic] Motion dated May 13, 2012 was not timely received by Defendants. On March 22, 2012, the Court granted Plaintiff's Motion for Permission for Electronic Case Filing. *See* Docket No. 21. On April 30, 2012, Defendants' Notice of Motion and Motion to Dismiss [Plaintiff's] First Amended Complaint ("Motion to Dismiss") was timely electronically filed. *See* Declaration of Evan H. Perlman dated May 22, 2012 ¶ 4. Local Rule of Practice in Civil Proceedings before the U.S. District Court for the Northern District of California ("Civil Local Rule") 7-3 provides, among other things, "Any opposition to a motion must be served and filed not more than 14 days after the motion is served and filed. . . ." Defendants did not receive Plaintiff's Memorandum in Opposition to Defandants' [sic] Motion dated May 13, 2012 until May 15, 2012, 15 days after the filing of Defendants' Motion to Dismiss. *See* Perlman Decl. ¶¶ 6-7. Plaintiff's second filing, [Corrected] Plaintiff's Memorandum in Opposition to Defandants' [sic] Motion to Dismiss is simply an amended version of the first untimely filing. Accordingly, Plaintiff's Responses should not be considered.

Even if the Court were to consider Plaintiff's Responses, in its moving papers, Defendants established that the Court should dismiss Plaintiff's First Amended Complaint ("Complaint") with prejudice because Plaintiff has failed to state a claim upon which relief may be granted and has not established subject matter jurisdiction pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1). *See* Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint, Docket No. 33. In Plaintiff's Responses, he failed to adequately respond to any of the arguments in Defendants' Memorandum of Points and Authorities. *See* Plaintiff's Responses, Docket Nos. 34, 37.

In regards to Plaintiff's failure to state a cause of action, Plaintiff's claim presents a political question, which only Congress is empowered to address. *See Julliard v. Greenman*, 110

U.S. 421, 449-50 (1884) (Legal Tender Case). Moreover, the Government statements (or lack of statement in the case of the letter of comment) are Government speech, which is exempt from First Amendment scrutiny. *See Johanns v. Livestock Marketing Assn.*, 544 U.S. 550, 553 (2005). In addition, Plaintiff has not had his First Amendment right to petition regulated, prevented, or impaired by Defendants. As evidenced by his Complaint, he has petitioned freely on several recent occasions. *See* Complaint ¶¶ 5, 10 and Exhibits A-D.

In regards to Plaintiff's lack of standing, Plaintiff cannot meet any of the three elements of Article III standing. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). He has no injury-in-fact; does not allege, and cannot prove, that Defendants caused his alleged injuries; and cannot establish that his alleged injuries will be redressed by a judgment in his favor. *Id.* Moreover, to the extent he is requesting relief for the public at large, he does not meet the Article III case or controversy requirement. *Id.* at 573-74. Finally, Plaintiff lacks prudential standing. *See Elk Grove Unified Sch. District v. Newdow*, 542 U.S. 1, 12 (2004). He should have Congress address his generalized grievance, not this Court. *Id.*

CONCLUSION

Based on the foregoing, Defendants' Motion to Dismiss should be granted. This Court should dismiss Plaintiff's Complaint for failure to state a claim upon which relief may be granted and lack of subject matter jurisdiction.

Respectfully submitted,

MELINDA HAAG
United States Attorney

Dated: May 22, 2012

/s/ Evan H. Perlman
EVAN H. PERLMAN
Assistant United States Attorney
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Plaintiff *pro se*.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Clifford Johnson, *Plaintiff* v. Department of the Treasury of the United States, et al., *Defendants*	**No. CV 11-06684 WHA** PLAINTIFF'S DECLARATION RE CORRECTED OPPOSITION TO MOTION TO DISMISS Date: June 21, 2012 Time: 8:00 a.m. Place: Courtroom 8, 19th Floor Judge: Hon. William Alsup

I, Clifford Johnson, do hereby declare:

The opposition memorandum that I filed May 14, 2012 was a penultimate copy, printed from a file that I had inadvertently not replaced with the final copy. Besides minor corrections, the entire section "Any Affirmance Should Be Published" was omitted, which introduced government speech doctrine (including the abbreviation "GSD".

In light of the hearing being over six weeks from today, I deem it the better and reasonable course to file the intended memorandum, and request the court's indulgence in forgiving my mistake, for which I profusely apologize.

I hereby declare under penalty of perjury that the foregoing is true and correct, based on personal information and belief.

May 15, 2012

Clifford Johnson, Plaintiff pro se

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Clifford Johnson, *Plaintiff* v. Department of the Treasury of the United States, et al., *Defendants*	**No. CV 11-06684 WHA** [CORRECTED] PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFANDANTS' MOTION TO DISMISS Date: June 21, 2012 Time: 8:00 a.m. Place: Courtroom 8, 19th Floor Judge: Hon. William Alsup

References to the record

Complaint = First Amended Complaint For Declaratory Relief, filed February 29, 2012

DM = Defendants' Memorandum Of Points And Authorities In Support Of The Motion To Dismiss, filed April 30, 2012.

PD = Plaintiff's Declaration In Opposition To The Motion To Dismiss, filed herewith

Table Of Contents

CASES

Constitution

Other Authorities

I. SUMMARY

Johnson alleges that the Treasury has for decades abused its authority and power to systematically conceal fiscal advantages of United States notes over Federal Reserve notes, so impairing his contrary petitions. He prays for a finding of deception re two misrepresentations, and a declaration of law, in full as follows:

> [The] Treasury made or fostered statements, that
>
> > **[1]** "United States Notes serve no function that is not already adequately served by Federal Reserve Notes," and that
> >
> > **[2]** there is no government benefit when a $1 United States coin replaces a $1 Federal Reserve note,
>
> impermissibly impair Johnson's First Amendment right to petition for new issues of United States currency, because and insofar as:
>
> > **(a)** they by deception coerce and distort public debate**;**
> >
> > **(b)** they are repugnant to the constitution's tax and money powers under U.S. Const. Art. 1, Sec. 8; and
> >
> > **(c)** they are attributable to the private banking interests that own the Federal Reserve System.

The *two* statements embody *one* categorical and *two* financial misrepresentations of fact, particularly alleged. The *three* impermissibility reasons reflect *four* alleged "Government Speech Disqualifications," without which the Treasury is presumed immune.

To fit a boilerplate, the Treasury misrepresents that Johnson merely alleges: re [1], inaccuracy; and re [2], disagreement with government monetary policy.

Johnson elaborates the three misrepresentations on which he sues, to move the case forward, while underscoring the Treasury's terminological inexactitudes.

The government speech immunity limitations are reached, and should be affirmed by a published rule that limits immunity re: (1) viewpoint coercion by misrepresentation; (2) independent unconstitutionality; and (3) institutional capture.

II. STATEMENT OF FACT: THE MOTION TO DISMISS IS AN ABSURDLY INAPPOSITE BOILERPLATE

In its *one-page* résumé of the complaint ("Factual Background," DM 2-3), the Treasury reports that it alleges "categorical misinformation," "financial misinformation," more "financial misinformation," "categorical contradictions," and "categorical and financial misinformation." However, not even one of these quoted words occurs even once in the *eight-page* argument, nor is there even a hint that misrepresentation is alleged.

Quite the contrary. To manufacture dismissal, the first two sentences of argument proper, without discussion before or after, *tell* the court that (DM at 4):

> [T]he basis for his claim is merely that Treasury's website contains a statement that he contends is inaccurate and that Treasury's letter of comment to the 2011 GAO report should have corrected GAO's adoption of a monetary policy with which he disagrees.

Re the GAO report, Johnson alleges that the GAO adopted a *model,* as *objectively accurate*. He could not even have *conceived* of a GAO monetary policy to disagree with, well knowing that the GAO must not have any such policy. Its mandate is to serve as the policy-independent, objective, accurate, cost-benefit reporting arm of Congress.[1] And as such, it gives pertinent guidance for objective net benefit reporting re taxes.[2] Recent whistle-blower charges, that the likewise limited Congressional Budget Office is adopting like monetary policy, were deemed scandalous.[3]

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1 See, e.g., *GAO Answers The Question, What's In A Name?* PD. Ex. A. The first government speech case, *Rust Et Al. v. Sullivan, Secretary Of Health And Human Services* 500 U.S. 173, 186 (1991), recognized GAO reports as "reasoned analysis."

2 See, e.g., *GAO-02-234R IRS Guidance on Economic Analyses* (2002). PD Ex. B.

3 PD Ex. C is a Wall Street Journal article showing the gravitas of the Treasury's blunder.

Re the website's accuracy, it is alleged (complaint ¶ 9):

> Said Treasury.gov website puffs the Treasury's unique status as the nation's definitive source for information re the nation's currency and debt; stresses that reducing financial illiteracy is an urgent Treasury duty; and promises the utmost care and integrity in publishing related facts.

Because the website remains uncorrected, the Treasury's emphatic promises of utmost integrity estop it from pleading "mere inaccuracy" in defense. PD Ex. D.

Of course, Johnson does not allege mere inaccuracy, any more than he alleged a disagreeable GAO monetary policy. On the face of the motion, Johnson's plain and particular charges of categorical falsehood, multi-billion dollar concealment, targeted viewpoint coercion/suppression, and collateral violations of the constitution's tax and money clauses – all these are without pause *replaced*, by an estopped inaccuracy and an impossible policy disagreement! Thus was a government boilerplate filled.

The argument never deviates from mischaracterizing the complaint as just another of Johnson's political petitions or OpEd articles. Government speech immunity is affirmed without a hint that any "Government Speech Disqualifications" are alleged. This so eviscerates both fact and law that no element is left standing. The argument attacks a hypothetical OpEd article. Johnson concurs. OpEd articles are not lawsuits.

****

Section III explains the misrepresentations of fact on which Johnson sues. It confirms the Treasury's overzealous blindness to them, while advancing the case by addressing foreseeable sua sponte concerns of the court, re justiciability.

Section IV affirms legal sufficiency in light of the necessarily reached government speech immunity limitations.

III. THREE MISREPRESENTATIONS ARE CHERRY-PICKED FOR SIMPLICITY, EASY PROOF, AND WHISTLE-BLOWING EFFECT

1. The Case Rests On Three Easy To Prove Misrepresentations, Dubbed The Greenback, Face-Value, And Interest-Relief lies.

The government speech immunity limitations rest on findings of misrepresentation that are themselves the remedy. The misrepresentations were cherry-picked to make the case. They are the categorical misrepresentation on the Treasury website (complaint ¶ 7), and two financial misrepresentations re the alleged 2011 GAO "coin-swap" report, which answered the question ((Complaint ¶ 8(i); emphasis added):

> What is the estimated *net benefit*, if any, *to the government* of replacing the $1 note with a $1 coin?[4]

Johnson dubs the categorical misrepresentation, that United States notes offer no functional advantages over Federal Reserve notes, the "greenback lie."[5] It is simple, direct, official, canned, and repeated, and yet easily disproved by plain contradiction.

The two financial misrepresentations correspond to the cost *savings* and the cost *avoidance* parts of the estimated net benefit that accrues to the government, by virtue of the face-value seigniorage tax *automatically* collected from each coin issued, which the Federal Reserve now collects from each note issued. Complaint ¶ 6. Both costs *must* be included in an unqualified "net benefit" estimate, to avoid "misrepresentation," not only arguably, as common law concealment, but expressly, per tax reporting standards *that the GAO itself sets*, as in PD Ex. B. This standard suffices.

---

[4] *U.S. COINS: Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government,* GAO-11-281. March 2011. A footnote affirms the inclusiveness of the estimate: "We use the term 'benefit' rather than revenue because we consider the income from an economic standpoint instead of a budget scoring standpoint." PD Ex. E.

[5] "Lie" is pejorative, but also short, and discourages "mere inaccuracy" constructions.

In the 2011 GAO report, *cost savings* corresponds to reduction of the public debt by the face-value seigniorage tax realized on issuance, i.e. the value of all new coins. *It is entirely omitted from the estimated net benefit to the government.* This is the "face-value lie." Re coins that replace notes -- in which case the Federal Reserve loses the face-value seigniorage on the retired $1 bill -- the reason given for the omission is that the Federal Reserve *is* the government, and so the net benefit to the government is zero. This illustrates the prima facie proof of institutional capture alleged at complaint ¶ 11(iv).

> [T]he 2011 GAO report's rationale [] brazenly asserts that the Federal Reserve *is* the government, so as to palm off the conclusion that there is no overall loss to the government when it pays money in any amount into the Federal Reserve's private account.

However, no apparent reason is given for not counting the face-value debt reduction due to issuing *additional* coins – about 50% more than the number of $1 bills replaced.

The *cost avoidance* amount corresponds to the interest relief that results from not having to borrow the amount by which the face-value seigniorage tax has reduced the debt. However, the only interest relief counted is that from the debt reduction generated by the additional coinage.[6] This is the *only* seigniorage tax benefit to the government that the GAO counts, and Johnson agrees with the amount. The "interest relief lie" is that there is no net benefit from interest relief *on coins that replace bills*, as recounted below. This omits the entire cost avoidance amount for swaps, as alleged (complaint ¶ 8(iii)):

> [T]he government (when in debt) also obtains relief from interest on 81.5 cents, since the Federal Reserve owns only 18.5% of the debt held by the public.

[6] Thus, the debt reduction must be computed, to obtain the interest relief on it. But the reduction is meticulously unmentioned, from 1990 through 2012. But there are a couple of give-aways.

2. That "United States Notes Serve No Function Not Already Served By Federal Reserve Notes" Is A Categorical Falsehood Of "Transcendent Importance," Directly Dismissing Lincoln's and Johnson's Viewpoint.

(i) The Greenback Lie: Allegations and Substitution

> **Alleged Statement.** United States Notes serve no function that is not already adequately served by Federal Reserve Notes.
>
> **Alleged Contradictions [joined as one misrepresentation].** In fact, only United States notes adequately serve the functions of:
>
> **(a)** large, direct, prompt debt reduction;
>
> **(b)** interest-free financing;
>
> **(c)** exact economic tailoring; and
>
> **(d)** pay-as-you-go, collection-free, flat-tax funding.
>
> In particular, Federal Reserve notes cannot serve the function that United States notes serve in Johnson's petitions, of painlessly reducing the national debt held by the public.
>
> **Treasury's substitution.** Johnson contends merely that the website statement is inaccurate.

(ii) The Greenback Lie: Summary Proof Is Plausible

This categorical misrepresentation could not more simply, directly, or totally *preclude* public debate as to the relative advantages of United States notes. Technically, it is *four* misrepresentations, in that it amounts to a repudiation of each of the above four contradictions. But by this totality, it is materially just one big lie.

Its structural/ontological falsity and importance are manifested by Lincoln's celebrated June 23, 1862 veto of a bill that proposed an issue of *fiat* banknotes, *just like today's Federal Reserve notes*, in favor of fiat United States notes. Undivided, Congress concurred. The Senate later made a historic record of the entire controversy, as a matter

of "transcendent importance…for present and future reference."[7] Today, President Obama's frequent references to the economic marvel that Lincoln wrought underscore the importance of renewed public debate re issues of United States notes.[8]

The statement that "United States notes serve no function not already served by Federal Reserve notes" categorically forecloses that debate.

3. Johnson Disagrees With A $5.6 Billion Net Benefit Estimate Because It Should Be $58 Billion, And Because It Prevents The Public From Realizing The $52.4 Billion Tax Automatically Garnished By Federal Reserve Notes.

(i) The Face-Value And Interest-Relief lies: Allegations and Substitution

> **Alleged statement.** There is no government benefit when a $1 United States coin replaces a $1 Federal Reserve note.
>
> **Alleged contradictions.** In fact:
>
> **(a) [face-value]** when a new $1 coin is issued, the government's account is credited with $1; and
>
> **(b) [interest relief]** when a $1 note is replaced by a new $1 coin, the government (when in debt) also obtains relief from interest on 81.5 cents, since the Federal Reserve owns only 18.5% of the debt held by the public.
>
> **Alleged "Understated Totals."** [T]he 2011 GAO report estimates initial *losses* for four years due to start-up costs, and a net benefit after 30 years of only $5.6 billion, if that. In fact, because coins are *United States* currency, the government would also benefit from:
>
> **(a)** an early *gain* of $13.75 billion against the debt held by the public, from replacing the present 9.5 billion dollar bills with 150% as many coins;

---

[7] *History Of The Legal Tender Paper Money Issued During The Great Rebellion*, Senate Sub-Committee of Ways and Means, at 6 (1869). Page 36 recites "Lincoln's Message to Congress in favor of a National Currency, but vetoing irredeemable bank notes, June 23, 1862." PD Ex. F.

[8] "[I]n the middle of a civil war, [Abraham Lincoln] was also a leader who looked to the future, a Republican President who mobilized government to build the Transcontinental Railroad, launch the National Academy of Sciences, set up the first land grant colleges." President Obama's "Jobs Act" message to Congress, Sep. 8 2011.

> **(b)** a further gain in excess of $30 billion from coins added over the 30 years; and
>
> **(c)** a further $14.5 billion gain from 81.5% of the interest relief per note replaced by a coin.
>
> Hence, the net government benefit after 30 years would exceed $58 billion, as a matter of accounting fact.
>
> **Treasury's substitution:** Johnson contends merely that it is the GAO's adoption of a monetary policy with which Johnson disagrees.

(ii) <u>The Face-Value And Interest-Relief lies: Summary Proof Is Plausible</u>

For its costing model the 2011 GAO report refers back to prior reports in the series of (now six) GAO reports that have answered the "coin-swap" question, from 1990-2012. Complaint ¶ 8(v). Frankly, it is *impossible* to understand the 2011 GAO report without first understanding the earlier reports. However, because Johnson's allegations concern only the benefits that automatically accrue from seigniorage tax, the relevant sections in each report are small, and the disputed amounts entirely arise from calculating automatic seigniorage amounts from the same coin/note volumes used by the GAO.

On the other hand, the pre-requisite 22-year perspective is an eye opener to what is really going on. The earlier endorsements of reasonable accuracy by the Treasury are an important part of the case, of course. The rationale for the face-value lie only recently switched to the institutional capture posture – alarmingly. Fortunately, the new posture is up against not only the 1990 face-value lie's rationale, but also the 1990 decision to palm off a minimal seigniorage benefit – only interest relief, and only from added circulation – instead of none at all.

Moreover, the contrivance to report only the interest relief from added coinage required a reason not to include it re replaced coins, and the reason *had* to be that the Treasury's loss of reimbursed interest from Federal Reserve profits offset the interest

relief gained. This is the interest relief lie. It is false as a matter of arithmetical formula by a *factor* of six. It is a plain error, that *cannot be faked as an accounting convention.*

Taken together, the face-value lie and interest relief lie clearly and convincingly establish intent, without recourse to the known-or-should-have-known presumption.

Why all the fuss over coins? They are constitutionally bank-lobby proofed,[9] and *even the smallest coinage circulation manifests and maintains the accounting structures and processes under which United States notes would re-issue. Name-games and accounting ploys are disabled simply by defining United States notes de facto, as issued like coins.* Hence the plausible motive for the GAO understatements (complaint ¶ 8(ii)):

> [A]nswering this question on the small scales of coinage implicitly answers it on every scale, including complete conversion of the currency. These benefits are in fact so high that they swamp the benefits that the GAO report instead labors to compute.
>
> Had the face-value seigniorage benefits been properly included in the GAO report, they would have trumpeted the huge and prompt debt reducing advantages of United States currency.

IV. THE COMPLAINT IS SUFFICIENT

1. All Facts Are Plausibly Triable By Summary Judgment Procedures

Johnson's first amendment injury is quintessential: his unorthodox political ideas are targeted for suppression, herein by systematic deception. The action rests on three particularly alleged categorical and financial misrepresentations of simple but substantial fact. Section III *plausibly* demonstrates that these core misrepresentations are triable by the summary judgment procedure, based on a solid suite of judicially noticed government publications, intelligently laid out and carefully described.

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[9] The express coinage clause prevents banks from capturing the nation's fiat coin tax.

Both causation and the injury of impaired petitioning are of precisely the factual ilk routinely adjudicated in anti-trust litigation alleging the abusive exploitation of a monopoly's media dominance to coercively prejudice market counterparties against the disadvantaged competition. Foundational evidence showing the parties' relative market positions and postures, plus a showing of abusive exploitation of market dominance, is usually proof enough. The naturally suppressive effect of the monopoly's conduct, and the natural effect of a limiting judicial order, are generally presumed.[10] The numerous journal articles proposing limits to government speech immunity confirm this, for their great concern is the government's capacity to "drown out" individual speech, and their greatest concern is abuse of immunity to suppress unorthodox political ideas.

Herein, the foundational evidence is Johnson's petitions and the government publications that he attacks. They show on their face the positions and postures of the parties in the marketplace of ideas re new issues of United States currency. The petitions address the concern expressed sua sponte by the court at the April 12, 2012 CMC hearing,[11] which is also expressed by the Treasury's argument that to allow this case would open the floodgates to suits by anyone who disagreed with a government policy.[12]

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[10] See, e.g., *Associated Press v. United States*, 326 U.S. 1, 17, 18 (1945):

> It is apparent that the exclusive right to publish news in a given field, furnished by AP and all of its members, gives many newspapers a competitive advantage over their rivals… AP is a vast, intricately reticulated organization, the largest of its kind, gathering news from all over the world, the chief single source of news for the American press, universally agreed to be of great consequence.

[11] Asked by the court why he did not stand on street corners and talk to passers-by to make his point, Johnson replied "I do." Johnson even has video of himself outside the federal building, dressed as Tom Paine II, complete with three-cornered hat and town crier bell, speaking to a small audience, singing a song, and handing out flyers. In 2009, he wrote the on-point Tom Paine II song "Treasured Notes," and in 2010 he uploaded a video version to YouTube.

[12] "[I]t would be all too easy for anyone to claim an injury." DM at 7.

The suit is valid because Johnson comes as an injured petitioner, not as a prospective petitioner, nor as one who petitioned to contrive a case.

The misinformational barrier to starting up a meaningful public debate re new issues of United States notes is of course not unique to Johnson. Indeed, Johnson shared his thoughts with the small but growing public banking community, in cherry-picking the misrepresentations for this case.[13] But the tiny number of frustrated United States currency petitioners does not convert Johnson's injury into a generalized grievance. It has the opposite effect of *authenticating* the particularity. Johnson is a realist, and in a case like this the court needs to be informed that he is not *hopelessly* disconnected.

The natural suppressive effect of the misrepresentations, and the natural remedial effect of misrepresentation findings, are alleged and are plain, as shown in section III.[14]

2. The Government Speech Immunity Limitations Should Be Affirmed

At DM at 4-5, the Treasury affirms government speech immunity, without mentioning the alleged paragraph of "Government Speech Disqualifications." The treasury cites only *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009) and *Johanns v. Livestock Marketing Assn.*, 544 U.S. 550 (2005), neither of which in any way address or

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[13] PD Ex. G is a December 4, 2011 snapshot of this cherry-picking, in response to a remark by Marc Armstrong, Executive Director of the Public Banking Institute (PBI): "The US population knows virtually nothing about banking and monetary systems. Given this, where does one start?" PD Ex. H is an article re the PBI's inaugural conference, April 27-29, 2012, which incidentally notes that prominent Libertarian and monetary policy guru Bill Still lent particular support to this litigation.

[14] Hard evidence of impairment is available, for example re the pending "coin-swap" bill, S. 2049. Complaint ¶ 5(iii). A full set of international, national, beltway, special interest, and congressional news publications; plus the legislative record and public comments record; plus Johnson's OpEd articles and personal communications with interested parties; all this, in conjunction with the undisturbed universal adoption of the at-issue GAO net benefit estimates as the one and only objective dollar basis for decision, should suffice to summarily establish the concreteness of Johnson's injury, by the abusive monopolistic content-direct suppression of his petitions.

concern any of the alleged limitations, namely, viewpoint coercion by misrepresentation, independent unconstitutionality, and institutional capture.

These limitations are necessarily reached, else the Treasury is immune. Since the effectiveness of the declaratory remedy is less, if it the findings are less, Johnson alleges the government speech limitations as "separate and cumulative grounds" (complaint ¶ 11).

3. The Government Speech Immunity Limitations

(i) <u>Any Affirmance Should Be Published</u>

Does an official government publication lose its legitimate protection against a suit for declaratory relief, when it includes misrepresentations intended to suppress public debate on issues the plaintiff advocates?

Law journals say this has yet to be decided, under the recently minted "government speech (immunity) doctrine" (GSD). Worse, after twenty years of the GSD, no limitations have crystallized, despite a full shelf of journal articles proposing limits, systems of limits, motive-based limits, level of scrutiny alternatives,… Worse yet, "virtually all governmental activity, involves speech."[15]

Wherefore, Johnson urges that even the summary affirmance of a limitation be published. Of course, a substantive opinion would be far better, although he would hope to have an better opportunity to brief the court on the GSD – and on the independent constitutional violations alleged as the basis for two of them. Herein, Johnson simply provides supporting authority for each alleged limitation.

(ii) <u>Viewpoint Coercion By Misrepresentation</u>

A government agency or official's conduct, even with the additional immunities of a litigant, loses all legitimacy and so immunity, by "intentional misrepresentations," or by

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[15] *United States v. United Foods, Inc.*, 533 U.S. 405, 424 (2001).

"furnishing with predatory intent false information," so as to foil the contrary petitions of a private party. Also, the right to petition protects incidental conduct, including "the use of `the channels and procedures' of state and federal courts to advocate causes." *Kearney v. Foley & Lardner*, 590 F.3d 638, 644 (9th Cir. 2009).

Under most schemes, mere falsehoods remain immune, but under no schemes do they remain immune if they are viewpoint targeted. This case enables such a cause to bear a judicial stamp. A finding that the GSD does not apply due to alleged "Viewpoint Coercion By Misrepresentation" could be significant.

See *Deception And The First Amendment: A Central, Complex, And Somewhat Curious Relationship*, Johnathan Varat, 53 UCLA L. Rev. 1107, 1132-1140 2005-2006, "First Amendment Limits On Deceptions Perpetrated By The Government." He identifies five free speech "problems" where "kinds of government intervention might constitute deceptions that violate the First Amendment?" The first three are:

> Compelling viewpoints by deception. *Bingo*!
>
> Government statements issue with the full force and power of a monopoly of media and knowledge. *Bingo*!
>
> "[C]overt attempt[s] by the State to manipulate the choices of its citizens, not by persuasion or direct regulation, but by depriving the public of the information needed to make a free choice *Bingo*!.

Re viewpoint coercion see *Simon & Schuster v. Crime Victims Bd.*, 502 U.S. 105, 116 (1991):

> In the context of financial regulation, it bears repeating, as we did in Leathers, that the Government's ability to impose content-based burdens on speech raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace.

(iii) <u>Independent Unconstitutionality</u>

Independent *unconstitutionality* must surely render government speech harmful beyond protection by any otherwise collaterally saving mere judicial doctrine.

> If the primary justification for the government speech doctrine is to encourage the government to contribute helpful information to the marketplace of ideas, then nothing is to be gained by government contributions of false *or harmful* information.
> *Why Should the First Amendment Protect Government Speech When the Government Has Nothing To Say?* Steven Gey, 95 Iowa L. Rev. 1259, 1288 (2010); emphasis added.

(iv) ***Institutional Capture***

This problem of institutional capture is discussed at length in *Why Is Government Speech Problematic? The Unnecessary Problem, The Unnoticed Problem, And The Big Problem*, Steven Smith, Denver Univ. L. Rev. Vol. 87:4 945, 956-867 "The Unnoticed Problem: Institutional Capture." Standards are even set to test whether organizations have been captured, which is usually so that another interest can speak with their authoritative voice, in which case there is no immunity. That is the general idea. Johnson's plausible proof is prima facie, as discussed above, re the face-value lie.

4. Prudential Consideration: Each Misrepresentations Is Too Big To Fail

One natural law applies to each of the three misrepresentations, and does so with force enough not only to overrule government speech immunity on public interest grounds, but to imply easy proof at trial: size counts. Surely the importance and/or multi-billion dollar amount of each misrepresentation renders it "too big to fail" – too big not to impair; too big not to be judicially noticed; too big for a federal finding not to remedy; too big not to try, as a prudential consideration.

Taking the financial allegations as facts, a dismissal might very well open the door to a deceptively induced rejection of the coin-swap bill, S. 2049, for which Johnson petitions (complaint ¶ 8(iii)).[16]

[16] PD Ex I, Ex J show a letter from the Federal Reserve re the GAO's latest estimate, and a recent congressional news story re the $1 coin, to provide the court with a snapshot of the "great little $1 coin controversy." But are the $ figures everyone is arguing with meaningful?

But the $52 billion missing in the GAO results is next to nothing compared to the loss of *sovereignty* implicit in face-value lie, by virtue of its identity theft.

V. CONCLUSION

Plaintiff offers to amend to add a few sentences to add the above particulars re the nature of the "face-value" and "interest relief" misrepresentations, re cost savings (face-value seigniorage tax) and cost avoidance (interest relief) net benefit subtotals.

The motion to dismiss should be denied *by a published decision*:

(1) holding the government speech immunity defense overruled by allegations of (i) viewpoint coercion by misrepresentation, (ii) independent unconstitutionality, and (iii) institutional capture; and

(2) scheduling trial by the summary judgment procedure, so that a decision issues before this year's election.

Alternatively, because the motion to dismiss did not even mention the alleged government speech disqualifications, which are apparently matters of first impression, Johnson requests a better opportunity to brief the court on the law.

May 15, 2012 _____

Clifford Johnson, Plaintiff pro se

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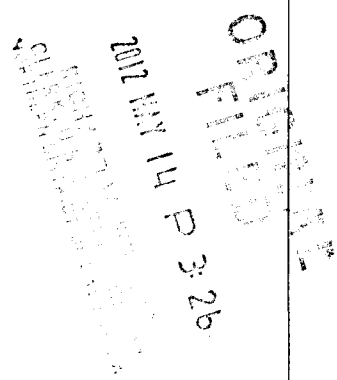

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Clifford Johnson, *Plaintiff* v. Department of the Treasury of the United States, et al., *Defendants*	**No. CV 11-06684 WHA** PLAINTIFF'S DECLARATION IN OPPOSITION TO DEFANDANTS' MOTION TO DISMISS Date: June 21, 2012 Time: 8:00 a.m. Place: Courtroom 8, 19th Floor Judge: Hon. William Alsup

I, Clifford Johnson, do hereby declare:

The Exhibits herewith were prepared by me, and they represent true and correct excerpts from the documents listed below, and as referenced in the opposition memorandum served and filed herewith.

I hereby declare under penalty of perjury that the foregoing is true and correct, based on personal information and belief.

May 13, 2012

Clifford Johnson, Plaintiff pro se

List of Exhibits

Exhibit A -- *GAO Answers The Question, What's In A Name?*

Exhibit B -- *GAO-02-234R IRS Guidance on Economic Analyses*

Exhibit C -- *Congress Number Cruncher Comes Under Fire*

Exhibit D -- *Treasury Website* (text from 2 web pages)

Exhibit E -- *U.S. COINS: Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government*, GAO-11-281. March 2011

Exhibit F -- *History Of The Legal Tender Paper Money Issued During The Great Rebellion*

Exhibit G -- *E-mail from Johnson to Marc Armstrong, Executive Director Public Banking Institute, December 4, 2011*

Exhibit H -- *Excerpt of Article on PBI conference held April 27-29, 2012*

Exhibit I -- *Letter dated January 30, 2012 from Federal Reserve to GAO re latest report*

Exhibit J -- *Administration Misses Mark on the Dollar Coin, February 24, 2012*

GAO Answers the Question:
What's in a Name?

By David M. Walker
Comptroller General of the United States

After 83 years, the General Accounting Office has changed its name to the Government Accountability Office. Some might wonder why GAO felt a need to tinker with an institutional identity so strongly associated with government economy, efficiency, and effectiveness. But our old name, as familiar and reassuring as it was, had not kept pace with GAO's evolving role in government. The truth is that "accounting" has never been our chief mission.

Stereotypes, however, can be hard to shake. Some college students we were trying to recruit mistakenly assumed that you needed an accounting degree to work at GAO. New members of Congress, cabinet-level officials, and prominent journalists have, because of our name, thought that GAO's main job was to keep the government's books. In fact, a recent crossword puzzle in *The Washington Post* asked for a three-letter term describing a GAO employee; the answer was "CPA."

In fairness, GAO did primarily scrutinize government vouchers and receipts in its early years. The days of accountants in green eyeshades, however, are long gone. Although GAO does serve as the lead auditor of the U.S. government's consolidated financial statements, financial audits are only about 15 percent of GAO's current workload. Most of the agency's work involves program evaluations, policy analyses, and legal opinions and decisions on a broad range of government programs and activities both at home and abroad.

The scope of GAO's work today includes virtually everything the federal government is doing or thinking about doing anywhere in the world. For example, GAO staff have been in Iraq recently, looking at everything from military logistics to contracting costs to the U.N.'s oil-for-food program. GAO has become a modern, multidisciplinary professional services organization whose 3,200 employees include economists, social scientists, engineers, attorneys, actuaries, and computer experts as well as specialists in areas from health care to homeland security.

Today, most GAO blue-cover reports go beyond the question of whether federal funds are being spent appropriately to ask whether federal programs and policies are meeting their objectives and the needs of society. GAO looks at the results that departments and agencies are getting with the taxpayer dollars they receive. As a strong advocate for truth and transparency in government operations, GAO is committed to ensuring that recent accountability failures, such as Enron and Worldcom, are not repeated in the public sector. To that end, public reporting of our work is vital; virtually every GAO report and congressional testimony is posted on the Internet on the day that it is issued.

The modern GAO believes it is important to provide the public with an accurate, fair, and balanced picture of government today. Beyond simply pointing out what is wrong with

government, GAO also reports on federal programs and policies that are working well and acknowledges progress and improvements. GAO regularly consults with lawmakers and agency heads on ways to make government work better, from adopting best practices to consolidating or eliminating redundant federal programs.

In a city full of interest groups with competing agendas, GAO's strength is its ability to provide Congress with professional, objective, fact-based, nonpartisan, and non-ideological information when it is needed. At GAO, our independence and integrity is crucial. To begin with, our location in the legislative branch gives us some distance from the executive branch agencies we audit and oversee. Moreover, the head of GAO serves a 15-year term, which gives the agency a continuity of leadership that is rare in the federal government. As a result, GAO and its chief, the Comptroller General, can afford to take a long-term view and address a range of complex and sometimes controversial issues. GAO's independence is further safeguarded by the fact that its workforce consists of career civil servants hired on the basis of their knowledge, skill, and ability.

Although much of our work reviews the effectiveness of day-to-day government operations, GAO also alerts policymakers and the public to emerging problems with serious national implications—before they reach crisis proportions. GAO is now keeping a close eye on several long-term challenges whose impact has yet to be fully felt, including the government's worsening financial situation and the mounting challenges from Social Security, health care, and the war on terrorism. GAO takes seriously its responsibility to speak out on these issues.

Today's GAO is committed to leading by example, so holding itself accountable for results is essential. Since 2000, GAO has issued an annual report that explains what the agency has accomplished with its resources and what it expects to achieve in the coming year. For example, our work last year generated $35.4 billion in measurable financial benefits—a $78 return on every dollar invested in GAO.

We also reported significant non-financial accomplishments, such as strengthening security at federal buildings and improving the quality of care at the nation's nursing homes. Last year, we made more than 2,000 specific recommendations to improve government operations. In recent years, about four out of five GAO recommendations have been implemented within four years. In our view, this type of straightforward agency performance measurement and cost/benefit reporting needs to become standard throughout government.

A name change is a small step, but it does speak to a larger issue: the need to transform what the federal government does and how it does business to ensure its relevance for the 21st century. At today's GAO, measuring the government's performance and holding it accountable for results is central to who we are and what we do. We continue to believe that the public deserves the facts on all aspects of government operations—from spending to policy making. After all, representative government depends on an informed electorate.

I am not suggesting that agencies need to change their names–but most of them do need to come to grips with the fact that some of their most basic policies, processes, and procedures are years out of date. We at GAO have a proud history, but we are not defined solely by our past. We will still be known as GAO, but our new name will make clear that our first priority is to improve the performance of the federal government and ensure its accountability to Congress and the American people.

This op-ed appeared in *Roll Call* on July 19, 2004.

GAO
Accountability * Integrity * Reliability
United States General Accounting Office
Washington, DC 20548

May 9, 2002

The Honorable Charles O. Rossotti
Commissioner of Internal Revenue

Subject: *IRS Guidance on Economic Analyses in Investment Business Cases*

Dear Mr. Rossotti:

Because IRS plans to spend $2.9 billion over the next 6 years to modernize its information systems, we have reviewed, at our own initiative, the latest draft of the *Investment Decision Management Business Case Procedure.* That document contains guidance for the Integrated Project Teams that prepare business cases to justify information technology (IT) investments. This letter presents our observations on certain aspects of the guidance where modifications or additions would help to ensure that the economic analyses contained in IRS business cases are consistent with commonly accepted principles.

The observations in this letter are based on our review of the draft business case procedure, as it stood on November 1, 2001; relevant guidance issued by the Office of Management and Budget (OMB); relevant economic literature, and discussions with IRS officials from the Office of Economic Analysis under the Chief Financial Officer and from the Office of Financial Policy, Planning, and Programs under the Chief Information Officer. Our review was limited to the sections of the guidance that pertain to fundamental economic analysis. Some of our observations have particular significance for IRS, given its specific mission; the significance of these observations for other government agencies will depend on their specific missions. We did not evaluate individual business cases prepared under this guidance; therefore, we draw no conclusions with respect to any actual investment decisions. We did our work from December 2000 through November 2001 in accordance with generally accepted government auditing standards.

Results in Brief

IRS' draft guidance relating to the preparation of business case documents represents an important step toward ensuring that IRS management has the most relevant available information on which to base its critical IT investment decisions. However, some aspects of IRS' guidance are inconsistent with commonly held principles of public sector cost-benefit analysis. Most important, the guidance does not require the computation of a comprehensive social net present value (NPV), which is the

suggests that the excess cost is lower (or higher) than 25 cents per dollar, an alternative figure may be used. OMB recommends that the recomputed NPV be presented in addition to the standard NPV.

Depending on what information IRS' guidance already requires project teams to compile, the supplementary analysis may require only minimal additional cost to complete. The amount of additional taxes attributable to a specific investment project equals the total public expenditures on the project, minus any cost-savings generated by the project. IRS' guidance already requires project teams to estimate the total discounted investment costs of each project. If the guidance also requires teams to estimate discounted recurring cost savings in an appropriate manner, then those teams could simply subtract those savings from the discounted investment costs to determine the amount of additional taxes attributable to the project.[16] The teams could then complete the supplementary analysis by multiplying that amount by .25 and subtracting the resulting product from their original NPV.[17] This adjusted NPV is likely to be more accurate than the unadjusted NPV as a summary of the project's measurable social benefits and costs.

IRS' approach to computing cost savings and cost avoidance benefits contains an inconsistency

IRS' guidance defines two categories of benefits relating to cost reductions—cost savings and cost avoidance. The cost savings and avoidance benefits are computed relative to a reference level of costs.[18] If the recurring costs for the investment alternative in question are less than the recurring costs in the reference case, then the cost savings and avoidance benefits are positive and they are added into IRS' on-budget NPV for that alternative. These benefits are intended to reflect the fact that technology investments may enable IRS to provide a specified level of service at lower recurring costs than would be possible with the agency's existing technology. However, there is an inconsistency between how IRS' guidance defines cost savings and cost avoidance benefits and how that guidance instructs analysts to compute those benefits.

Cost savings are defined as "a permanent reduction or elimination of *actual* IRS costs due to efficiencies gained through the implementation of new business capabilities." Cost avoidance benefits are defined as "a permanent reduction or elimination of

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"The Optimal Size of Public Spending and the Distortionary Cost of Taxation," *National Tax Journal*, 53 No.2 (June 2000) pp. 253-272.

[16] As we discuss in the following section, the current draft guidance is inconsistent regarding the computation of cost savings.

[17] If a project team has estimated discounted cost savings to government agencies other than IRS, it can also subtract those savings from investment costs when computing the amount of additional taxes attributable to the project.

[18] IRS also makes a distinction between cost savings that are actually taken (i.e., they reduce the size of IRS' budget) and those that are reallocated to another business area. This distinction is not relevant to the problem we discuss here because the cost savings are computed the same way, regardless of how the savings are used.

anticipated (future year) IRS costs due to efficiencies gained within a single business area, thus eliminating the need to hire staff or increase resource levels to meet escalating demand." These definitions (reinforced by specific examples in the text) strongly imply that:

> the sum of cost savings and avoidance equals the recurring costs needed to meet an *escalating* workload with existing technology, minus the recurring costs of the alternative being proposed.

However, the computational instructions in the guidance show that:

> the sum of cost savings and avoidance equals the recurring costs needed to meet the *existing* workload with existing technology, minus the recurring costs of the alternative being proposed.

The correct way to define and compute a cost savings and/or avoidance measure depends on how that measure will be used. IRS needs to compute recurring cost reductions relative to a reference case in order to complete the excess burden analysis discussed above. (See enclosure II for a fuller discussion.)

Conclusions

The business cases prepared by project teams are to be used by IRS managers as the basis for allocating limited investment funds among projects that can cost hundreds of millions of dollars. The economic value of each investment project is one of the most important criteria presented in a business case. For this reason, it is crucial that project teams present the economic values of investments as completely and accurately as possible. We have identified aspects of IRS' current business case guidance that could lead to a misrepresentation of these economic values, primarily in the case of investment projects that generate significant benefits or costs outside of IRS. The changes we recommend below will help to ensure that IRS' guidance provides instructions for presenting the economic values of investments in a manner that is consistent with commonly held principles of cost-benefit analysis.

Recommendations For Executive Action

To ensure that economic analyses contained in IRS business cases provide a sound basis for managers' investment decisions, we recommend that IRS business case guidance

> require the use of a comprehensive social NPV as the basis for comparing the economic values of alternative investment projects that give rise to significant benefits or costs outside of IRS;
>
> provide detailed instructions to ensure that the NPV includes all measurable costs and benefits to society and does not include transfer payments at their face value, unless evidence is provided to support such a valuation;

Congress's Number Cruncher Comes Under Fire

Wall Street Journal, February 2, 2012

By Jenny Strasburg

Republican staffers on three Senate committees are pressing a congressional office that scrutinizes federal budget issues and proposed legislation over how its assessments are compiled.

The inquiries of the Congressional Budget Office, which haven't been made public, concern the CBO's analyses of some of Washington's most complex and controversial measures, including bills on financial regulation, health care, small-business lending and efforts to aid the housing market, said people familiar with the matter.

The CBO—a nonpartisan arm of Congress—employs analysts and economists who are charged with trying to estimate the potential financial impact of proposed policies and legislation.

As part of the inquiries, some Republican committee staffers are examining whether CBO officials adequately monitored and disclosed the role of Wall Street banks, academic researchers with government ties and other outside advisers, the people said. They are pushing for greater transparency in the CBO's dealings with advisers, to shed light on the role of outside interests in shaping the office's views, the people said.

"We have the utmost confidence in the objectivity of our work and devote considerable time and energy to explaining the basis of our findings as clearly as we can to help members of Congress understand the work that we do," the CBO's director, Douglas Elmendorf, said in a statement.

The CBO regularly comes under fire from members of both political parties—particularly when their goals for proposed legislation are undermined by the agency's analysis. It is "an easy target" because of its role in shaping legislative debates, said John Wonderlich, policy director for the nonpartisan Sunlight Foundation, a nonprofit focused on government transparency. He said the CBO should be more open with the economic models it uses, and should produce documentation detailing its use of outside advisers. "That oversight is entirely appropriate," Mr. Wonderlich said.

One of the committees examining the office is the Senate Budget Committee, say people familiar with the matter. That body, with the House Budget Committee, has responsibility for overseeing the CBO.

Congress's scrutiny has led to several private confrontations in recent months between Republican staffers from Senate committees and senior CBO executives, including Mr. Elmendorf, the people say. The CBO isn't generally obligated to respond to document requests or other demands for detailed explanations of its conclusions.

Mr. Elmendorf will testify at a Senate Budget Committee hearing Thursday on the budget and economic outlook.

Republican Budget Committee staffers are questioning the CBO about disclosures of details related to projected costs of health-care legislation and broader economic policies, say people familiar with the matter. People close to the matter say the CBO in recent months has resisted efforts by Republican staffers to obtain documents and communications stemming from the office's views on a long-term care provision. Administration officials in mid-October declared the provision not viable, after previously supporting it.

"The Budget Committee has been engaged in routine conversations with the Congressional Budget Office over how best to estimate the fiscal impact of the President's health law," and hasn't been pursuing an inquiry into the CBO's "professional conduct," said a spokesman for the committee's Republican staff.

In July Sen. Olympia Snowe of Maine, the ranking Republican on the Small Business Committee, asked the CBO to lift the "shroud of secrecy" surrounding its estimates.

A spokesman for Senate Majority Leader Harry Reid, a Democrat, said, "Republicans are fighting yesterday's battle. The focus should be on how you fix the [health-care] problem rather than harassing the referee."

In another inquiry, investigators working for Sen. Charles Grassley, the top Republican on the Senate Judiciary Committee, are probing allegations made privately to the investigators by a former CBO economist that she was fired for producing work at odds with Wall Street research favored by her supervisors, according to people familiar with the matter and documents related to the inquiry.

The ex-employee, Lan T. Pham, alleges she was terminated after 2½ months for sharing pessimistic outlooks for the banking and housing sectors in 2010, according to correspondence and other documents related to the inquiry, reviewed by The Wall Street Journal, and her lawyer, Gary J. Aguirre. Ms. Pham, 40, alleges supervisors stifled opinions that contradicted economic fixes endorsed by some on Wall Street, including research from a Morgan Stanley economist who served as a CBO adviser. As part of the review, Sen. Grassley's staff is examining whether Wall Street firms or others exert influence that compromises the office's independence, say people familiar with the matter.

The CBO declined to comment on Ms. Pham's allegations. In a December 2010 termination letter, reviewed by the Journal, the CBO said she was unqualified for the job, produced "poorly organized" research and resisted direction from superiors. Mr. Aguirre says she was unfairly fired.

http://www.treasury.gov/resource-center/faqs/Currency/Pages/legal-tender.aspx
May 13, 2012

What are United States Notes and how are they different from Federal Reserve notes?

United States Notes (characterized by a red seal and serial number) were the first national currency, authorized by the Legal Tender Act of 1862 and began circulating during the Civil War. The Treasury Department issued these notes directly into circulation, and they are obligations of the United States Government. The issuance of United States Notes is subject to limitations established by Congress. It established a statutory limitation of $300 million on the amount of United States Notes authorized to be outstanding and in circulation. While this was a significant figure in Civil War days, it is now a very small fraction of the total currency in circulation in the United States.

Both United States Notes and Federal Reserve Notes are parts of our national currency and both are legal tender. They circulate as money in the same way. However, the issuing authority for them comes from different statutes. United States Notes were redeemable in gold until 1933, when the United States abandoned the gold standard. Since then, both currencies have served essentially the same purpose, and have had the same value. Because United States Notes serve no function that is not already adequately served by Federal Reserve Notes, their issuance was discontinued, and none have been placed in to circulation since January 21, 1971.

The Federal Reserve Act of 1913 authorized the production and circulation of Federal Reserve notes. Although the Bureau of Engraving and Printing (BEP) prints these notes, they move into circulation through the Federal Reserve System. They are obligations of both the Federal Reserve System and the United States Government. On Federal Reserve notes, the seals and serial numbers appear in green.

United States notes serve no function that is not already adequately served by Federal Reserve notes. As a result, the Treasury Department stopped issuing United States notes, and none have been placed into circulation since January 21, 1971.

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http://moneyfactory.gov/usnotes.html
May 13, 2012

United States Notes

United States Notes (characterized by a red seal and serial number), originally issued in 1862, were the first National currency. Federal Reserve Notes were not issued until the creation of the Federal Reserve System in 1913. Both types of notes were redeemable in gold until 1933, when the United States abandoned the gold standard. Since then, both currencies have served essentially the same purpose, and have had the same value. Because United States Notes serve no function that is not already adequately served by Federal Reserve Notes, their issuance was discontinued, and none have been placed into circulation since January 21, 1971.

All outstanding United States Notes, which were issued in denominations of $1, $2, $5, $10, $20, $50, $100, $500, and $1,000, may be redeemed at face value by the U.S. Treasury Department. Payment would be made in the form of a Treasury check.

You may purchase United States Notes from numismatic dealers who are likely to be found online. Also, publications for money collectors such as Bank Note Reporter and Coin World routinely display advertisements of currencies for sale. These publications may be found at most reputable newsstands, book stores, and libraries.

CV 11-6684 WHA Plaintiff's Declaration Exhibit D – Treasury/Mint website

United States Government Accountability Office

GAO

Report to Congressional Requesters

March 2011

U.S. COINS

Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government

GAO-11-281

March 2011

U.S. COINS

Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government

GAO Highlights

Highlights of GAO-11-281, a report to congressional requesters

Why GAO Did This Study

Since coins are more durable than notes and do not need replacement as often, many nations have replaced lower-denomination notes with coins to obtain a financial benefit. GAO has estimated the annual net benefit to the U.S. government of replacing the $1 note with a $1 coin four times over the past 20 years, most recently in April 2000. Asked to update its estimate, GAO (1) estimated the net benefit to the government of replacing the $1 note with a $1 coin and (2) examined other effects stakeholders suggested such a replacement could have. To perform its work, GAO constructed an economic model and interviewed officials from the Federal Reserve, the Treasury Department, the U.S. Secret Service, outside experts, and officials from Canada and the United Kingdom. To determine the effects on stakeholders, GAO interviewed officials from industries and organizations that might be affected by changes to currency.

What GAO Recommends

As in the past, GAO's analysis indicates that replacing the $1 note with a $1 coin would provide a financial benefit to the government if production of the $1 note ceased. GAO previously recommended replacement of the $1 note and continues to support this recommendation. The Federal Reserve and Treasury reviewed a draft of this report and both noted the importance of societal effects in deciding on such a replacement and offered technical comments.

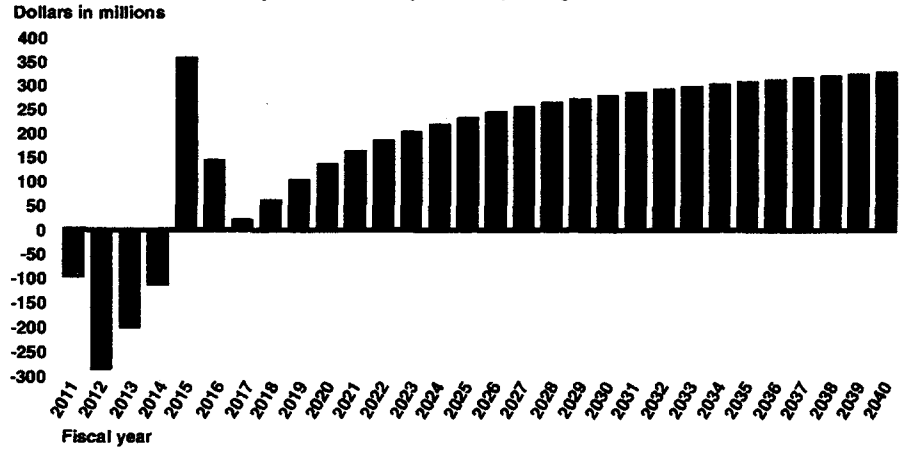
View GAO-11-281 or key components. For more information, contact David Wise at (202) 512-2834 or wised@gao.gov.

What GAO Found

According to GAO's analysis, replacing the $1 note with a $1 coin could save the government approximately $5.5 billion over 30 years. This would amount to an average yearly discounted net benefit—that is, the present value of future net benefits—of about $184 million. However, GAO's analysis, which assumes a 4-year transition period beginning in 2011, indicates that the benefit would vary over the 30 years. As shown in the figure below, the government would incur a net loss in the first 4 years and then realize a net benefit in the remaining years. The early net loss is due in part to the up-front costs to the U.S. Mint of increasing its coin production during the transition. GAO's current estimate is lower than its 2000 estimate, which indicated an annual net benefit to the government of $522 million. This is because some information has changed over time and GAO incorporated some different assumptions in its economic model. For example, the lifespan of the note has increased over the past decade, and GAO assumed a lower ratio of coins to notes needed for replacement. GAO has noted in past reports that efforts to increase the circulation and public acceptance of the $1 coin have not succeeded, in part, because the $1 note has remained in circulation. Other countries that have replaced a low-denomination note with a coin, such as Canada and the United Kingdom, stopped producing the note. Officials from both countries told GAO that this step was essential to the success of their transition and that, with no alternative to the note, public resistance dissipated within a few years.

Stakeholders representing a variety of cash-intensive entities in the private sector identified potential shorter- and longer-term effects of a replacement. For example, some stakeholders said that they would initially incur costs to modify equipment and add storage and that later their costs to process and transport coins would go up. Others, however, such as some transit agencies, have already made the transition and would not incur such initial costs.

Discounted Net Benefits by Year Resulting from Replacing the $1 Note with a $1 Coin



Source: GAO analysis.

GAO
Accountability * Integrity * Reliability
United States Government Accountability Office
Washington, DC 20548

March 4, 2011

The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing
and Urban Affairs
United States Senate

The Honorable Robert P. Casey
United States Senate

The Honorable Tom Harkin
United States Senate

Over the past 40 years, many countries have replaced lower-denomination notes with coins as a means of providing a financial benefit to their governments. We have reported four times over the past 20 years that replacing the $1 note with a $1 coin would provide a net benefit to the government of hundreds of millions of dollars annually.[1] Most recently, in 2000, we estimated a net benefit to the government of about $522 million annually.[2] Because this last estimate was a decade old, you asked us to update it and describe some potential effects of replacing the $1 note with a $1 coin. To accomplish these objectives, we addressed the following questions: (1) What is the estimated net benefit, if any, to the government of replacing the $1 note with a $1 coin? (2) What other effects did stakeholders suggest such a replacement could have?

To estimate the net benefit to the government of replacing the $1 note with a $1 coin, we constructed an economic model with data from the Board of Governors of the Federal Reserve System (Federal Reserve), the Bureau of Engraving and Printing (BEP), and the United States Mint (Mint). We analyzed past GAO and Federal Reserve reports that previously estimated the net benefit to the government of such a replacement. We interviewed

[1]GAO, *National Coinage Proposals: Limited Public Demand for New Dollar Coin or Elimination of Pennies*, GAO/GGD-90-88 (Washington, D.C.: May 23, 1990); *1-Dollar Coin: Reintroduction Could Save Millions If Properly Managed*, GAO/GGD-93-56 (Washington, D.C.: Mar. 11, 1993); *Dollar Coin Could Save Millions*, GAO/T-GGD-95-203 (Washington, D.C.: July 13, 1995); and *Financial Impact of Issuing the New $1 Coin*, GAO/GGD-00-111R (Washington, D.C.: Apr. 7, 2000).

[2]GAO/GGD-00-111R.

officials from two bureaus of the Department of the Treasury (Treasury)—BEP and the Mint—the Federal Reserve, and the Department of Homeland Security's U.S. Secret Service to develop the structure, inputs, and assumptions for the model. In addition, we interviewed government officials in Canada and the United Kingdom (UK) to obtain information about their experiences replacing notes with coins and used this information to develop some of the model assumptions. To determine the effects such a replacement could have, we identified industries and organizations that might be affected by changes to currency. We interviewed private entities involved in the production of materials for and processing of notes and coins; 15 associations and companies that represent five major industries that often deal in cash—banking and financial institutions; grocery and convenience stores; and vending, transit, and retail businesses. We conducted this performance audit from June 2010 to March 2011 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I contains more detailed information on our scope and methodology.

Background

To promote efficient commercial exchange and economic growth, national governments and central banks issue money, including paper notes and coins in various denominations. The federal government experiences a financial gain when it issues notes or coins because both forms of currency usually cost less to produce than their face values. As long as there is a public demand, when the government puts coins into circulation, it creates a value known as "seigniorage." Seigniorage is traditionally defined as the difference between the face value of coins and their cost of production. In addition, the face value of notes issued, net of their production costs, creates an analogous net value for the federal government. In this report, we use the term "seigniorage" to refer to the value created from the issuance of both coins and notes. Seigniorage reduces the government's need to raise other revenues, thus reducing the amount of money that the government needs to borrow.[3] When the government has to borrow less, it pays less in interest over time. Although

[3]We are assuming a status quo tax structure.

the interest avoided is a benefit to the government, the public effectively finances this benefit by choosing to hold more cash on which it does not earn interest.

Two Treasury bureaus, BEP and the Mint, produce notes and coins, respectively, and the Federal Reserve places them in circulation through banks in response to public demand. Under current law, the Federal Reserve determines the amount of $1 notes necessary for commerce.[4] For the circulation of $1 coins, the Secretary of the Treasury decides what is necessary to meet the needs of the United States.[5] In practice, according to officials from the Mint and the Federal Reserve, the Federal Reserve makes this determination by producing a short-term forecast of demand for notes and coins. Based on this forecast, the Federal Reserve orders notes from BEP and the 12 regional Federal Reserve banks order coins from the Mint. The Federal Reserve circulates the notes through the Federal Reserve banks and the Mint distributes coins directly to those banks. The Federal Reserve banks distribute notes and coins to commercial banks to meet the demand of retailers and the public. When notes and coins are returned by commercial banks as deposits to the Federal Reserve banks, each note is processed to determine its quality and authenticity. During processing, worn and counterfeit notes are removed from circulation and the rest are wrapped for storage or re-circulation. While the Federal Reserve re-circulates coins received from banks, it does not have a comparable program to test the authenticity or fitness of coins. The Federal Reserve contracts with private entities such as armored carriers to count, sort, and transport notes and coins for circulation or storage. Figure 1 shows the production and circulation of notes and coins.

[4]12 U.S.C. §418.

[5]31 U.S.C. §5111(a)(1).

Exhibit E-5

Appendix III: Comments from the Board of Governors of the Federal Reserve System

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D.C. 20551

LOUISE L. ROSEMAN
DIRECTOR
DIVISION OF
RESERVE BANK OPERATIONS
AND PAYMENT SYSTEMS

February 14, 2011

Mr. David Wise
Director
Physical Infrastructure Issues
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Wise:

Thank you for the opportunity to comment on the GAO's draft report "*U.S. Coins: Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government.*" In the report, the GAO concludes that there would be a net benefit to the federal government from the replacement of $1 notes to $1 coins, due to the increased seigniorage revenue. Setting seigniorage aside and considering only the real costs to the government, the report concludes that replacing the $1 note with a $1 coin results in a net *cost* to the government over a 30-year period.

Although the GAO was asked to evaluate benefits to the government, we believe an assessment of the benefits and costs to the U.S. economy more broadly is an important consideration in evaluating whether to replace the $1 note with a $1 coin. Seigniorage would not be a factor in such an analysis, since it is a revenue transfer from the private sector to the government. The report notes (but does not quantify) the near- and long-term challenges to the private sector should the $1 coin replace the $1 note. A societal cost-benefit analysis would include the costs and benefits not only to the government but also to the banking industry, retailers, the Federal Reserve, consumers, and others to handle $1 coins and $1 notes. Also, the discounted net cost or benefit of a replacement of $1 notes by $1 coins is influenced significantly by the assumptions regarding the initial transition period and cost. A sensitivity analysis in the final report that varies those transition assumptions would provide useful context.

We have provided technical comments on the draft report under separate cover.

Sincerely,

Email: Louise.Roseman@frb.gov
Phone: (202) 452-2789 • Fax: (202) 452-2746

Exhibit E-6

A RESOURCE OF WAR—THE CREDIT OF THE GOVERNMENT MADE IMMEDIATELY AVAILABLE.

HISTORY

OF THE

LEGAL TENDER PAPER MONEY

ISSUED DURING THE

GREAT REBELLION.

BEING A

Loan without Interest and a National Currency.

PREPARED BY

Elbridge Gerry
Hon. E. G. SPAULDING, Chairman,

OF

THE SUB-COMMITTEE OF WAYS AND MEANS, AT THE TIME THE ACT WAS PASSED.

In such a nation as this, there is one and only one RESOURCE for loans sufficient to carry hrough the expenses of a GREAT WAR, namely, fundable Treasury Notes fitted for circulation as money, and based upon adequate taxation.

"That in the interval between war and war, all the outstanding paper should be called in *coin permitted to flow in again*, and hold the field of circulation, until *another war* should re quire its yielding place again to the NATIONAL MEDIUM."—JEFFERSON.

BUFFALO:
EXPRESS PRINTING COMPANY, 14 EAST SWAN STREET.
1869.

Exhibit F-1

HISTORY

OF THE

LEGAL TENDER ACT.

The United States, at the breaking out of the rebellion, had no national bank currency, and no gold or available means in the Treasury, or Sub-Treasury, to carry on the war for the Union, and consequently the means to prosecute the war had to be obtained upon the *credit* of the government, and by taxation. The fundable legal tender currency was the most available form of credit which the government could use in crushing the rebellion. It was at once a *loan* to the government without interest, and a *national currency*, which was so much needed for disbursement in small sums during the pressing exigencies of the war. It was indispensably necessary, and a most powerful instrumentality in saving the government and maintaining the national unity.

Experience has proved that, notwithstanding it was a forced loan, the end justified the means, and that no parties were materially injured by being compelled to receive this currency, so long as they could fund it at any time in six per cent. twenty years bonds. Although it was a war measure—a measure of *necessity* and not of choice, and could only be justified on that ground, it has, for many years, exerted a most decisive influence over the property and material interests of every individual in the United States. It has affected debtor and creditor, producer and consumer, and the price of labor and of every article consumed in every household. It still exerts a mighty influence socially, commercially and politically, over the people of this great nation, and all the ramified and extensive business in which they are

engaged. Whether for good or evil, it has been and still is a most powerful element in all business affairs of the people, as well as the government, and the war debt of $2,500,000,000 incurred in maintaining the national union is more or less affected by the large volume of this currency still outstanding.

Having been requested to prepare a history of a measure of such transcendent importance as the legal tender act, and having in my possession a considerable number of documents, letters, and other materials relating to the subject, I have consented to put them into form, in order that the facts may be preserved for present and future reference, and which may be of some use in enabling the future historian to write a chapter on the financial history of the war. These facts will be presented in the form of a narrative of the circumstances and events, of the most grave and extraordinary character, occurring in rapid succession, which led finally to the issue of legal tender Treasury notes, and which were endowed with the attributes of money, so far forth as the Government had power under the Constitution and the pressure of the crisis to impart to a paper currency that high and most important attribute of sovereignty.

I was a somewhat prominent though humble actor in originating and maturing the measure, but I do not claim any particular merit or demerit for what I did in preparing and aiding to secure the passage of the bill. I was placed in a position where, if I performed my official duty, I must act, and must act with vigor and promptitude. The perilous condition of the country did not admit of hesitancy or delay. I endeavored, in the peculiar and responsible position in which I was placed, to do what I conceived to be my duty, and that is all I claim to have done. My associates performed their duty with equal fidelity and usefulness.

As chairman of the Sub-committee of Ways and Means, it became my duty, in connection with my associates, to devise an adequate plan for obtaining the necessary means for prosecuting the war to a successful issue. The rebellion, after the battle of Bull Run, had assumed most gigantic proportions. An Army and Navy of over half a million of men had been hastily brought into the service of the United States. The Capitol itself was guarded by a vast Army, under the command of General McClellan, which encircled it in all directions. The Army and Navy thus in the service had to be paid, fed, clothed and provided with ships, gunboats, monitors and all the necessary material of

PRESIDENT LINCOLN'S VETO.

President's Message in favor of a National Currency, but vetoing irredeemable bank notes in the District of Columbia, June 23, 1862.

To the Senate of the United States:

The bill which has passed the House of Representatives and the Senate, entitled, 'An act to repeal that part of an act of Congress which prohibits the circulation of bank notes of a less denomination than five dollars in the District of Columbia,' has received my attentive consideration, and I now return it to the Senate, in which it originated, with the following objections:

1. The bill proposes to repeal the existing legislation prohibiting the circulation of bank notes of a less denomination than five dollars within the District of Columbia, without permitting the issuing of such bills by banks not now legally authorized to issue them. In my judgment it will be found impracticable, in the present condition of the currency, to make such a discrimination. The banks have generally suspended specie payments, and a legal sanction given to the circulation of the irredeemable notes of one class of them will almost certainly be so extended in practical operation as to include those of all classes, whether authorized or unauthorized. If this view be correct, the currency of the District, should this act become a law, will certainly and greatly deteriorate, to the serious injury of honest trade and honest labor.

2. This bill seems to contemplate no end which cannot be otherwise more certainly and beneficially attained. During the existing war, it is peculiarly the duty of the national Government to secure to the people a sound circulating medium. This duty has been, under existing circumstances, satisfactorily performed, in part at least, by authorizing the issue of United States notes receivable for all Government dues except customs, and made a legal tender for all debts, public and private, except interest on the public debt. The object of the bill submitted to me, namely, that of providing a small note currency during the present suspension, can be fully accomplished by authorizing the issue, as part of any new emission of United States notes, made necessary by the circumstances of the country, of notes of a similar character, but of less denomination than five dollars. Such an issue would answer all the beneficial purposes of the bill; would save a considerable amount to the Treasury in interest; would greatly facilitate payments to soldiers and other creditors of small sums, and would furnish to the people a currency as safe as their own Government.

Entertaining these objections to the bill, I feel myself constrained to withhold from it my approval, and return it for the further consideration and action of Congress.

ABRAHAM LINCOLN.

From: "clifjohnson" <clifjohnson@prodigy.net>
Date: Sunday, December 04, 2011 7:48 PM
To: "Marc Armstrong" <marc@publicbankinginstitute.org>
Cc: "Ellen Brown" <ellenbrown>

Marc:

You write: "The US population knows virtually nothing about banking and monetary systems. Given this, where does one start?"

One starts with a litigation crafted as carefully as one can, to fix a little laser light publicly upon the very heart of the matter.

One does this by alleging concealment, because that's just enough but not too much for standing; because the heart of the matter is naturally that which is the most concealed; and because one has the freedom to precisely fix the laser beam in the complaint, by narrowly drafting the litigation to put at issue nothing but the most simple and direct misstatement of the heart of the matter that one can find. Of course, one must first be sure one knows and understands the related public record well enough to clearly and conversationally respond to the various subtle collateral confusion games that one will face – if the litigation catches the public's attention.

At least, that how I plan to start, with a complaint against Geithner, filed by Dec 14. I'll post you and a couple of other PBI seniors a copy, for you to support, post, forward, or simply disregard, as you see fit.

I could be making a fool of myself, I know that. It'll be my best shot, that's all I can say. There's still a couple of final checks, but so far, the pieces have fit together better than I first conceived.

Today I learned that the physically printed part of Fed currency was something like 95% before QE, and that now it's 37%, entirely because of QE. Which remarkably substantiates one of two theories I am trying to finalize. The figures corroborate that I can reasonably take issue with the physically printed 37% component – produced in automatic response to demand -- without substantially infringing the Fed's monetary policy games.

Cliff

Economic Liberty From Philadelphia

May 4, 2012 *By Scott Baker*

The First Annual Meeting of the Publice Banking Institute in Philadelphia provided a chance for people to examine economic solutions, network, and just maybe, pave the way for a new paradigm of economic justice and opportunity.

Public Banking Institute 2012 Conference by Public Banking Institute

The first annual Public Banking Institute meeting was held in Philadelphia (http://www.publicbankinginamerica.org/home.htm) last weekend, April 26-28, 2012.

The pre-meeting get-together of about 22 State coordinators (like me - NY), was a chance to see how far we've come -- 17, soon to be 18, States now have some form of public banking bills in active status, all introduced since 2010. This is testament not only to the depths of the economic crisis, but also to the broad realization that the old solutions -- taxing, borrowing, and even Keynesian stimulus, simply don't work anymore. It was clear from both the Coordinators' meeting and from the larger conference that followed, that:

A. The debt-based money system is fundamentally unsound and unsustainable, and

B. That some form of Public Bank, state-wide, or even nationally, needs to be established to return money to, as guest speaker and Libertarian presidential candidate Bill Still put it, "We the People."

Ellen Brown, president and founder of the sponsoring Public Banking Institute, and present throughout, included in her opening remarks the following joke to the sold-out crowd of 150 or so attendees:

An alien lands in post-Katrina New Orleans and asks an Earthling about the devastation. "So -- is there no building material for repairing the damage?"

"Actually," says the Earthling, "there are building materials stockpiled just out of town."

" So, there are no workers to do the job?"

"Actually, there are hordes of unemployed workers who would love to have the work."

" So -- what's the problem?"

" Well, the way things work here, we need these pieces of green paper before we can get started..."

(To the mother ship) "Beam me up! There's no intelligent life on this planet!"

Or, to put it less humorously: there are millions of jobs to be done, and millions of people who want to do them, and the only thing standing in the way is money.

Gar Alperovitz, activist, author, and political economist at the University of Maryland gave the Keynote Address.

..... award-winning filmmaker and Presidential candidate Bill Still (http://www.publicbankinginamerica.org/speakers), among others, has also specifically called for a debt-ending solution based upon U.S. Notes issued by government. However, Still disagrees with recent attempts, such as Kucinich's HR2990 bill, based on Stephen Zarlenga's American Monetary Reform Act, to allow an unelected federal Monetary Authority to decide issuance of the currency. He says this is "way, way, WAY" too much power in an unelected body, whose head would be appointed by the president, and prefers instead some sort of de-centralized or multi-state decision over this, parceled out on a per capita basis, perhaps, but this, he said, he has not fully worked out. This may prove an obstacle, as politicians are notoriously reluctant to develop groundbreaking bills on their own.

During his presentation, Still recalled the obscure history of, and former inattention to, the monetary reform system, pre-9/11. He says the 9/11 truth movement has brought unwanted attention to movement. Suddenly there was TV coverage from Telemundo and the Venezuelan news service! This made the movement into a fringe movement, just when it finally starting to get the attention it, and we, so desperately needed.

The most important power remains, Still says, is the sovereign power to create money.

We The People have to take back control of the money system or we are never going to get anywhere"it matters not what backs the money, all that matters is the quantity and who is in control.

According to Still, Ron Paul is one of the main problems with monetary reform -- Paul is "desperately" misquoting the constitution (article 1, Section 10), when he says only gold and silver can be legal tender, and attributing a power of the States to the larger Federal Government -- a power which it has never used for repayment anyway. Sure enough, the constitution says:

No State shall "emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts""

It's worth noting, as Still did, that this is the only place gold or silver is mentioned at all in the constitution.

The case structure in section 10, and section 8, is important. Still cited noted scholar Robert G. Natelson of Harvard that the final and frustratingly oblique phrase to "coin Money" (Article 1, Section 8) meant to "forge" anything, like in the common saying "to coin a phrase."

During Still's talk, he expressed support for the lawsuit against Treasury initiated by one of the writers on Op Ed news, Cliff Johnson, and the related lawsuit, found here: http://tompainetoo.com, to correct statements of misinformation by Treasury and the GAO as to the equivalence of United States Notes and Federal Reserve Notes, to address the lost seigniorage issue properly, and my related petition (exhibit B) to reissue U.S. Notes here.

From Johnson's article, Still also cited Madison's fear of the Money Masters of his day, and how the Founders had to compromise on the paper money issue, by nearing delisting it from the constitution. However, after much debate, Madison did manage to keep the option for "Public Notes." This was later taken up by Lincoln to issue the nation's first Legal Tender Law, and the first 3 installments of U.S. Notes, with which to pay the northern troops during the Civil War.

Still also supports the end of fractional reserve banking"yet it is fractional reserve banking that would allow a State Bank to leverage its tax-based deposits for public needs and projects"or, maybe not?

Note: This letter includes comments on Area 42: U.S. Currency.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D.C. 20551

LOUISE L. ROSEMAN
DIRECTOR
DIVISION OF
RESERVE BANK OPERATIONS
AND PAYMENT SYSTEMS

January 30, 2012

Ms. Lorelei St. James
Director
Physical Infrastructure Issues
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. St. James:

Thank you for the opportunity to comment on the GAO's draft discussion of replacing the $1 note with the $1 coin in its 2012 Duplication and Cost Savings report. The GAO has projected a financial benefit to the government of about $4.4 billion over 30 years. We believe this projection overstates the net financial benefit to the government, perhaps substantially.

The report states that the cost of producing sufficient coins to replace all $1 notes is never fully recovered during the 30-year analysis; all savings are attributable to increased seigniorage income.[1] In fact, there is no year in the study in which estimated non-seigniorage benefits exceed costs. Moreover, the analysis does not adequately address the costs to the Federal Reserve of such a replacement and does not address at all the broader societal costs to consumers, retailers and other businesses, and state and local governments.[2]

In addition, replacing the $1 note with the $1 coin may increase the risk of counterfeiting. The current low rate of counterfeiting helps maintain global confidence in U.S. currency. Unlike the $1 note, the $1 coin does not have any effective machine-readable or publicly-usable counterfeit deterrent features. Several countries that have converted low denomination notes to coins have reported higher levels of counterfeiting for low-denomination coins than previously observed for low-denomination notes, and the U.S. Sacagawea $1 coin was counterfeited in some Latin American countries soon after the U.S. Mint issued it.

Finally, the GAO did not provide a sensitivity analysis that reflects differing assumptions, such as possible changes in the public's means of making payments over the next several decades. Although the value of Federal Reserve notes in circulation continues to increase more than 7 percent annually over the past several years, the growth rate for $1 notes has been on

[1] The Congressional Budget Office does not score seigniorage in its budget calculations.
[2] With respect to Federal Reserve costs, the Federal Reserve cancelled plans to build additional storage space for $1 coins following the Treasury's announcement to suspend minting of Presidential $1 coins for circulation. If $1 coins were to replace $1 notes, however, the Reserve Banks would need to build or expand vaults around the country with reinforced floors to accommodate the heavier weight of coins in order to manage coin inventories.

Email: Louise.Roseman@frb.gov
Phone: (202) 452-2789 • Fax: (202) 452-2748

Exhibit I-1

average only 2 percent per year. It is possible that the elimination of the $1 note could accelerate the shift of consumer payments to debit cards and other electronic payment alternatives. In addition to potential shifts in consumer payment methods, the analysis did not consider potential increases in raw material costs for coins, or changes in discount rates. Given the certainty of the near-term expenses associated with the transition and uncertainty of the long-term forecasted benefits, it is possible that no savings will ever be realized from the replacement of $1 notes with $1 coins. Sensitivity analysis for these factors would provide a confidence level around the GAO's long-term savings projections. In fact, changes in assumptions have reduced the GAO's average annual discounted net benefit projections from $550 million in its 2000 study, to $186 million in its 2011 study, to $146 million in this report.

Proponents of replacing $1 notes with $1 coins often cite similar steps that have been taken in other economies in recent decades as an indication that such a change has strong financial benefits. In general, the low-denomination note that was replaced by a coin had a far shorter useful life (typically three to six months) than is the case with the $1 note, which currently has a useful life of about 56 months. Further, these decisions were typically made when electronic payment substitutes to cash were less mature than in the current U.S. environment. Therefore, the decisions of other economies have been based on very different circumstances than exist in the United States.

We believe that a fuller societal cost-benefit analysis and a sensitivity analysis that varies key assumptions that are subject to material uncertainty would provide policy-makers with a more complete basis for considering the future of the $1 note and $1 coin.

Sincerely,

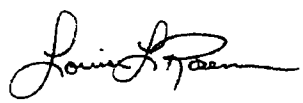


Exhibit I-2

http://www.rollcall.com/news/administration_misses_the_mark_on_the_dollar_coin-212603-1.html

Diehl: Administration Misses the Mark on the Dollar Coin

By Philip N. Diehl, Special to Roll Call

Feb. 24, 2012

More than 10 years ago, I worked with Republicans and Democrats alike to enact the United States $1 Coin Act, launching a beautiful, easily recognizable, golden dollar coin.

Today's conventional wisdom is that the dollar coin was a failure, but it certainly wasn't at the time. Public demand for the coin was so strong that the Mint had to produce more Sacagawea dollars in its first year — 1.3 billion — than it did in the entire 20-year history of Susan B. Anthony dollars — 1 billion.

With all the recent press, and the Obama administration's decision late last year to halt dollar coin production, you might think many of those Sacagawea dollars gathered dust in Federal Reserve Bank vaults. However, by December 2002, almost 1.5 billion had been issued by the Mint while only 183 million remained in Fed vaults. But demand for the new dollar coin ultimately flagged because of resistance from the Federal Reserve and opposition elsewhere in government.

Even before the Susan B. Anthony coin was issued in 1979, the Treasury and the Federal Reserve knew that the dollar coin was unlikely to circulate broadly unless the dollar bill was eliminated at the same time. Three decades of bipartisan failure to take this simple action is why, today, dollar coins are not reaching consumers.

The benefits of the dollar coin are well-known and hardly debatable. Put simply, switching to a coin saves the country money. The nonpartisan Government Accountability Office has studied this issue six times during the past 20 years, and each time has concluded that the government can save billions by replacing the dollar bill with a dollar coin. In 2011, it estimated that terminating the dollar bill could save taxpayers $184 million annually, or $5.5 billion over 30 years. Previous GAO studies put the savings as high as a half-billion dollars per year. Figures like this make the administration's estimated $50 million in annual savings look rather puny.

As the dollar has devalued over time (it's worth today about what a quarter was worth in the 1970s), it makes less and less sense to produce a paper version which circulates for a couple of years as opposed to a coin version which lasts for 30 years or more. Nearly every other country in the world made this simple transition decades ago without so much as a ripple of effect on businesses or consumers.

The cost savings are proven. According to reports from the Canadian government, when our neighbors to the north moved to the $1 coin, commonly called a loonie, 24 years ago, the country saved at a rate 10 times initial government projections. The private sector wins, too. According to data from the American Public Transportation Association, dollar coins are six times cheaper to process than dollar bills.

When we were planning the Sacagawea launch in 2000, we talked to the banks and the Federal Reserve in an attempt to coordinate the logistics of distributing the new coin. They confronted us with a conundrum. They would only order the Sacagawea dollar after we had proved there was demand for it, a difficult feat considering the coin couldn't get into the marketplace without them ordering it.

We resolved this issue by bypassing the Fed and the banks and shipping the coins directly to Walmart stores nationwide. In just a few weeks, Walmart distributed 100 million Sacagawea dollars as change in routine retail transactions, demonstrating that Americans welcomed the new coin.

This debunks another piece of conventional wisdom — that Americans are opposed to eliminating the dollar bill. In fact, opinion polls consistently show that, when informed of the savings of substituting a dollar coin for the dollar bill, two-thirds of Americans support making the switch.

Unfortunately, the dollar coin faces significant obstacles to success, including the Federal Reserve's clear preference for the dollar bill. I discovered this for myself when the Mint launched the Sacagawea dollar in 2000. The Fed is the channel through which the Mint distributes coins to banks and ultimately businesses and consumers. If the Fed doesn't order a coin, it doesn't go out the Mint's doors.

The deck would appear to be stacked against the dollar coin.

It's clear that the dollar coin is unlikely to overcome these obstacles unless Congress eliminates the dollar bill. In these difficult economic times, it's a rare opportunity for the country to save money without raising taxes or cutting programs. Now is the time for Congress to act and finish the job.

Philip N. Diehl was director of the U.S. Mint from 1994 to 2000.

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CLIFFORD JOHNSON, Plaintiff, v. U.S. DEPARTMENT OF THE TREASURY, et al., Defendants.	No. C 11-06684-WHA **DEFENDANTS' NOTICE OF MOTION AND MOTION TO DISMISS FIRST AMENDED COMPLAINT** Date: June 21, 2012 Time: 8:00 a.m. Place: Courtroom 8, 19th Floor

TABLE OF CONTENTS

TABLE OF AUTHORITIES

FEDERAL CASES **PAGE**

NOTICE OF MOTION

PLEASE TAKE NOTICE THAT on Thursday, June 21, 2012 at 8:00 a.m., or as soon thereafter as counsel may be heard, before the Honorable William Alsup, 450 Golden Gate Avenue, Courtroom 8 - 19th Floor, San Francisco, California, the U.S. Department of the Treasury ("Treasury") and Treasury Secretary Timothy F. Geithner ("Defendants") will move this Court for an order dismissing Plaintiff Clifford Johnson's ("Plaintiff's") First Amended Complaint ("Complaint") pursuant to Federal Rule of Civil Procedure 12(b)(6) and 12(b)(1). This motion for dismissal with prejudice is based on the grounds that Plaintiff has failed to state a claim upon which relief can be granted and has not established subject matter jurisdiction. This motion is based on this notice, the accompanying Memorandum of Points and Authorities, Plaintiff's Complaint, the Court's files and records in this action, and any other matter the Court may consider at oral argument or otherwise.

STATEMENT OF RELIEF

Defendants request an order dismissing Plaintiff's Complaint for failure to state a claim upon which relief can be granted and lack of subject matter jurisdiction.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff alleges that his First Amendment right to petition the Government, including the Joint Select Committee on Deficit Reduction of the U.S. Congress ("Supercommittee") and Defendants, regarding the issuance of U.S. currency has been violated due to categorical and financial misinformation on Treasury's website and Treasury's failure in its letter of comment to a 2011 GAO report to have corrected GAO's adoption of a monetary policy with which he disagrees. *See* Complaint ¶¶ 7-11, Docket No. CV-11-6684-WHA.

Defendant maintains the Plaintiff's Complaint should be dismissed because it fails to state a cause of action and, alternatively, because Plaintiff lacks standing. As to the first basis, Plaintiff's claim presents a political question, which only Congress is empowered to address.

Moreover, the Government statements (or lack of statement in the case of the letter of comment) are Government speech, which is exempt from First Amendment scrutiny. In addition, Plaintiff has not had his First Amendment right to petition regulated, prevented, or impaired by Defendants. As evidenced by his Complaint, he has petitioned freely on several recent occasions.

In regards to Plaintiff's lack of standing, Plaintiff cannot meet any of the three elements of Article III standing. He has no injury-in-fact; does not allege, and cannot prove, that Defendants caused his alleged injuries; and cannot establish that his alleged injuries will be redressed by a judgment in his favor. Moreover, to the extent he is requesting relief for the public at large, he does not meet the Article III case or controversy requirement. Finally, Plaintiff lacks prudential standing. He should have Congress address his generalized grievance, not the Court.

II. ISSUES PRESENTED

A. Whether Plaintiff Fails to State a Claim?

B. Whether Plaintiff Lacks Standing?

III. FACTUAL BACKGROUND

Plaintiff filed an amended complaint for declaratory relief with this Court on February 29, 2012. *See* Complaint. In his Complaint, Plaintiff alleges that the "Legal Tender Status" and "U.S. Notes" page on the U.S. Department of the Treasury's ("Treasury's") website ("Treasury.gov") contains categorical misinformation about U.S. Notes and Federal Reserve Notes. *See id.* ¶ 7. More specifically, he objects to the following statement: "United States Notes serve no function that is not already adequately served by Federal Reserve Notes." *Id.*

Plaintiff also alleges that five Government Accountability Office ("GAO") reports, including one issued in March 2011 ("U.S. Coins: Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government, GAO-11-281") ("2011 GAO report"), contain financial misinformation. *See id.* ¶ 8. His more specific objection is that the reports adopt a Federal Reserve model that presumes that there is no benefit when a $1 U.S. Coin is replaced by

a $1 U.S. Federal Reserve note. *See id.* Plaintiff claims Treasury is at fault because its silence in its letter of comment to the 2011 GAO report reinforces the financial misinformation published in those five reports. *See id.*

Plaintiff alleges that he sent a letter dated November 8, 2011 to Treasury Secretary Timothy Geithner explaining that his petition to the Supercommittee is impaired by categorical contradictions on Treasury's website. *See id.* ¶ 10. Plaintiff also alleges that Defendants have not taken any steps to amend Treasury's letter of comment to the 2011 GAO report since it received his original complaint on January 12, 2012. *See id.*

Plaintiff states, and provides evidence, that in addition to writing to Treasury Secretary Timothy Geithner, he (1) signed a petition to the President and Congress through change.org requesting support for U.S. Notes, (2) submitted a petition to Congress dated February 23, 2012 through popvox.com urging a change to U.S. currency, and (3) wrote a newspaper article, published in October 26, 2011, directed to the Supercommittee wherein he recommended that a few hundred billion dollars of automatic Social Security Administration payments be made with true U.S. Notes instead of Federal Reserve Notes. *See id.* ¶¶ 5, 10 and Exhibits A-D.

Plaintiff in sum alleges that his First Amendment right to petition the Government, including the Supercommittee and Defendants, regarding the issuance of U.S. currency has been violated due to categorical and financial misinformation on Treasury's website and Treasury's failure in its letter of comment to the 2011 GAO report to have corrected GAO's adoption of a monetary policy with which he disagrees. *See id.* ¶¶ 7-11. Plaintiff may also be complaining of Defendants' alleged failure to respond to Plaintiff's petitions. *See id.* ¶ 10.

IV. ARGUMENT

A. The Court should Dismiss Plaintiff's Complaint for Failure to State a Claim.

1. Rule 12(b)(6) Standard

Under Federal Rule of Civil Procedure 12(b)(6), a court must dismiss a complaint if

it fails to state a claim upon which relief can be granted. When considering a 12(b)(6) motion, "a court must accept as true all allegations and material facts and must construe those facts in a light most favorable to the plaintiff." *Resnick v. Hays,* 213 F.3d 443, 447 (9th Cir. 2000). However, a "court [is not] required to accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences." *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001).

To survive a motion to dismiss, the plaintiff must allege "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). This "facial plausibility" standard requires the plaintiff to allege facts that add up to "more than a sheer possibility that a defendant has acted unlawfully." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

2. Plaintiff's Complaint Fails to State a Claim upon which Relief May Be Granted.

Plaintiff alleges no facts that raise a cognizable claim against Defendants under any law. Plaintiff claims that his First Amendment right to petition is violated; however, the basis for his claim is merely that Treasury's website contains a statement that he contends is inaccurate and that Treasury's letter of comment to the 2011 GAO report should have corrected GAO's adoption of a monetary policy with which he disagrees.

Plaintiff's Complaint presents a political question, i.e., what should serve as the government's legal tender. The Constitution empowers Congress to decide that question. *See Julliard v. Greenman*, 110 U.S. 421, 449-50 (1884) (Legal Tender Case). The judiciary decides only whether Congress's legislation is constitutional, and the judiciary has consistently held that legislation making Federal Reserve notes legal tender is constitutional. *See, e.g., United States v. Schmitz*, 542 F.2d 782, 785 (9thCir. 1976); *United States v. Wangrud*, 533 F.2d 495 (9th Cir. 1976).

Moreover, the First Amendment restricts government regulation of private speech, not government speech. *Pleasant Grove City v. Summum*, 555 U.S. 460, 467 (2009). The statements

on Treasury's website and in Treasury's letters of comment are Government speech. "[T]he Government's own speech . . . is exempt from First Amendment scrutiny." *Johanns v. Livestock Marketing Assn.*, 544 U.S. 550, 553 (2005). "A Government entity has the right to 'speak for itself'" and "is entitled to say what it wishes . . . and to select the views that it wants to express." *Pleasant Grove City*, 555 U.S. at 467-68 (citations omitted). "'If every citizen were to have a right to insist that no one paid by public funds express a view with which he disagreed, debate over issues of great concern to the public would be limited to those in the private sector, and the process of government as we know it radically transformed.'" *Id.* at 468 (citations omitted). Thus, Plaintiff has no legally recognized First Amendment claim against Defendants.

In addition, Defendants have not regulated, prevented, or impaired Plaintiff's First Amendment right to petition. In fact, it is clear from the Complaint that the statement on Treasury's website and Treasury's letter of comment to the 2011 GAO report have not prevented or impaired Plaintiff's exercise of his right: He freely signed a petition directed to Congress and the President, submitted a petition to Congress, wrote an article directed to the Supercommittee, and wrote to the Treasury Secretary. *See* Complaint ¶¶ 5, 10 and Exhibits A-D. His grievance is simply that Treasury's statement and letter of comment make his own less plausible or effective. That grievance does not rise to the level of a violation under any law.

To the extent that Plaintiff's argument is that Defendants' failure to respond to his letter, *see* Complaint ¶ 10, violates the First Amendment, his argument fails in that the right to petition does not extend to the right to receive a response. *See, e.g., Minnesota State Bd. for Community Colleges v. Knight*, 465 U.S. 271, 288 (1984) ("A person's right to speak is not infringed when government simply ignores that person while listening to others.").

B. Alternatively, the Court Should Dismiss Plaintiff's Claim based on Lack of Standing.

1. Rule 12(b)(1) Standard

Federal courts are courts of limited jurisdiction and these limits, whether imposed by the Constitution or by Congress, cannot be disregarded or evaded. *See, e.g., Kokkonen v. Guardian*

Live Ins. Co. of Amer., 511 U.S. 375, 377 (1994); *Al Nieto v. Ecker*, 845 F.2d 868, 871 (9th Cir. 1988) (holding that a federal court's "power to adjudicate claims is limited to that granted by Congress, and such grants are not to be lightly inferred"). A federal court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears. *California ex rel. Younger v. Andrus*, 608 F.2d 1247, 1249 (9th Cir. 1979).

A motion to dismiss under Rule 12(b)(1) tests the subject matter jurisdiction of the court. *See*, *e.g., Savage v. Glendale Union High School*, 343 F.3d 1036, 1039-40 (9th Cir. 2003), *cert denied*, 541 U.S. 1009 (2004). Courts will not infer evidence supporting federal subject matter jurisdiction. *Kokkonen*, 511 U.S. at 377 ("It is to be presumed that a cause lies outside [the federal court's] limited jurisdiction."). The burden of proof on a Rule 12(b)(1) motion is on a party asserting jurisdiction. *Sopcak v. Northern Mountain Helicopter Serv.*, 52 F.3d 817, 818 (9th Cir. 1995). In this case, Plaintiff bears the burden of establishing that subject matter jurisdiction exists.

A. Plaintiff Lacks Standing

Article III of the United States Constitution "confines the federal courts to adjudicating actual 'cases' and 'controversies'". *Allen v. Wright*, 468 U.S. 737, 750 (1984). This is a "rigorous" requirement that is "part of the basic charter promulgated by the Framers of the Constitution at Philadelphia in 1787." *Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 475-76 (1982). Indeed, "[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies." *Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 37 (1976). "'A federal court . . . is not the proper forum to press' general complaints about the way in which government goes about its business." *Allen*, 468 U.S. at 760 (citations omitted).

The standing requirement of Article III requires a plaintiff, at an "irreducible

constitutional minimum," to show: (1) an injury in fact, (2) a causal connection between the injury and the conduct complained of, and (3) it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). Furthermore, a plaintiff must satisfy not only the constitutional requirements for standing imposed by Article III, but also the prudential requirements for standing that have been adopted by the judiciary. *See, e.g., Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 11-12 (2004).

A plaintiff "must demonstrate standing separately for each form of relief sought." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs.*, Inc., 528 U.S. 167, 185 (2000) (citing City of Los Angeles v. Lyons, 461 U.S. 95, 109 (1983)); *Lewis v. Casey*, 518 U.S. 343, 358 n.6 (1996) ("[S]tanding is not dispensed in gross.").

Plaintiff, as the party invoking federal jurisdiction, has the burden of proof and persuasion as to the existence of standing. *See Lujan*, 504 U.S. at 561.

1. Plaintiff Has Not Suffered an Injury in Fact

An injury in fact is an invasion of a legally protected interest that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. *See Lujan*, 504 U.S. at 560. The word "particularized" means "the injury must affect the plaintiff in a personal and individual way." *Id.* at 560 n.1. The injury must be objectively measurable, quantifiable and verifiable in some fashion, albeit not with absolute precision, in order to satisfy the demands of Article III of the Constitution. *See, e.g., Laird v. Tatum*, 408 U.S. 1, 13-14 (1972) ("[a]llegations of a subjective 'chill' are not an adequate substitute for a claim of specific present objective harm or a threat of a specific future harm . . . ."). Any other rule would threaten to write Article III's "case or controversy" requirement out of the Constitution because it would be all too easy for anyone to claim an injury.

Plaintiff disagrees with a statement on Treasury's website and a certain letter of comment issued by Treasury and contends that his right to petition is impaired based on those documents.

See Compl. ¶ 9. However, Plaintiff has neither alleged nor suffered any concrete and particularized and actual or imminent injury. In fact, as stated above, it is clear from the Complaint that Plaintiff's right to petition has not been impaired: He freely signed a petition directed to Congress and the President, submitted a petition to Congress, wrote an article directed to the Supercommittee, and wrote to the Treasury Secretary. *See* Complaint ¶¶ 5, 10, Exhibits A-D.

Further, to the extent that Plaintiff is alleging that the general public is injured, he does not meet the Article III case or controversy requirement. The Supreme Court "has consistently held that a plaintiff claiming only a generally available grievance about government -- claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large -- does not state an Article III case or controversy." *Lujan*, 504 U.S. at 573-74.

2. Plaintiff's Alleged Injury is Not Fairly Traceable to Actions by Defendants

Plaintiff also must show that there is a "causal connection between the injury and the conduct complained of—the injury has to be 'fairly . . . trace[able] to the challenged action of the defendant, and not . . . the result [of] the independent action of some third party not before the court.'" *Lujan*, 504 U.S. at 560-61 (citation omitted). Thus, Plaintiff needs to establish a "substantial probability" that the challenged action by the agency caused his alleged injury. *Warth v. Seldin*, 422 U.S. 490, 504 (1975).

Even assuming solely for the purposes of this motion that Plaintiff can meet the injury-in-fact requirement, he has not alleged that he meets, and cannot meet, the causation requirement. Plaintiff has not identified any attempts he made to petition the government that were prevented by Defendants' actions. He does claim that his petitions were impaired, but Treasury is not the only Government entity that has adhered to the principle that Federal Reserve notes are constitutional valid legal tender. To name a few, Congress enacted the legislation to that effect, GAO has adhered to it, and the judiciary has held it to be constitutional. Any one of these third parties could be the cause of Plaintiff's alleged injury.

3. Plaintiff Has Not Established that His Injuries Would be Redressed by a Judgment in his Favor

Plaintiff must show that it is "'likely, as opposed to merely 'speculative' that the injury will be 'redressed by a favorable decision.'" *Lujan*, 504 U.S. at 561 (citation omitted). The purpose of the redressability requirement is to ensure that courts exercise their power to remedy specific violations that will benefit specific plaintiffs. "By the mere bringing of his suit, *every* plaintiff demonstrates his belief that a favorable judgment will make him happier. But although a suitor may derive great comfort and joy from the fact that the United States Treasury is not cheated, that a wrongdoer gets his just deserts, or that the Nation's laws are faithfully enforced, that psychic satisfaction is not an acceptable Article III remedy because it does not redress a cognizable Article III Injury." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 107 (1998) (citing cases). "Relief that does not remedy the injury suffered cannot bootstrap a plaintiff into federal court; that is the very essence of the redressability requirement." *Id.*

Plaintiff does not satisfy the redressability prong of the Article III standing test. Even assuming solely for the purposes of this motion that Plaintiff suffered an injury-in-fact, Plaintiff's requested relief would not redress that injury. The requested relief is a declaration that (1) the offending statement on Treasury's website and (2) a statement that Plaintiff attributes to the 2011 GAO report impermissibly impaired his First Amendment right to petition. That relief does not remedy Plaintiff's alleged injury.

Moreover, Plaintiff's underlying alleged injury is the Government's use of Federal Reserve notes as legal tender. That alleged injury would not be redressed by a favorable decision because Congress has the constitutional authority to determine what constitutes legal tender and the courts have consistently held that legislation making Federal Reserve notes valid legal tender is constitutional. *See, e.g., Legal Tender Case*, 110 U.S. at 449-50; *Schmitz*, 542 F.2d at 785; *Wangrud*, 533 F.2d at 495.

4. Plaintiff Does Not Satisfy the Prudential Standing Requirements

In addition to the Article III standing requirements, a plaintiff must meet the prudential

standing requirements. The prudential rule of standing is based on the Court's reluctance to decide abstract questions of wide public significance when other government institutions may be more competent to address them, and where judicial intervention may be unnecessary to protect individual rights. *See Elk Grove Unified Sch. Dist.*, 542 U.S. at 12. Prudential standing encompasses the general prohibition on a litigant asserting another person's legal rights, the rule barring adjudication of generalized grievances more appropriately addressed to the representative branches, and the imperative that a plaintiff's complaint fall within the zone of interests protected by the law involved. *See id.*

Here, Plaintiff's Complaint presents an abstract question of wide public significance that is within Congress' authority to decide. The judicial intervention that Plaintiff seeks in its prayer for relief (i.e., a declaration that (1) the offending statement on Treasury's website and (2) a statement that Plaintiff attributes to the 2011 GAO report impermissibly impaired his First Amendment right to petition) is unnecessary to protect Plaintiff's rights. Moreover, the dispute underlying this prayer for relief (i.e., what should serve as the government's legal tender) is a generalized grievance that can be addressed only by Congress, and Plaintiff appears to be asserting legal rights for the public at large. Finally, the injury of which Plaintiff complains is not the kind the First Amendment seeks to address, so Plaintiff does not meet the zone of interest test. *See FEC v. Atkins*, 524 U.S. 11, 19-20 (1998). Clearly, Plaintiff lacks prudential standing.

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CONCLUSION

Based on the foregoing, Defendants respectfully request that the Court dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted and lack of subject matter jurisdiction.

Respectfully submitted,

MELINDA HAAG
United States Attorney

Dated: April 30, 2012

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Clifford Johnson, *Plaintiff* v. Department of the Treasury of the United States, and Tim Geithner, *Defendants*	**No. CV-11-6684-WHA** FIRST AMENDED COMPLAINT FOR DECLARATORY RELIEF [U.S. Const., Amnd. 1; right to petition]

1. Jurisdiction. Jurisdiction arises under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201 (declaratory judgment); and U.S. Const., Amnd. 1 (plaintiff's right to petition impaired by directly dismissive official postings of categorical and financial misinformations).

2. Venue/Intradistrict Assignment. Venue and intradistrict assignment are proper under 28 U.S.C. § 1391(e)(3), per Johnson's below residence.

3. Plaintiff. Plaintiff Clifford Johnson resides at 45901 Pacific Woods Road, Gualala, Mendocino County, California. Johnson's mailing address, phone number, and e-mail are given in the above caption. Johnson is a citizen of the United States.

4. Defendants. Defendant Tim Geithner is sued in his official capacity, as Secretary of the Defendant Department of the Treasury of the United States ("Treasury"). Both Defendants are located

at 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220, and are represented by Melinda Haag, 450 Golden Gate Avenue, Box 36055, San Francisco, CA 94102. Tel: (415)436-7200.

Statement of Facts

5. United States Currency Petitions. ***(i) Social Security.*** On October 26, 2011 Johnson petitioned the so-called deficit "Supercommittee," urging that it recommend that a few hundred billion dollars of automatic Social Security payments be made with true United States notes (i.e. notes issued not by the Federal Reserve, but by the United States), thus retiring that debt, instead of rolling it over at reset rates of compounding interest, with dealer fees et alia added. Exhibit A on pages 8-9 is an October 28, 2011 "OpEd" article by Johnson, presenting this petition.

(ii) Lincoln Greenbacks. All cash (paper notes and coins) is now issued mechanically, to meet demand. In June, 1862, President Lincoln vetoed an issue of irredeemable (fiat) bank notes, based on the large government savings that would plainly accrue from instead issuing fiat United States notes. A united legislature promptly agreed. Johnson has signed the petition at Exhibit B on page 10, which in pertinent part urges that all paper money forthwith issue as United States notes, for the same reason. In 2011 alone, this would have reduced the debt held by the public by more than $250 billion.

(iii) $1 Coin-Swap Bills. Exhibit C on page 11 reproduces: **(a)** a February 4, 2012 Chicago Sun-Times article re the January 31, 2012 introduction of bill S. 2049, and re pending bill H.R. 2077, which propose to replace all Federal Reserve $1 notes with $1 United States coins; and **(b)** a February 23, 2012, supporting petition submitted by Johnson (aka Tom_Paine_II), through the POPVOX.com public forum, to both of the respective congressional committees and to both of his congressmen, based on the $58 billion taxpayer savings further specified in paragraph 8(iv).

6. Face-Value Seigniorage. When issued, fiat money extracts for the issuer a "seigniorage" tax equal to its face value, minus production and processing costs which overall are relatively trivial, more $100 than $1 bills being printed. By issuing all of the nation's paper and digital money, the Federal

Reserve, which is owned by private member banks, now garnishes almost all of the nation's face value seigniorage tax. Banks at large garnish even greater "seigniorage" revenue by "fractional" banking.

7. Categorical Misinformation. To preserve this cripplingly total seigniorage tax drain, the Treasury officially and systematically repudiates, belittles, ignores, and conceals the great financial benefit that would promptly revert to the government by issuing true United States notes. In particular, its website's (treasury.gov) "Legal Tender Status" and "US Notes" pages thrice dismiss United States notes as obsolete since 1971, by the following categorical falsehood:

> United States Notes serve no function that is not already adequately served by Federal Reserve Notes.

In fact, only United States notes adequately serve the functions of: **(a)** large, direct, prompt debt reduction; **(b)** interest-free financing*;* **(c)** exact economic tailoring; and **(d)** pay-as-you-go, collection-free, flat-tax funding. In particular, Federal Reserve notes cannot serve the function that United States notes serve in Johnson's petitions, of painlessly reducing the national debt held by the public.

8. Financial Misinformation. ***(i) Coin-Swap Question.*** A March, 2011 General Accounting Office report (*U.S. COINS: Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government*, GAO-11-281) answered the following question for Hon. Richard Shelby, ranking member, Committee on Banking, Housing and Urban Affairs, United States Senate:

> What is the estimated net benefit, if any, to the government of replacing the $1 note with a $1 coin?

(ii) Game-Changing Seigniorage. Answering this question requires costing the seigniorage benefits that automatically readjust when United States currency, coin or note, mixes with and/or replaces Federal Reserve currency. Thus, answering this question on the small scales of coinage implicitly answers it on every scale, including complete conversion of the currency. These benefits are in fact so high that they swamp the benefits that the GAO report instead labors to compute, as follows. Had the face-value seigniorage benefits been properly included in the GAO report, they would have trumpeted the huge and prompt debt reducing advantages of United States currency.

(iii) Model Falsehoods. The 2011 GAO report trustingly adopts a Federal Reserve model which impertinently presumes that the government must operate in debt, and which misrepresents that: **(a)** when a new $1 coin is put in circulation, the *only* government benefit is the *relief from interest* on $1 of debt; and **(b)** there is no government benefit when a $1 coin replaces a $1 note, because the interest relief from $1 is offset by the loss of interest from $1 in Federal Reserve profits returned to the government. In fact: **(a)** when a new $1 coin is issued, the government's account is credited with $1; and **(b)** when a $1 note is replaced by a new $1 coin, the government (when in debt) also obtains relief from interest on 81.5 cents, since the Federal Reserve owns only 18.5% of the debt held by the public.

(iv) Understated Totals. In conclusion, the 2011 GAO report estimates initial *losses* for four years due to start-up costs, and a net benefit after 30 years of only $5.6 billion, if that. In fact, because coins are *United States* currency, the government would also benefit from: **(a)** an early *gain* of $13.75 billion against the debt held by the public, from replacing the present 9.5 billion dollar bills with 150% as many coins; **(b)** a further gain in excess of $30 billion from coins added over the 30 years; and **(c)** a further $14.5 billion gain from 81.5% of the interest relief per note replaced by a coin. Hence, the net government benefit after 30 years would exceed $58 billion, as a matter of accounting fact.

(v) Treasury Cover-Up. In 1990, 1993, 1995, and 2000, GAO reports answered the coin-swap question using the same grossly false Federal Reserve model. Throughout, the Treasury provided guidance and comments that approved the Federal Reserve model as reasonably accurate, while knowing better by long rooted, ongoing accounting practice. Exhibit D on page 12 is the Treasury's letter of comment on the 2011 report. By silence, the letter continues and reinforces the 21 years of financial misinformation authoritatively published in the series of five GAO reports.

9. Impaired Petitions. Said Treasury.gov website puffs the Treasury's unique status as the nation's definitive source for information re the nation's currency and debt; stresses that reducing financial illiteracy is an urgent Treasury duty; and promises the utmost care and integrity in publishing related facts. Wherefore, said categorical and financial misinformations officially and authoritatively contradict and so greatly impair Johnson's petitions for issues of United States currency.

10. Demands. Exhibit E on page 13 is a copy of a letter that Johnson express-mailed to Tim Geithner, on November 8, 2011. It explains how said Supercommittee petition is impermissibly impaired by said categorical contradictions on the Treasury website, and it demands corrections. Johnson has received no response, nor is the website corrected. In addition, a copy of the original complaint in this action was received by defendants on January 12, 2012, since when defendants have taken no steps to amend the Treasury's letter of comment re the 2011 GAO report.

First Amendment Claim

11. Government Speech Disqualifications. Said categorical and financial misinformations ("falsehoods") impair Johnson's right to petition for new issues of United States currency, in violation of the First Amendment, on the following separate and cumulative grounds:

(i) Viewpoint Coercion. In all public fora, Johnson's viewpoint is repudiated by the abusively induced ignorant recitation of said falsehoods, as concretized by recitations of the 2011 GAO report's financial misinformation in said Chicago-Sun article against H.R. 2911 and S. 2049, and in numerous public comments re these bills submitted through said POPVOX.com public forum.

(ii) Independent Unconstitutionality: Tax Power. There is no reason to gift massive amounts of tax, or the nation's good faith and credit, to private parties for merely executing mandated or mechanical currency issues, such as the issues proposed by Johnson's petitions. Issuing these parts of the currency as Federal Reserve notes thus violates the constitution's mandate that taxes only be raised "to pay the Debts and provide for the common Defence and *general* Welfare of the United States." U.S. Const., Art. I, Sec. 8. Said falsehoods perpetuate a vast face value seigniorage tax for the welfare of the private banks that own the Federal Reserve.

(iii) Independent Unconstitutionality: Fiat Money Power. On August 16, 1787, the Framers' final vote on money powers delisted paper money lest it "excite the opposition of the" monopoly-bent "Monied interest," and be used to exploit a general paper-money phobia, so as to altogether exclude it. Before voting, Madison obtained firm agreement that the delisting did "not disabl[e] the government

from the use of public notes as far as they could be safe and proper." Said falsehoods impermissibly suppress the use of public notes as far as they can be safe and proper, contrary to the Framers' explicit commitment to secure the sovereign's paper money power against the Monied interest. U.S. Const., Art. I, Sec. 8, Cl. 4, 11; *Notes Of The Federal Convention* (Aug. 16, 1787); *The Debate On The Constitution*, part 2 at 94, 110, 148, 422-423, 476-477, 639-640, 659, 678.

(iv) Prima Facie Capture. Said falsehoods are the artful product of numerical models and obfuscating mumbo-jumbo designed and promulgated by the Federal Reserve. On their face, said falsehoods secure the one-way bank-government lender-borrower relation inherent in the exclusive use of Federal Reserve notes. The borrower is servant to the lender, wherefore this relation per se renders the government subservient to private bank interests. On its face their mumbo-jumbo hijacks the government, as in the 2011 GAO report's rationale, which brazenly asserts that the Federal Reserve *is* the government, so as to palm off the conclusion that there is no overall loss to the government when it pays money in any amount into the Federal Reserve's private account. This outrage boasts the capture of representative government by private banking interests, and loots the Treasury.

WHEREFORE, Johnson prays that this court:

(1) Declare that the above-alleged Treasury made or fostered statements, that "United States Notes serve no function that is not already adequately served by Federal Reserve Notes" and that there is no government benefit when a $1 United States coin replaces a $1 Federal Reserve note, impermissibly impair Johnson's First Amendment right to petition for new issues of United States currency, because and insofar as: **(a)** they by deception coerce and distort public debate**; (b)** they are repugnant to the constitution's tax and money powers under U.S. Const. Art. 1, Sec. 8; and **(c)** they are attributable to the private banking interests that own the Federal Reserve System.

(2) Award the costs of this suit to Johnson.

(3) Grant such alternative and additional relief as deemed fit and proper.

February 29, 2012 _____

Clifford Johnson, Plaintiff in propria persona

Certification Of Non-Party Interested Entities Or Persons.

Pursuant to Civil L.R. 3-16, the undersigned certifies that the following listed persons, association of persons, firms, partnerships, corporations (including parent corporations), or other entities (i) have a financial interest in the subject matter in controversy or in a party to the proceeding, or (ii) have a non-financial interest in that subject matter or in a party that could be substantially affected by the outcome of this proceeding.

The entire nation has a financial interest in the subject matter in controversy.

February 29, 2012 _____

Clifford Johnson, Plaintiff in propria persona

http://www.opednews.com/articles/The-American-Crisis--A-Co-by-Clifford-Johnson-111027-384.html

The American Crisis: A Common Sense Deficit Reduction Proposal

A painless way to reduce the deficit by a few hundred billion dollars, and incidentally open the public's eye.

By Clifford Johnson

Submitted to the Select Committee on Deficit Reduction, Oct. 26, 2011

I urge the committee to consider, and to prepare for the full consideration of Congress, the option of paying automatic social security (and perhaps other) entitlement dues now held as Treasuries with new issues of *United States*(versus Federal Reserve) notes -- not as a rule going forward, but merely for a deficit-trimming trial, limited to a few hundred billion dollars. Thereby, not only will these dues will be paid, but also that debt will be retired, instead of rolled over as the Treasuries mature, with interest rates reset, and dealer fees *et alia* added. Without impairing private contracts, this action would painlessly mitigate a fiscal crisis commensurate with those imposed by full scale war.

Given the direct and dramatic savings, the public surely deserves at least an explicit statement of the countervailing reasons against such a delimited "public money option" -- if any exist. In the entire congressional record, I find only the puffed and unexamined presumption that:

> (a) inexpert, office-seeking politicians absolutely cannot be trusted to control themselves when printing money to spend at face value for the public good, even though each monetary issue be debated and approved, as an inflationary flat-tax; *whereas*,
>
> (b) private bankers appointed to the FED -- acting largely in secret and independently, albeit with conflicting interests[1] -- can be trusted to print all the nation's currency, for purely private banks to leverage and lend, at interest rates and on terms that they are largely free to define and market anywhere, to whomever they choose.[2]

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[1] See, e.g.: *Federal Reserve Directors: A Study Of Corporate And Banking Influence* , House Committee On Banking, Currency And Housing, August 1976.

[2] See, e.g., *Money Facts*, House Committee on Banking and Currency, Sept. 21, 1964, Facts 4, 69:

4. Why was the banking system given the right to create money?
Once the money and credit is created someone must decide whom to give the money and for what purposes. This the banks do. And bank earnings are the return for wise and proper placing of the money supply.

69. If the government can issue bonds, why can't it issue money to avoid the debt and interest?
It has long been one of the political facts of life that private banks must be allowed to create the money, [except coins]… Abraham Lincoln set off a political furor when he insisted upon having the Government issue $346 million in money (the so-called "greenbacks") instead of issuing interest-bearing bonds and paying interest on the money.

This presumption would now seem squelched by the open vigor of the current fiscal debate in Congress, made necessary by the prolonged, pervasive, elementary, selfish and incestuous idiocy of the supposedly expert and self-disciplined banking community, in causing the current crisis. But in any case, the presumption does not apply to the proposed public money option, because it is limited to automatic, mandated entitlement payouts, and further limited to the trial or "emergency" issuance of just a few hundred billion new dollars. Moreover, given this limitation, neither the FED's authority over monetary policy (i.e. its control over the quantity of money in circulation) is objectionably infringed, nor is any intolerable inflationary effect implied, since the FED would be free to withdraw equal sums from circulation, should it so choose, by reducing its presently bloated balance sheet.[3]

There is a further benefit from this limited public money option, which I deem of even greater value than the direct fiscal relief that it assures. Is it not compelling that the public should -- and only by such an actual trial *can* -- re-educate itself as to the extraordinary nature of its fiat paper-money power, and of the controlling profits so long gifted to, if not usurped by, a monopoly of private banking interests? Today, popular newspapers, unpopular sovereign credit rating rationales, and obscure academic banking papers, uniformly tell the public that the government has already printed trillions of new dollars, and could print more. In reality, *the government has not printed a single new dollar note since the civil war*,[4] when Congress, after due debate, approved Abraham Lincoln's request for the limited issues of "the true greenback" that saved the nation from bankruptcy and defeat.[5]

[3] As Alan Greenspan observed in a June 30, 2011 CNBC interview: "If it weren't for the psychological effects, we could probably take a trillion dollars off the balance sheet of the Federal Reserve, it would essentially be removing the double counting that is going on."

[4] There have been a few *reissues* of some of these original greenbacks, most recently by President Kennedy, in $2 denominations.

[5] The success of Lincoln's greenbacks rendered ridiculous the prior ridicule of New York bankers, who overplayed their hand by refusing to buy the then losing government's bonds, except at a 36% discount. See: *History Of The Legal Tender Paper Money Issued During The Great Rebellion* **,** Senate Sub-Committee of Ways and Means, 1869. See also: The True Greenback, 1868, by Alexander Campbell, "father of the Greenback Party"; and, in a lighter vein, Treasured Notes, by the author.

change.org

To: The President of the United States, The U.S. Senate, The U.S. House of Representatives, and Congress and the President

Subject: **Produce debt-free United States Notes**

Money should belong to the people, not the banks, and should be issued in sufficient quantity to meet the productive capacity of the nation, not withheld from circulation by banks that did nothing to deserve it.

Congress is empowered by Article 1, Section 8, of the United States Constitution to produce debt-free United States Notes at any time, for any reason, and actually DID create them under president Lincoln (the original "Greenbacks" - $450 million) to defeat the South during the Civil War, when New York City banks wanted 24-36% interest.

This is money that would not have to be borrowed (thereby avoiding any debt-ceiling issues), taxed to pay for, or backed by Gold. It is legal tender, acceptable for all payments, including taxes.

This new money need NOT be inflationary if dedicated towards those areas of society which are in deflation, such as infrastructure.

U.S. Notes would function as a "Public Option for Money."

A bill sponsored by Representatives Dennis Kucinich and John Conyers, the N.E.E.D. Act, HR 2990 (formerly HR6550), would produce U.S. Notes, specifically for infrastructure, Social Security, and universal healthcare, and make the Federal Reserve a department under Treasury - for the first time, a true branch of government.

Even if you don't believe in the full measure of HR 2990, our current debt-ceiling crisis, which comes on the heels of the Federal Reserve pumping $16 trillion into the banking system, leaving most Americans struggling with over 9% unemployment, and asking "Where is my bailout?" points to the need for a real, meaningful - and immediate - solution that would provide jobs and opportunities.

United States Notes were our country's longest-living currency, lasting until the mid-1990s. They were accepted everywhere and were widely embraced when they first came out in the late nineteenth century. It is time again for America to take back its sovereign right to "coin Money" - Article 1, Section 8 of the U.S. Constitution.

Support the True Greenback, United States Notes!

Sincerely, [signatories]

http://wilmette.suntimes.com/opinions/sassone/10420640-452/changing-the-dollar-will-weigh-down-our-pockets.html

Changing the dollar will weigh down our pockets

Chicago Sun-Times, February 4, 2012
Paul Sassone, Columnist

I have nothing against the dollar bill. My only complaint is that I don't have anywhere near enough of them. But the government doesn't share my fondness. It wants to eliminate dollar bills.

On Jan. 31, a bipartisan bill (S 2049) was introduced in the U.S. Senate to replace the dollar bill with a dollar coin. There is complementary bill (HR 2977) in the U.S. House of Representatives. So, it could happen that the dollar bill is on the road to extinction.

Getting rid of the dollar bill is touted as a cost-saving measure. Being made of paper, dollar bills wear out a lot faster than metal coins. The General Accounting Office estimates using coins instead of dollar bills will save the government $5.6 billion over 30 years.

The thing is, we Americans have not shown a fondness for dollar coins. Remember the Susan B. Anthony dollar? First issued in 1979, it was issued for only four years. People didn't like it, confused it with quarters, for one thing. And nobody wanted to lug around a pocketful, or pocketbook full, of coins.

The latest such attempt — the Presidential Dollars — hasn't done so well either. The government suspended issuing these dollars last year for lack of public interest. It has in storage $1.4 billion Presidential Dollars and, it is estimated, would have had $2 billion piled up by 2016, the year there were no more presidents to commemorate. From now on, Presidential Dollars will be minted only on demand for collectors. The next president to be honored will be Chester Arthur, so hurry up and get in your orders.

With bipartisan bills in both houses of Congress, dollar coins may become a reality whether we citizens like them or not.

If that happens, I bet the most noticeable result will be a big increase in the cost of everything. The dollar will become the new quarter. Instead of being able to park for an hour for four quarters, motorists will now be instructed to deposit four dollars for an hour. Eight quarters for a load of wash at the laundromat? Nope. Eight dollars. And a newspaper? Well, a newspaper is a bargain at any price.

And since no one will want to lug around a bunch of heavy dollar coins, the $5 bill will be the basic bill of exchange. And that also will facilitate upping prices. People will use credit cards and electronic devices to pay for things even more than they do now.

So, perhaps what we're seeing is not just the end of the dollar bill, but the beginning of the end of money in general.

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https://www.popvox.com/bills/us/112/hr2977/report#nation

February 23, 2012 petitions of Johnson (aka Tom_Paine_II) **to the congressional committees and to his respective congressmen, submitted as supporting comments via the POPVOX.com public forum.**

The change to U.S. currency will restore to the government seigniorage tax vastly in excess of the amount that GAO has been reporting for the last 21 years. I wrote an Op Ed article showing this, "To Free A Lender-Owned Nation." You can download it from my website commondada.com, from the "Treasury" submenu.

To summarize. The General Accounting Office last year estimated that using coins instead of dollar bills will save the government $5.6 billion over 30 years, after five years of initial losses.

In fact, merely because coins are true United States currency, the government will also benefit from: (a) an early reduction of $13.75 billion in debt held by the public, from replacing the present 9.5 billion dollar bills with 150% as many coins; (b) a further reduction in excess of $30 billion from coins added over the 30 years; and (c) a further $14.5 billion reduction from 81.5% of the interest relief per note replaced by a coin. Hence, the net benefit after 30 years would exceed $58 billion.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

February 18, 2011

Mr. David Wise
Director, Physical Infrastructure Issues
Government Accountability Office
441 G St., NW
Washington, DC 20548

Dear Mr. Wise:

Thank you for the opportunity to review and comment on the General Accountability Office's (GAO) draft report "Replacing the $1 Note with a $1 Coin Would Provide a Financial Benefit to the Government" (GAO-11-281).

The Treasury Department has reviewed the report in consultation with the Bureau of Engraving and Printing and the U.S. Mint and would like to provide feedback for clarification. In this review, several technical issues were cited concerning certain assumptions, definitions, and statements. The attached document highlights these concerns and is provided for your consideration in preparing the final report.

As noted in the draft report, GAO's study did not consider some factors that were outside the scope of the financial benefit to the Government, such as environmental impacts. Furthermore, we note that GAO acknowledged that societal costs would accompany any such transition, but these costs were not included because GAO could not quantify them adequately. The government, of course, must consider these more holistic factors in any broader discussion of the report's recommendations.

Additionally, please note that the Federal Reserve will be revising its processing methodology for $1 notes shortly after the publication of this report. The new process is expected to significantly reduce the premature destruction of fit (acceptable) $1 notes when they are processed at the Federal Reserve Banks. As a consequence, the life of a $1 note in circulation is expected to increase significantly, reducing the estimated savings from replacing the $1 note with the $1 coin.

Sincerely,

Rosie Rios
Treasurer of the United States

Attachment 1: Technical Comments

Clifford Johnson
P.O. Box 1009
Gualala, CA 95445-1009
Tel: (707) 884-4066

Mr. Tim Geithner, Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

November 8, 2011

Dear Mr. Geithner,

As specified below, this is to demand the immediate correction of misinformation prominently posted on the Treasury's website, because it officially contradicts and so implicitly impairs a common sense deficit reduction proposal, *sized at a painless few hundred billion dollars*, that I submitted to the Joint Select Committee (JSC) on October 26, 2011. Please take notice that, if a correction to the website is not made within 10 days of your receipt of this demand, my intention is to file a legal action seeking a remedial writ before the final congressional vote on deficit reduction measures, by December 23, 2011.

As touted on its website, *the Treasury stands alone as the nation's definitive source for precisely such information, and promises the utmost integrity in publishing it, as a high public duty.* In these crisis circumstances, what might otherwise be a humdrum correctional request to junior staff, properly assumes the form of an immediate and enforceable demand, addressed to the Secretary.

My proposal is that mandatory, automatic social security dues (held in trust as treasuries) be paid with a new issue of United States Notes, instead of with Federal Reserve Notes -- not as a rule going forward, but merely for a deficit-trimming trial, limited to a few hundred billion dollars. Thereby, the payments would be made *and that debt retired*, instead of rolled over with interest rates reset, and dealer fees et alia added. As explained in my OpEd article at http://www.opednews.com/articles/The-American-Crisis--A-Co-by-Clifford-Johnson-111027-384.html, this would mitigate the fiscal crisis without impairing private contracts or impertinently interfering with the FED's effective authority and capacity to control the quantity of dollars in circulation. And it would importantly open the public eye.

However, a reader pointed me to the "US Notes" (http://moneyfactory.gov/usnotes.html) and "Legal Tender Status" (http://www.treasury.gov/resource-center/faqs/Currency/Pages/legal-tender.aspx) pages on the Treasury website, which *thrice* dismiss United States Notes as long discontinued, because:

> "United States Notes serve no function that is not already adequately served by Federal Reserve Notes."

In fact, Federal Reserve Notes are *incapable* of serving the national deficit reducing function that in my proposal is served by United States Notes. Besides correcting the website, I request that you so inform the JSC directly, with respect to my October 26, 2011 proposal.

Yours sincerely,

Clifford Johnson

ADRMOP,APPEAL,E−Filing

U.S. District Court
California Northern District (San Francisco)
CIVIL DOCKET FOR CASE #: 3:11−cv−06684−WHA

Johnson v. Department of the Treasury of the United States et al
Assigned to: Hon. William Alsup
Referred to: Magistrate Judge Nandor J. Vadas
Case in other court: USCA 9th Circuit, 12−16775
Cause: 28:1331 Fed. Question

Date Filed: 12/28/2011
Date Terminated: 06/14/2012
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: U.S. Government Defendant

Plaintiff

Clifford Johnson
PO Box 1009
Gualala, CA 95445−1009

represented by **Clifford James Johnson**
P.O. Box 1009
Gualala, CA 95445−1009
(707) 884−4066
Email: clifjohnson@prodigy.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Department of the Treasury of the United States

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TERMINATED: 09/04/2012
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ATTORNEY TO BE NOTICED

Defendant

Tim Geithner

represented by **Evan Harry Perlman**
(See above for address)
TERMINATED: 09/04/2012
LEAD ATTORNEY

Mark R. Conrad
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text

12/28/2011	1	COMPLAINT FOR DECLARATORY RELIEF against Department of the Treasury of the United States, Tim Geithner (Filing fee $ 350, receipt number 34611068635.). Filed byClifford Johnson. (far, COURT STAFF) (Filed on 12/28/2011) (Additional attachment(s) added on 12/29/2011: # 1 Civil Cover Sheet) (far, COURT STAFF). (Entered: 12/29/2011)
12/28/2011	2	ADR SCHEDULING ORDER: Case Management Statement due by 4/3/2012. Case Management Conference set for 4/10/2012 02:00 PM in Courtroom, 2nd Floor, Eureka. (Attachments: # 1 Standing Order)(far, COURT STAFF) (Filed on 12/28/2011) (Entered: 12/29/2011)
01/03/2012	3	CLERKS NOTICE Consent or Declination Letter filed. Forms due 1/17/12. (glm, COURT STAFF) (Filed on 1/3/2012) (Entered: 01/03/2012)
01/09/2012	4	Declination to Proceed Before a U.S. Magistrate Judge by Clifford Johnson. (far, COURT STAFF) (Filed on 1/9/2012) (Entered: 01/09/2012)
01/09/2012	5	CERTIFICATE OF SERVICE by Clifford Johnson (far, COURT STAFF) (Filed on 1/9/2012) (Entered: 01/09/2012)
01/11/2012	6	CLERK'S NOTICE of Impending Reassignment to U.S. District Judge (glm, COURT STAFF) (Filed on 1/11/2012) (Entered: 01/11/2012)
01/11/2012	7	ORDER REASSIGNING CASE. Case reassigned to Judge Hon. William Alsup for all further proceedings. Judge Magistrate Judge Nandor J. Vadas no longer assigned to the case. Signed by Executive Committee on 1/11/12. (mab, COURT STAFF) (Filed on 1/11/2012) (Additional attachment(s) added on 1/12/2012: # 1 Certificate/Proof of Service) (wsn, COURT STAFF). (Entered: 01/11/2012)
01/12/2012		CASE REFERRED to Magistrate Judge Nandor J. Vadas for Discovery (rcs, COURT STAFF) (Filed on 1/12/2012) (Entered: 01/12/2012)
01/13/2012	8	CLERKS NOTICE Scheduling Initial CMC on Reassignment. Case Management Statement due by 4/5/2012. Case Management Conference set for 4/12/2012 11:00 AM in Courtroom 8, 19th Floor, San Francisco. (Attachments: # 1 Certificate of Service) (dt, COURT STAFF) (Filed on 1/13/2012) (Entered: 01/13/2012)
01/13/2012	9	SUPPLEMENTAL ORDER TO ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE re 8 Clerks Notice. Signed by Judge William Alsup on 7/6/11. (Attachments: # 1 Certificate of Service)(dt, COURT STAFF) (Filed on 1/13/2012) (Entered: 01/13/2012)
01/23/2012	10	CERTIFICATE OF SERVICE by Clifford Johnson re 9 SUPPLEMENTAL ORDER TO ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE, 8 CLERKS NOTICE Scheduling Initial CMC on Reassignment. (wsn, COURT STAFF) (Filed on 1/23/2012) (Entered: 01/23/2012)
02/29/2012	11	FIRST AMENDED COMPLAINT for Declaratory Relief against Department of the Treasury of the United States, Tim Geithner. Filed by Clifford Johnson. (wsn, COURT STAFF) (Filed on 2/29/2012) (Entered: 02/29/2012)
02/29/2012	12	Declaration of Clifford Johnson re Non−Service of Complaint and Amendment Under Rule 15(a)(1)(A), filed by Clifford Johnson. (wsn, COURT STAFF) (Filed on 2/29/2012) (Entered: 02/29/2012)
02/29/2012	13	Summons Issued as to Department of the Treasury of the United States, Tim Geithner. (wsn, COURT STAFF) (Filed on 2/29/2012) (Entered: 02/29/2012)
03/02/2012	14	CERTIFICATE OF SERVICE by Clifford Johnson re 13 Summons Issued, 12 Declaration of Clifford Johnson re Non−Service of Complaint and Amendment Under Rule 15(a)(1)(A), 11 FIRST AMENDED COMPLAINT. (wsn, COURT STAFF) (Filed on 3/2/2012) (Entered: 03/02/2012)
03/19/2012	15	MOTION for Permission for Electronic Case Filing, filed by Clifford Johnson. (Attachments: # 1 Proposed Order, # 2 Certificate/Proof of Service)(wsn, COURT STAFF) (Filed on 3/19/2012) (Entered: 03/19/2012)
03/19/2012	16	STIPULATION WITH PROPOSED ORDER *Stipulation to Continue Date of Initial Case Management Conference; [Proposed] Order* filed by Department of

		the Treasury of the United States, Tim Geithner. (Perlman, Evan) (Filed on 3/19/2012) (Entered: 03/19/2012)
03/19/2012	17	CERTIFICATE OF SERVICE by Department of the Treasury of the United States, Tim Geithner re 16 STIPULATION WITH PROPOSED ORDER *Stipulation to Continue Date of Initial Case Management Conference; [Proposed] Order* (Perlman, Evan) (Filed on 3/19/2012) (Entered: 03/19/2012)
03/20/2012	18	ORDER DENYING STIPULATION TO CONTINUE CASE MANAGEMENT CONFERENCE [re 16 STIPULATION WITH PROPOSED ORDER Stipulation to Continue Date of Initial Case Management Conference; [Proposed] Order filed by Tim Geithner, Department of the Treasury of the United States]. Signed by Judge William Alsup on 3/20/2012. (whasec, COURT STAFF) (Filed on 3/20/2012) (Additional attachment(s) added on 3/21/2012: # 1 Certificate/Proof of Service) (wsn, COURT STAFF). (Entered: 03/20/2012)
03/21/2012	19	ADR Certification (ADR L.R. 3−5 b) of discussion of ADR options (Perlman, Evan) (Filed on 3/21/2012) (Entered: 03/21/2012)
03/22/2012	20	CERTIFICATE OF SERVICE by Department of the Treasury of the United States, Tim Geithner re 19 ADR Certification (ADR L.R. 3−5 b)of discussion of ADR options (Perlman, Evan) (Filed on 3/22/2012) (Entered: 03/22/2012)
03/22/2012	21	ORDER GRANTING MOTION FOR PERMISSION FOR ELECTRONIC CASE FILING by Hon. William Alsup granting 15 Motion permission to e−file.(whalc2, COURT STAFF) (Filed on 3/22/2012) (Additional attachment(s) added on 3/23/2012: # 1 Certificate/Proof of Service) (wsn, COURT STAFF). (Entered: 03/22/2012)
03/23/2012	22	ADR Clerks Notice re: Non−Compliance with Court Order. (tjs, COURT STAFF) (Filed on 3/23/2012) (Entered: 03/23/2012)
03/26/2012	23	NOTICE of need for ADR Phone Conference (ADR L.R. 3−5 d) (Perlman, Evan) (Filed on 3/26/2012) (Entered: 03/26/2012)
03/28/2012	24	ADR Certification (ADR L.R. 3−5 b) of discussion of ADR options by Clifford Johnson. (wsn, COURT STAFF) (Filed on 3/28/2012) (Entered: 03/28/2012)
04/02/2012	25	ADR Clerk Notice Setting ADR Phone Conference on 4/9/12 at 11:00 a.m. Pacific. The attached document contains instructions for connecting to the call for parties to the case. (sgd, COURT STAFF) (Filed on 4/2/2012) (Entered: 04/02/2012)
04/05/2012	26	CASE MANAGEMENT STATEMENT filed by Department of the Treasury of the United States, Tim Geithner. (Perlman, Evan) (Filed on 4/5/2012) (Entered: 04/05/2012)
04/05/2012	27	CASE MANAGEMENT STATEMENT; Separate Case Management Statement of Plaintiff Clifford Johnson, filed by Clifford Johnson. (wsn, COURT STAFF) (Filed on 4/5/2012) (Entered: 04/05/2012)
04/09/2012		ADR Remark: ADR Phone Conference held by HAH on 4/9/12. (sgd, COURT STAFF) (Filed on 4/9/2012) (Entered: 04/09/2012)
04/11/2012	28	CLERKS NOTICE Rescheduling Hearing Time. Case Management Conference set for 4/12/2012 01:00 PM in Courtroom 8, 19th Floor, San Francisco. (Attachments: # 1 Certificate/Proof of Service) (dt, COURT STAFF) (Filed on 4/11/2012) (Entered: 04/11/2012)
04/12/2012	29	ORDER RESETTING CASE MANAGEMENT CONFERENCE: Case Management Conference set for 4/26/2012 03:00 PM in Courtroom 8, 19th Floor, San Francisco. Signed by Judge William Alsup on 4/12/2012. (whasec, COURT STAFF) (Filed on 4/12/2012) (Additional attachment(s) added on 4/13/2012: # 1 Certificate/Proof of Service) (dt, COURT STAFF). (Entered: 04/12/2012)
04/12/2012	30	Minute Entry: Initial Case Management Conference held on 4/12/2012 before Judge William Alsup (Date Filed: 4/12/2012). Further Case Management Conference set for 4/26/2012 3:00 PM. (Court Reporter Joan Columbini.) (dtS, COURT STAFF) (Date Filed: 4/12/2012). (Entered: 04/19/2012)

04/26/2012	31	Minute Entry: Initial Case Management Conference held on 4/26/2012 before Judge William Alsup (Date Filed: 4/26/2012). Motion to Dismiss will be filed on 4/30/12. (Court Reporter Kathy Wyatt.) (dt, COURT STAFF) (Date Filed: 4/26/2012) . (Entered: 04/26/2012)
04/27/2012	32	CASE MANAGEMENT SCHEDULING ORDER: Motions due by 5/3/2012. Signed by Judge William Alsup on 4/26/2012. (whasec, COURT STAFF) (Filed on 4/27/2012) (Entered: 04/27/2012)
04/30/2012	33	MOTION to Dismiss *Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint* filed by Department of the Treasury of the United States, Tim Geithner. Motion Hearing set for 6/21/2012 08:00 AM in Courtroom 8, 19th Floor, San Francisco before Hon. William Alsup. Responses due by 5/14/2012. Replies due by 5/21/2012. (Attachments: # 1 Proposed Order)(Perlman, Evan) (Filed on 4/30/2012) (Entered: 04/30/2012)
05/14/2012	34	RESPONSE (re 33 MOTION to Dismiss *Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint*) filed by Clifford Johnson. (mjj2S, COURT STAFF) (Filed on 5/14/2012) (Entered: 05/15/2012)
05/14/2012	35	Declaration of Plaintiff in Support of 34 Opposition/Response to Motion filed by Clifford Johnson. (Related document(s) 34) (mjj2S, COURT STAFF) (Filed on 5/14/2012) (Entered: 05/15/2012)
05/14/2012	36	CERTIFICATE OF SERVICE by Clifford Johnson re 35 Declaration in Support, 34 Opposition/Response to Motion (mjj2S, COURT STAFF) (Filed on 5/14/2012) (Entered: 05/15/2012)
05/16/2012	37	[Corrected] RESPONSE (re 33 MOTION to Dismiss *Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint*) filed by Clifford Johnson. (mjj2, COURT STAFF) (Filed on 5/16/2012) (Entered: 05/16/2012)
05/16/2012	38	Declaration of Plaintiff in Support of 37 [Corrected] Opposition/Response to Motion filed by Clifford Johnson. (Related document(s) 37) (mjj2, COURT STAFF) (Filed on 5/16/2012) (Entered: 05/16/2012)
05/16/2012	39	CERTIFICATE OF SERVICE by Clifford Johnson re 37 Opposition/Response to Motion, 38 Declaration in Support (mjj2, COURT STAFF) (Filed on 5/16/2012) (Entered: 05/16/2012)
05/22/2012	40	REPLY (re 33 MOTION to Dismiss *Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint*) filed byDepartment of the Treasury of the United States, Tim Geithner. (Perlman, Evan) (Filed on 5/22/2012) (Entered: 05/22/2012)
05/22/2012	41	Declaration of Evan H. Perlman in Support of 40 Reply to Opposition/Response filed byDepartment of the Treasury of the United States, Tim Geithner. (Related document(s) 40) (Perlman, Evan) (Filed on 5/22/2012) (Entered: 05/22/2012)
05/24/2012	42	RESPONSE (re 33 MOTION to Dismiss *Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint*) *Plaintiff's Objection To Reply Evidence; Declaration* filed byClifford Johnson. (Johnson, Clifford) (Filed on 5/24/2012) (Entered: 05/24/2012)
06/14/2012	43	ORDER GRANTING DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT AND VACATING HEARING by Judge William Alsup [granting 33 Motion to Dismiss]. (whasec, COURT STAFF) (Filed on 6/14/2012) (Entered: 06/14/2012)
06/14/2012	44	JUDGMENT in favor of defendants and against plaintiff. Signed by Judge William Alsup on 6/13/2012. (whasec, COURT STAFF) (Filed on 6/14/2012) (Entered: 06/14/2012)
06/28/2012	45	Letter/Motion to Alter Judgment from Clifford Johnson. (Attachments: # 1 Envelope)(dtm, COURT STAFF) (Filed on 6/28/2012) Modified on 9/7/2012 (dtm, COURT STAFF). (Entered: 07/02/2012)
08/13/2012	46	NOTICE OF APPEAL to the 9th CCA Clifford Johnson. Appeal of Judgment 44 (Appeal fee of $455 paid 34611077465.) (dtm, COURT STAFF) (Filed on

		8/13/2012) (Entered: 08/13/2012)
08/13/2012	47	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 46 Notice of Appeal (Attachments: # 1 Exhibit Docket Sheet)(dtm, COURT STAFF) (Filed on 8/13/2012) (Entered: 08/13/2012)
08/15/2012	48	ORDER of USCA Case No 12−16775; Remanded Back to District Court for Ruling on Motion for Reconsideration; 46 Notice of Appeal filed by Clifford Johnson (dtm, COURT STAFF) (Filed on 8/15/2012) (Entered: 08/16/2012)
08/15/2012	49	USCA Case Number **12−16775** USCA 9th Circuit for 46 Notice of Appeal filed by Clifford Johnson. (dtm, COURT STAFF) (Filed on 8/15/2012) (Entered: 08/16/2012)
09/04/2012	50	ORDER SETTING BRIEFING SCHEDULE ON PLAINTIFF'S MOTION TO ALTER OR AMEND A JUDGMENT Motion Hearing set for 10/11/2012 08:00 AM in Courtroom 8, 19th Floor, San Francisco before Hon. William Alsup.. Signed by Judge Alsup on 09/04/12. (whalc2, COURT STAFF) (Filed on 9/4/2012) (Entered: 09/04/2012)
09/04/2012		Set/Reset Deadlines as to Plaintiff's Motion to Alter or Amend Judgment. Responses due by 9/18/2012. Replies due by 9/25/2012. Motion Hearing set for 10/11/2012 08:00 AM in Courtroom 8, 19th Floor, San Francisco before Hon. William Alsup. (whalc2, COURT STAFF) (Filed on 9/4/2012) (Entered: 09/04/2012)
09/04/2012	51	NOTICE of Substitution of Counsel by Mark R. Conrad *for Defendants United States Department of the Treasury and Timothy Geithner* (Conrad, Mark) (Filed on 9/4/2012) (Entered: 09/04/2012)
09/07/2012	52	Correction of Opposition/Response or Reply Deadlines pertaining to 45 MOTION to Alter Judgment (Reason: Correcting an error) filed byError: party not known. Responses due by 9/18/2012. Replies due by 9/25/2012. (dtm, COURT STAFF) (Filed on 9/7/2012) (Entered: 09/07/2012)
09/10/2012	53	OBJECTIONS to re 50 Order Setting Hearing on Motion, by Clifford Johnson. (dtm, COURT STAFF) (Filed on 9/10/2012) (Entered: 09/10/2012)
09/13/2012	55	OBJECTION to ECF Notice of correction issued 9/7/12 by Clifford Johnson. (dtm, COURT STAFF) (Filed on 9/13/2012) (Entered: 09/17/2012)
09/16/2012	54	Transcript of Proceedings held on 4−26−12, before Judge Willim Alsup. Court Reporter/Transcriber Katherine Wyatt, Telephone number 925−212−5224. Per General Order No. 59 and Judicial Conference policy, this transcript may be viewed only at the Clerks Office public terminal or may be purchased through the Court Reporter/Transcriber until the deadline for the Release of Transcript Restriction.After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction, if required, is due no later than 5 business days from date of this filing. Release of Transcript Restriction set for 12/17/2012. (kpw, COURT STAFF) (Filed on 9/16/2012) (Entered: 09/16/2012)
09/17/2012	56	ORDER RE JOHNSON LETTERS re 53 Objection filed by Clifford Johnson, 55 Objection filed by Clifford Johnson (whalc2, COURT STAFF) (Filed on 9/17/2012) (Entered: 09/17/2012)
09/17/2012		Set Deadlines/Hearings: Opening memorandum due by 9/24/2012. Responses due by 10/9/2012. Reply due by 10/15/2012. Motion Hearing set for 11/1/2012 08:00 AM in Courtroom 8, 19th Floor, San Francisco before Hon. William Alsup. (whalc2, COURT STAFF) (Filed on 9/17/2012) (Entered: 09/17/2012)
09/17/2012		Set/Reset Deadlines as to 45 MOTION to Alter Judgment. Replies due by 10/15/2012. (dtm, COURT STAFF) (Filed on 9/17/2012) (Entered: 09/25/2012)
09/24/2012	57	Declaration of Clifford Johnson *In Support Of 45 Motion To Amend* filed by Clifford Johnson. (Johnson, Clifford) (Filed on 9/24/2012) Modified on 9/26/2012 (dtm, COURT STAFF). (Entered: 09/24/2012)

09/24/2012	58	Brief re 45 Motion to Amend Or Alter Judgment, Supporting Memorandum filed by Clifford Johnson. (Related document(s) 57) (Johnson, Clifford) (Filed on 9/24/2012) Modified on 9/26/2012 (dtm, COURT STAFF). (Entered: 09/24/2012)
09/26/2012	59	STIPULATION WITH PROPOSED ORDER *TO CONTINUE HEARING* filed by Department of the Treasury of the United States, Tim Geithner. (Conrad, Mark) (Filed on 9/26/2012) (Entered: 09/26/2012)
09/27/2012	60	ORDER GRANTING STIPULATION TO POSTPONE HEARING ON PLAINTIFF'S MOTION TO ALTER OR AMEND THE JUDGMENT by Hon. William Alsup granting 59 Stipulation.(whalc2, COURT STAFF) (Filed on 9/27/2012) (Entered: 09/27/2012)
09/27/2012		Set/Reset Hearing re 60 Order on Stipulation Motion Hearing set for 11/15/2012 08:00 AM in Courtroom 8, 19th Floor, San Francisco before Hon. William Alsup. (whalc2, COURT STAFF) (Filed on 9/27/2012) (Entered: 09/27/2012)
10/05/2012	61	RESPONSE (re 45 MOTION to Alter Judgment) *DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION TO ALTER OR AMEND THE JUDGMENT* filed byDepartment of the Treasury of the United States, Tim Geithner. (Conrad, Mark) (Filed on 10/5/2012) (Entered: 10/05/2012)
10/13/2012	62	REPLY (re 45 MOTION to Alter Judgment) filed byClifford Johnson. (Johnson, Clifford) (Filed on 10/13/2012) (Entered: 10/13/2012)
10/24/2012	63	ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND THE JUDGMENT AND VACATING HEARING by Judge William Alsup [denying 45 Motion to Alter Judgment]. (whasec, COURT STAFF) (Filed on 10/24/2012) (Entered: 10/24/2012)
11/23/2012	64	AMENDED NOTICE OF APPEAL by Clifford Johnson as to 63 Order on Motion to Alter Judgment *and as to the Judgment*. Appeal Record due by 12/24/2012. (Johnson, Clifford) (Filed on 11/23/2012) (Entered: 11/23/2012)
11/26/2012	65	Transmission of Amended Notice of Appeal to US Court of Appeals re 64 Amended Notice of Appeal (dtmS, COURT STAFF) (Filed on 11/26/2012) Modified on 11/26/2012 (dtmS, COURT STAFF). (Entered: 11/26/2012)