

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---|---|--------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 04 C 7403 |
| |) | |
| WILLIAM J. BENSON, individually and |) | Judge Filip |
| d/b/a Constitutional Research Associates, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

RESPONSE TO BENSON’S LOCAL RULE 56.1 STATEMENT OF MATERIAL FACTS

The plaintiff, the United States of America, responds to Benson’s Local Rule 56.1

Statement of Material Facts (D.E. 53) as follows:

ADDITIONAL FACTS

26 - 30. Admit.

31 - 51. Objection. The United States objects to the purported “facts” set forth in paragraphs 31 through 51, inclusive, of Benson’s Local Rule 56.1 Statement of Material Facts. These “facts,” which relate solely to defendant’s contention that the Sixteenth Amendment was never ratified, constitute matters that are irrelevant, immaterial, impertinent and scandalous with respect to the issues and subject matter of this civil action. Furthermore, for the reasons set forth at length in plaintiff’s reply brief, defendant is collaterally estopped from challenging the validity of the Sixteenth Amendment or its ratification as a result of the decision in

United States v. Benson, 941 F.2d 598, 607 (7th Cir. 1991), that held that the ratification of the Sixteenth Amendment was a nonjusticiable political question that was “beyond review” by the federal courts.

52. Admit.

53 - 54. Deny. Declaration of IRS Revenue Agent Paul Ponzo (D.E. 40), ¶¶14 and 15.

55 - 56. Admit.

Dated this 19th day of December, 2005.

PATRICK FITZGERALD
United States Attorney

/s/ Robert D. Metcalfe
ROBERT D. METCALFE
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6525
Facsimile: (202) 514-6770
Attorneys for Plaintiff,
United States of America

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2005, I electronically filed the foregoing
RESPONSE TO BENSON'S LOCAL RULE 56.1 STATEMENT OF MATERIAL FACTS
with the Clerk of the Court using the CM/ECF system which will send notification of such filing
to the following:

Jeffrey A. Dickstein, Esquire
Law Offices of
207 East Buffalo Street, Suite 600
Milwaukee, Wisconsin 53202

/s/ Robert D. Metcalfe
ROBERT D. METCALFE
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044