

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
JOHN BAPTIST KOTMAIR, JR., d/b/a)	
SAVE-A-PATRIOT FELLOWSHIP,)	
NATIONAL WORKERS RIGHTS)	
COMMITTEE, and AMERICAN)	
CONTRACTING SERVICES,)	
)	
Defendant.)	

DECLARATION OF EVAN J. DAVIS

1. I am a trial attorney with the Department of Justice's Tax Division in Washington, D.C.


2. I am assigned to the case of *United States v. Thurston Paul Bell, individually and doing business as National Institute for Taxation Education*, Civil Action No. 1:CV-01-2159 (M.D. Pa.).

3. In the course of that litigation, on February 13, 2002, I took the deposition of Raymond D. Berglund, who had been a customer of both Bell and the Save-A-Patriot Fellowship.

4. A copy of the deposition transcript is attached as Exhibit 1.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of May, 2005.



EVAN J. DAVIS

1 Q Let's take a brief tour of your history of taxes.

2 A Starting when?

3 Q Starting in the -- let's say the early 1990s. Were

4 you filing what I'm going to call regular tax

5 returns, not making any arguments about the

6 taxability of wages in the early 1990s?

7 A That's true.

8 Q Was there a point at which you started arguing that

9 your income was not taxable in a way?

10 A Yes.

11 Q About what time did that start?

12 A 1996.

13 Q When did you first learn about or hear of

14 Thurston Bell?

15 A I originally heard about an organization called Save

16 a Patriot.

17 Q What is that organization?

18 A An organization that believes that American citizens

19 are not liable for the income tax.

20 Q How did you find out about Save a Patriot?

21 A Through an acquaintance that I had back in 1996, and

22 I don't even remember his name at this point.

23 Q So did you contact Save a Patriot in 1996?

24 A Yes.

25 Q And is that when you learned about Thurston Bell?

14

1 A Thurston Bell was the caseworker that was put on my

2 case.

3 Q What was the purpose of having a caseworker on your

4 case?

5 A To prepare any documents that needed to be sent to

6 the IRS or the Wisconsin Department of Revenue.

7 Q Do you remember the first contact you had with

8 Thurston Bell?

9 A I know that I contacted him. As far as what words

10 were exchanged, I can't remember.

11 Q When you contacted Save a Patriot, had you already

12 begun arguing that your wages were not taxable?

13 A No.

14 Q What advice did Thurston Bell give to you when he was

15 working for Save a Patriot regarding your taxes? And

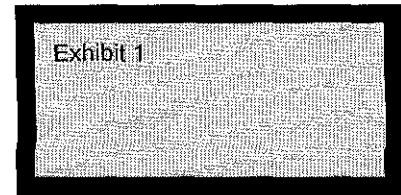
16 I'd like you to be as detailed as possible.

17 A Contacting Save a Patriot was consent that you

18 believed in what they were touting. So when there

19 was any kind of conversations between Thurston and I,

20 it was already assumed that I believed the same



21 things that Save a Patriot was propagating.

22 As far as advice, there was certain -- there was
23 a certain format to be followed that Save a Patriot
24 had already developed, and I was plugged into that
25 system, and at that point any work that was being
15

1 done as far as any requests from the IRS or any other
2 federal agency was done by Thurston Bell, Save a
3 Patriot.

4 Q To the best of your recollection, what did
5 Thurston Bell actually do for you while he worked at
6 Save a Patriot?

7 A He prepared any documents that needed to be sent to
8 the IRS. At this point my memory only can recall
9 that certain requests were made under the Freedom of
10 Information Act, which at this point is all that I
11 can remember.

12 Q Did you file a timely 1996 federal income tax return?

13 A No, I did not.

14 Q Why not?

15 A Because I felt that if I was going to pursue this
16 course, that I needed to take a stand and not file.

17 Q Had you contacted Save a Patriot prior to the
18 April 15th, 1997 deadline for filing your 1996 taxes?

19 A Yes.

20 Q What role, if any, did Thurston Bell play in your
21 decision to not file for 1996?

22 A I don't remember.

23 Q Do you remember what role Save a Patriot played in
24 your decision not to file?

25 A Other than providing information that agreed with how
16

1 I felt, that's the only role they played.

2 Q Do you recall any specific conversations with
3 Thurston Bell while he was working at Save a Patriot
4 about the taxability of wages and other income?

5 A I can't remember any specific conversations, but I'm
6 sure that the subject of whether or not we were
7 liable to pay the tax came up during the course of
8 our conversations.

9 Q And what was your understanding of Mr. Bell's
10 position on that issue?

11 A That U.S. citizens did not need to pay the income
12 tax.

13 Q Did Mr. Bell give you any tax advice while he worked
14 at Save a Patriot?

15 A Other than following the prescribed procedures that
16 *were outlined in the Save a Patriot pattern of how*
17 things were done, no.

18 Q Maybe you can give me a little more detail about the
19 pattern of Save a Patriot.

20 A As I said before, the only thing that I can remember
21 ever being done for me was having Freedom of
22 Information Act requests prepared for me.

23 Q Did Thurston Bell know that you -- did you tell
24 Thurston Bell that you did not file your 1996 federal
25 income tax return timely?

17

1 A Yes, I did tell him. At what point I don't remember.

2 Q When you were first assigned to Thurston Bell as your
3 caseworker, did he explain what his training was?

4 A No.

5 Q Did you ever ask?

6 A No.

7 Q Why not?

8 A I didn't think there was a course that was being
9 taught.

10 Q Did Bell mention how long he'd been working with Save
11 a Patriot when you contacted him?

12 A I don't remember.

13 Q How did he represent his qualifications, if at all?

14 A I don't remember him representing any qualifications.

15 *The only thing that I do remember is bragging about*
16 his achievements.

17 Q Such as?

18 A Helping Joe citizen avoid paying taxes or any number
19 of other things that could happen as a result of not
20 paying taxes, like the IRS coming in, foreclosing on
21 a home or something of that nature.

22 Q And Bell suggested that he had been successful in
23 stopping that process?

24 A Stopping things of that nature.

25 Q Did you form an impression about how knowledgeable he
18

1 was --

2 A Yes.

3 Q -- during the time that he worked at Save a Patriot?

4 A Yes.

5 Q What was that impression?

6 A That he knew what he was talking about.

7 Q And what was that impression based on?

8 A Conversations by phone between him and me.

9 Q Were you exchanging e-mails at this point?

10 A No.

11 Q How did payment work at Save a Patriot?

12 A I remember making payments of \$35 for specific work

13 being done. What I don't remember is the form of

14 payments, whether I wrote a check or if I sent a

15 money order.

16 Q It would have been made payable to Save a Patriot?

17 A Yes.

18 Q How long did you work with Save a Patriot? When I

19 say work with, how long were you a customer or client

20 of Save a Patriot?

21 A To the best of my recollection, perhaps a year.

22 Q Do you know whether the IRS has ever scrutinized Save

23 a Patriot?

24 A I remember purchasing a couple of cassette tapes, and

25 the contents of those cassette tapes were the IRS

19

1 raiding the offices of Save a Patriot and removing

2 computers, money, documents, et cetera.

3 Q Why did you purchase those tapes?

4 A Why? That means I don't know.

5 Q Other than Bell, did you talk to other people at Save

6 a Patriot?

7 A I did have conversations with John Kotmair, who runs

8 Save a Patriot. And after Thurston left, there was a

9 gentleman that took over his position, and I don't

10 recall his name.

11 Q Did John Kotmair ever talk about Thurston Bell in

12 your conversations with him?

13 A I don't remember.

14 Q You indicated that Bell left Save a Patriot. What's

15 your best recollection of when that happened?

16 A I don't remember when it happened. I believe it was

17 before I decided to not file my '96 tax return.

18 Q Just for your reference, Mr. Bell has presented an

19 affidavit in this case in which he states that he

20 left Save a Patriot on July 18th, 1997. Is your

21 memory inconsistent with that date?

22 A If that's when he said he left, then that would be

23 the time he left.

24 Q You indicated that after Bell left, someone else

25 worked on your case.

20

1 A Yes.

2 Q What types of activities and work was that person

3 doing for you?

4 A The same thing that Thurston did prior to his
5 departure.

6 Q What was the purpose of filing the Freedom of
7 Information Act requests that Bell did for you?

8 A I don't remember.

9 Q Explain to me the process from the time that Bell
10 left Save a Patriot to the time that you first
11 contacted him after that. How long did that take,
12 and how did the contact happen?

13 A I know there was a period of several months between
14 the time that Bell left Save a Patriot until I was
15 able to contact him. I don't remember -- let me
16 restate that.

17 If memory serves me correctly, I believe I had
18 heard about taxgate.com and called Rick Bryan, who
19 was supposed to be the Web master of taxgate.com,
20 started talking with him, and the next thing that I
21 remember, I was on a three-way phone conversation
22 with Thurston Bell with Rick Bryan.

23 Q So this is some months after Thurston Bell had left
24 Save a Patriot?

25 A Yes.

21

1 Q Do you remember how you found out about taxgate.com?

2 A I don't remember.

3 Q Why did you contact taxgate.com?

4 A To see if -- wow. Basically to see what they had on
5 their Web site as far as information. At the time
6 that I was told about Taxgate, I did not know that
7 Thurston Bell was associated with Rick Bryan with
8 this Web site. It wasn't until I had talked to
9 Rick Bryan that Rick put me into a three-way
10 conversation with Thurston, and it was like,
11 Thurston, that's you? Ray, that's you? Yeah.

12 Q Had you decided at the time that you contacted
13 Rick Bryan to leave Save a Patriot?

14 A During the course of the three-way conversation,
15 Thurston told me that he had left Save a Patriot for
16 whatever reasons, that he was now doing his work in
17 conjunction with the Taxgate site and that he would
18 take over my case if that's what I chose to do, which
19 I did.

20 Q Did you contact Save a Patriot after that point to
21 tell them that you stopped?

22 A No, I believe I just let my membership run out, and

23 that was it.

24 Q Did anyone from Save a Patriot contact you after
25 that?

22

1 A I don't remember.

2 Q During the three-way conversation did Thurston Bell
3 tell you what he could do for you?

4 A Thurston told me that he would type any necessary
5 letters for a fee of \$65 an hour.

6 Q This is probably a good time to ask about the first
7 time that you heard about the 861 argument, which is
8 also known as the U.S. sources argument. What's the
9 first time you heard any reference to either of those
10 two terms?

11 A I heard about the 861 argument through Thurston Bell.

12 Q Was it when he was at Save a Patriot or when he was
13 at Taxgate?

14 A I don't remember.

15 Q Do you remember how the argument came up in
16 conversation?

17 A No.

18 Q Do you remember either specifically or at least
19 generally what Thurston Bell said about the argument?

20 A I don't remember specifically what Thurston said, but
21 there was a point in time when I could read what the
22 861 argument was on -- at the taxgate.com site.

23 Q Did Bell ever claim credit for the 861 argument?

24 A I don't remember.

25 Q Let's go through the steps after you decided to join
23

1 taxgate.com. Did you pay any membership fee?

2 A Yes.

3 Q Do you remember how much?

4 A If memory serves me correctly, it was \$150.

5 Q To whom did you pay that?

6 A It went to Rick Bryan, and I don't remember if I made
7 the check out specifically to him or to taxgate.com.

8 I don't remember.

9 Q Now, you're using the name Rick Bryan. Through my
10 own course of looking on the Internet and through
11 Thurston Bell's characterization of Mr. Bryan, I see
12 another name associated with him, and that's
13 Rick Haraka, H-a-r-a-k-a. Have you also heard that
14 last name associated with the man that you know as
15 Rick Bryan?

16 A Yes.

17 Q I say that just for the sake of clarity, so if I slip
18 into Rick Haraka during our deposition, we'll know
19 that we're talking about the same person.

20 What was your first step after joining Taxgate
21 in regard to your taxes? The reason I ask the
22 question is I know you downloaded some information
23 from the Web site, and I know Thurston Bell prepared
24 letters for you. What was the first thing similar to
25 that that happened?

24

1 A I did nothing until I started getting letters from
2 the Internal Revenue Service or the Wisconsin
3 Department of Revenue.

4 Q Do you know approximately how long it was after you
5 joined Taxgate that you received your first letter?

6 A No, I don't.

7 Q Upon receipt of the first letter, what did you do?

8 A With respect to the Internal Revenue Service, there
9 was a prepared letter that you could download off of
10 the site, massage it with the necessary name, address
11 and signature block and year and send it off to the
12 Internal Revenue Service.

13 With the initial contact by the Wisconsin
14 Department of Revenue, my letters were prepared by
15 Thurston Bell.

16 Q Before we get too deeply into the work that Bell was
17 doing for you, I'd like to see if you have any
18 additional information about the relationship between
19 Bell and Rick Bryan Haraka. Did you talk to
20 Rick Bryan after the first three-way telephone
21 conversation?

22 A I don't remember.

23 Q Do you remember if Bell made any references to
24 Rick Bryan during his conversations with you?

25 A In what way?