

**US District Court  
District of South Carolina**

<b>United States of America,</b>	)	
<b>Plaintiff</b>	)	<b>No. 8:05cv2734-hmh</b>
	)	
<b>Vs.</b>	)	
	)	
<b>Robert Clarkson,</b>	)	<b>OBJECTION AND APPEAL OF</b>
<b>And The Patriot Network</b>	)	<b>REPORT OF MAGISTRATE</b>
<b>Defendant</b>	)	

Defendant Robert Clarkson hereby files his Objection and Appeal to the Report and Recommendation of Magistrate Judge dated May 14, 2007:

1. Clarkson appeared at the hearing April 19, 2007 before the Honorable Bruce H. Hendricks, US Magistrate Judge.
2. Clarkson received notification that this was status conference, maybe a chance to decide Clarkson’s Motion to Compel. Madam Magistrate announced that this was a settlement conference. Clarkson was prepared for both of these. However, the said Report of Magistrate is clearly a dispositive ruling on the government’s Motion for Summary Judgment.
3. Since Clarkson did not know a full hearing was to be held, he did not bring his witnesses or exhibits. Further, no opportunity for argument on the Motion for Summary Judgment, discovery and exhibits was allowed.

Defendant requests that this court hear this case *de novo* and schedule a full hearing. Several facts are disputed. Clarkson has evidence and witness to quickly prove his positions. Clarkson proofs are self-evident and the government should be required to just stipulate to them.

4. This case involves three issues:
  - A. Clarkson’s avoidance activities or untaxing upon which he was willing make a settlement. Since the government refused quick resolution, Clarkson now contests this due to the fact that no commercial exemption to the protection of the First Amendment exists. And, the government has not even come close to proving this essential element.
  - B. Clarkson’s “interference activities” in some respects called Judgment Proofing, which include trusts, his No Checks book/ video, “employee leasing” program, etc.

- C. Other “interference activities” such as appearing at IRS offices with a huge red cape labeled **The Great One** with an equally outrageous sombrero plus brief writing, classes and instructions on the Bill of Right, etc.

## I. Avoidance Activities

5. The Patriot Network is undisputedly a political organization. Robert Clarkson is likewise an American citizen with certain rights including protections under the First Amendment. However, the courts have graded Freedom of Speech activities and allow the government to suppress commercial speech.

6. Clarkson does not contest the precedents against him for free speech but defends himself on factual grounds that his political action did not make a profit. The weight of the precedents holds that a profit motive is required for the exemption to the rights of free speech.

The case law on this is explained in Defendants Memorandum of Law in Support of Objection of Magistrate’s Report. The facts are in Clarkson’s supporting affidavit.

## II. Interference Activities

7. In so far as the Clarkson’s highly successful inference with wrongdoing of the tax collectors, the government has not proven its case. The government loses on factual and legal grounds.

8. The government must prove that the information Clarkson disseminates is false and fraudulent plus that Defendant knows it. However, Clarkson’s information in this area cannot be false. It may be unpopular with the government and it defiantly interferes with bureaucratic expediency, but it is not false or fraudulent.

For example Clarkson informs tax victims that South Carolina has a married woman’s property rights act. This is a true statement. Clarkson then says that the husband can deed the family home to the wife; thereby it can not be touched by tax collectors and other creditors, with certain exceptions of course. Another example is that Clarkson would tell people the IRS can not levy your bank account if you close it or remove the money. The government surely does not dispute the truthfulness of this.

9. Clarkson is offended that the Magistrate reasoned that he did not tell taxpayers the full laws and procedures about bankruptcy on taxes pertaining to their actual circumstances. However, Clarkson knows very well that the website does not and can not furnish full and complete information on every tax collection issue to everybody.

However, not having space or ability to answer every possible question is far from false or fraudulent. Everybody knows that Clarkson has been conducting the same activities for more than thirty years. The IRS/ DOJ have no dirt on Clarkson, no suspicion of financial wrongdoing,

not one frivolous position or holding, not a single complaint against Clarkson's assistance in tax procedure matters.

10. Defendant is not an expert in the tax law and has never claimed to be, but he is a nationally recognized expert on tax procedure law- meaning audits, collections, etc. In so far as Clarkson's advice on audits, collections, etc., his information is not false or frivolous, but is totally correct with a few exceptions. Even though Clarkson makes many mistakes, his defensive advice in the tax procedure area is well respected and far better than the IRS agents. In fact, before the Tax Court on CDH appeals, Clarkson has won seven out of seven cases.

Nothing in his "interference activities" is false, even though Clarkson does make mistakes. The government has not even begun to prove these essential elements, not even submitted one document showing any of Clarkson's "interference" advice is incorrect much less false.

11. In thirty years, Defendant has never made false statements concerning "interference activities", except for a few honest mistakes. The government has had three years to produce some shred of evidence that Clarkson has knowingly mislead people or published anything that was incorrect at the time it was published. Madame Magistrate is correct however, that Clarkson does not tell non-lawyers everything they need to know about many subjects at the first meeting. However, that is not possible and every lawyer in South Carolina will support the defense on that.

12. Clarkson's political position, like anybody's opinion, cannot be found false or even incorrect. This is a belief and everybody is entitled to their own.

13. The government with immense resources at its disposal has not proven, or even alleged irreparable injury and the lack of less stringent constraints. As the Magistrate noted, these are the cornerstone of the injunction and the DOJ has not proven this essential proof. An Injunction is an extreme remedy and should not be granted except in extreme cases that are well-proven by the government.

14. Clarkson occasionally advises on trusts, but the actual work is done by a friend. Due to the impending collapse of the federal pension plans, Clarkson has a right to advise his friends and neighbors of the necessary steps to protect themselves. Defendant has made many exhibits on this but they were seized by the FBI on a political raid.

This is a rapidly growing area of the law called elder law. (See the article on David Walker, the US Controller General explaining the looming economic disaster, which is attached as Exhibit A.)

15. Clarkson's work on trusts involves many areas other than taxes. Including his trust work in this injunction would be overbroad and excessive. Further, clear, concise correct wording on the prohibition here would be impossible.

To many, hiding assets from the hospitals and nursing homes is essential. However to some, this is a **political** issue and the Patriot Network is a **political** organization. Clarkson has a right under the First Amendment to advocate repeal of federal pension plans which he considers unconstitutional. Teaching “interference” is merely another political gambit.

Incidentally, the IRS has no jurisdiction over people fighting the federal welfare agencies.

16. The friend with the employee leasing company serves many purposes not related to taxes. In relation to this and trusts activities, the government could easily proven irreparable harm if such existed. The DOJ’s argument is weak because no proof is offered.

Further, the government failed to suggest any alternative cures.

17. The IRS is no jewel either. Those bullies run roughshod over low-income citizens that do not have the resources to fight back. Maybe this court could balance the immense harm the IRS does to the little man versus Clarkson’s valiant effort to give them a fighting chance to protect their rights.

18. Clarkson will submit an affidavit on lack of profit motive to support the DOJ classification of commercial speech. Clarkson will submit a memorandum of law to support this Motion when he can find the password to his Westlaw account. Rather than being repetitive, Defendant incorporates by reference his Motion for Extension for Time, answers to complaints, Motions to Dismiss, Replies, Opposition to Government’s Motion for Summary Judgment (entry #56), etc.

### **III. Prosecutorial Misconduct:**

19. The FBI is part of the Department of Justice and works for the government’s attorneys. Under some undisclosed illegal COINTELPRO project, the DOJ/FBI raided Clarkson’s office and removed all of his materials needed for the defense in this case.

Clarkson had a collection of articles on well-known elected officials calling for various forms of a tax revolt. (See exhibit B, President Reagan advocating a tax revolt.) The FBI took many copies of the video entitled “The Great Tax Revolt” wherein President Reagan called for the middle class to revolt against the income tax.

The opposition should not be allowed to benefit from its wrongdoing. The FBI should be required to return Clarkson’s possessions unless they can prove that **dismantling** is a legal and Constitutional project. Clarkson’s discovery on the FBI Dismantling project should be granted and the entire program should be brought to light. If the **dismantling** program is found to be illegal, wrongful, or unconstitutional, then this court should use its inherent powers.

20. Under our system of independent judiciary, the final decision on the scope of this FBI political disruption program would come from a federal judge, not the top administrators of a

vital and necessary law enforcement agency. Even the highest elective official can not ultimately decide whether an administrative program fits inside the Constitution.

The government must prove that the raid was a legal, authorized function of the investigative arm of the DOJ, plus that the tax bureaucrats authorized the FBI to invade IRS territory. Or, this case should be dismissed on the grounds of prosecutorial misconduct.

21. To function, government bureaucracies need a defined area of operation. Otherwise, empire-building bureaucracy would expand too much. This dissipation of limited resources would create inefficiencies and wasteful duplication. When efficiency decreases, taxes rise. According to supply side economics, then the over-taxed citizens would join “tax protest” groups.

22. Agent Andy stated very clearly that one purpose of the FBI investigation was to prosecute Clarkson for tax crimes, as Clarkson was not involved in the investigation on banking violations.

The FBI does not need to dismantle anti-tax political groups as the FBI and federal Judges have already shut down over 200 of these. Incidentally, the Privacy Act 5 USC 552a in subsection (e) (1) provides that the FBI shall not maintain, use or disseminate any document but “only such information about an individual as is relevant and necessary to accomplish a purpose of an agency required to be accomplished by statute.”

#### **IV. Finances**

23. For decades, Clarkson has not required members to pay dues and has never required members to buy any particular book. About once a year, Clarkson does require difficult people to pay him for the work. To operate, the Patriot Network needs money and strongly encourages donations.

24. Clarkson needs money to fight the federal government and does in fact sell books and material. The majority of the people in his programs contribute nothing and very few contribute enough to cover their costs.

As well known, Clarkson receives 100% disability from VA and has an unbridled hatred for the federal government for what happened to him in the war in Southeast Asia. Consequently Clarkson spends almost nothing on himself. At the end of each month he has not accumulated any assets, savings or properties. Using backwards accounting, Clarkson can prove that he does not receive any profit or income from his political activities or even close to it.

25. Clarkson of course disagrees with every adverse position by the Magistrate and the DOJ. However, he is especially concerned that:

A. The final order is written in such a way he can not understand it and therefore may end up in jail by mistake. Clarkson does not see any problem in the avoidance area but does not believe any injunction in the interference area could be understood by anybody.

B. Clarkson should be allowed a reasonable amount of time (30 days) to meet requirements of the final order. Clarkson does not see any problem submitting to the administrative requirements of the court order but requests that the DOJ be reasonable.

C. Clarkson objects to costs against him because he has an honest belief that the First Amendment protected political activities and free speech. Further Patriot Network never filed frivolous pleadings or send in frivolous letters or phony POA's.

26. Government should comply with Clarkson's discovery as he needs that information to defend his case. So far, they have only released copies of Clarkson's website and then the FBI seized that.

27. In conclusion, the DOJ simply has not proven or even tried to prove the requirements of IRC sec 7402. Therefore the Magistrate report should be adopted and injunction denied.

Further, the IRS with its massive resources has not proven that Clarkson made a profit, that his activities interfered with their operations, or that the IRS invited the FBI into this case or any tax investigation.

**Certificate of Service:** I certify that I sent properly on this date a copy of this motion to the opposing party, via email to Attorney Schaeffer and hardcopy to Attorney Conits.

Date: June 14, 2007

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## GAO Chief Warns Economic Disaster Looms

GAO Chief Takes to Road, Warns Economic Disaster Looms Even As Many Candidates Avoid Issue

David M. Walker, Comptroller General of the United States Government Accountability Office, speaks during a Fiscal Wake-Up Tour public meeting at the LBJ School of Public Affairs in Austin , Texas , in this September 28, 2006 file photo. The Fiscal Wake-Up Tour is sponsored by the Concord Coalition, a nonpartisan grassroots organization dedicated to informing the public about the need for generationally responsible fiscal policy. (AP Photo/Chris Carson, File)

The Associated Press

**By MATT CRENSON AP National Writer**

AUSTIN, Texas Oct 28, 2006 (AP)

David M. Walker sure talks like he's running for office. "This is about the future of our country, our kids and grandkids," the comptroller general of the United States warns a packed hall at Austin 's historic Driskill Hotel. "We the people have to rise up to make sure things get changed."

But Walker doesn't want, or need, your vote this November. He already has a job as head of the Government Accountability Office, an investigative arm of Congress that audits and evaluates the performance of the federal government.

Basically, that makes Walker the nation's accountant-in-chief. And the accountant-in-chief's professional opinion is that the American public needs to tell Washington it's time to steer the nation off the path to financial ruin.

From the hustings and the airwaves this campaign season, America 's political class can be heard debating Capitol Hill sex scandals, the wisdom of the war in Iraq and which party is tougher on terror. Democrats and Republicans talk of cutting taxes to make life easier for the American people.

Exhibit A, page 1

What they don't talk about is a dirty little secret everyone in Washington knows, or at least should. The vast majority of economists and budget analysts agree: The ship of state is on a disastrous course, and will founder on the reefs of economic disaster if nothing is done to correct it.

There's a good reason politicians don't like to talk about the nation's long-term fiscal prospects. The subject is short on political theatrics and long on complicated economics, scary graphs and very big numbers. It reveals serious problems and offers no easy solutions. Anybody who wanted to deal with it seriously would have to talk about raising taxes and cutting benefits, nasty nostrums that might doom any candidate who prescribed them.

"There's no sexiness to it," laments Leita Hart-Fanta, an accountant who has just heard Walker 's pitch. She suggests recruiting a trusted celebrity maybe Oprah to sell fiscal responsibility to the American people.

Walker doesn't want to make balancing the federal government's books sexy he just wants to make it politically palatable. He has committed to touring the nation through the 2008 elections, talking to anybody who will listen about the fiscal black hole Washington has dug itself, the "demographic tsunami" that will come when the baby boom generation begins retiring and the recklessness of borrowing money from foreign lenders to pay for the operation of the U.S. government.

"He can speak forthrightly and independently because his job is not in jeopardy if he tells the truth," said Isabel V. Sawhill, a senior fellow in economic studies at the Brookings Institution.

Walker can talk in public about the nation's impending fiscal crisis because he has one of the most secure jobs in Washington . As comptroller general of the United States basically, the government's chief accountant he is serving a 15-year term that runs through 2013.

This year Walker has spoken to the Union League Club of Chicago and the Rotary Club of Atlanta, the Sons of the American Revolution and the World Future Society. But the backbone of his campaign has been the Fiscal Wake-up Tour, a traveling road show of economists and budget analysts who share Walker 's concern for the nation's budgetary future.