

Hard Lessons Learned

January 8, 2003

As most of you know by know, my friend Dick Simkanin was convicted on 29 of the 31 counts brought against him by the federal government.

When good people like Dick Simkanin are prosecuted and jailed by a corrupt court system, that is protecting a corrupt tax system, the natural reaction is to become angry and want to find a way to express that anger. I know; I've seen many of these cases over the years.

There may be many ways to respond to such events, but one of them is to learn from what the person has experienced. That is the purpose of this message.

Not long ago, a dentist by the name of Pensyl was convicted for 7203 and there was a ground swell of anger and resentment within the Tax Honesty Movement. Prior to the trial I had been retained by the defense to review the government's evidence. Unfortunately, Pensyl was the perfect profile of a guy the government wants to prosecute. He'd done just about everything wrong that a person could do wrong. He was a conviction waiting to happen.

For a person with his eyes open, there was much to learn from the Pensyl case. Although the circumstances are very different in the Simkanin case, there is still much to be learned from Dick's tribulation. Let's review what we know of the Simkanin matter.

Dick Simkanin is an icon of the Tax Honesty Movement. Dick is liked and respected by everyone who's ever met him; unless their paycheck came from Uncle Sam. I even suspect quite a few government people who came in contact with Dick couldn't help feeling a grudging respect for Dick's courage and style.

Dick put himself "on the map" (and in the IRS' sights) in 2001 when he and twelve other men put their names, photos, and company names in a USA Today ad (run by We The People Foundation) which was intended to educate American businesses to the fact that there is no legal requirement to withhold taxes from private-sector workers in the states of the Union. Dick's involvement in the Movement only grew from there.

As some of you may know, Dick retained my services for a short period in 1999. During our conversations, I encouraged Dick to unerringly follow the narrow path of the law. (And remember, the law, as written, supports the Tax Honesty Movement). I shared with Dick my view of what is necessary to travel that narrow path. While Dick listened attentively to everything I said to him, he eventually took the advice of people whose views were more "adventurous".

It is always important in these situations to see where the government's victim [in this case, Dick] ran into trouble. In other words, "What went wrong?" Usually in these cases something went awry long before the authorities ever thought of a criminal prosecution.

Before I go further, let me say quite plainly that no matter what “tactical errors” Dick may have committed on his honorable journey, the ultimate problem is the government’s incessant protection of the improper and illegal application of the tax code. It is the government that is the evildoer in this matter, and Dick (along with countless others) is its victim.

As I’ve said over and over again, education of The People is the answer. Conversely, lack of education is the problem. We can see that simply by looking at the Simkanin case. Judge McBryde tilted the playing field so far in the government’s favor that the second trial became a joke; a travesty of justice pretending to be a court of law. Even so, it took a plainly unlawful command to the jury by Judge McBryde (during deliberations) to finally move the case in the government’s favor.

However, in the final analysis it was the ignorance and complacency of the jury that won the day for the government. Had the jury said “NO! We are aware of the fraud that the government is perpetrating, and we will not do your bidding”, Dick would be at home right now enjoying a hot supper with his wife. Those twelve jurors failed to realize that by “obeying” the judge, and convicting Dick, they failed in their duty as citizens and they injured the rights of citizens generally, including their own.

Certainly the educating this nation is, and must remain, an ongoing effort, but how can you protect yourselves from ending up in Dick’s shoes? In other words, “What can we learn from Dick’s history that will help us succeed?” If we fail to examine these types of situations thoroughly and objectively, we fail to avail ourselves of the tools to improve our own position, as well as advance our cause.

Many people in America today lock their doors and windows when they go to bed. They do so because they fear that a criminal may invade their home as they sleep. The same principle must be applied by people who choose the nontaxpayer lifestyle; our legal doors and windows must be firmly shut or the criminals (US government) may invade our world while we are going about our lives.

So what can we learn from Dick’s tragedy? Here are some suggestions:

- 1) If you’ve done business as a corporation, always dissolve the corporation when becoming a nontaxpayer; do not merely let it lapse by failing to pay the annual renewal fee. A corporation that does not pay its annual fees to the state doesn’t cease to exist (as some would contend) but instead it has its corporate privileges suspended. If a corporation does not pay its renewal fees, nor file papers to be dissolved, the state does not consider the corporation “ended”; it merely considers the entity to be an “irresponsible corporation” conducting its corporate activities illegally while suspended. It’s the corporate version of “driving on a suspended license”.
- 2) Always cancel your existing Employer Identification Number (EIN). Although in theory the mere possession of an EIN by your business should not require you to withhold from workers who are plainly not the subjects of chapter 24 of the IRC, the government’s perspective is that if you have an active EIN, they have jurisdiction and you should be withholding from your workers. In other words, if you have an

active EIN, the government's view is that you don't have any common law workers, but only statutory employees.

- 3) Be very careful from who you receive counsel. Regrettably, there are many people out there who will lead you down the primrose path – right into the jaws of the lion – and take quite a bit of your money in the process. Although it can be difficult to know who to trust, I'd recommend staying away from:
 - a) People who seem fueled by anger.
 - b) People who seem to be on a reckless crusade
 - c) People who appear to be “too smooth”. Listen to your instincts.
 - d) People with solutions that don't sound very logical.
 - e) People with solutions that sound legally questionable.
 - f) People who exhibit extremely high ego.
 - g) People who seem to be looking for conflict, as opposed to resolution.
 - h) People who have only one solution, no matter what the problem.
 - i) People who claim to have the “silver bullet” solution.

- 4) You may want to consider how public you wish to be with your nontaxpayer activities. While I admire Dick for appearing in the USA Today ad, and I am certainly “high profile”, going high profile is not for everyone. The more public exposure you receive, the tighter your game has to be. While I believe that all of us should be spreading the word as far and wide as our abilities and circumstances permit, one should carefully consider whether one wants to expose one's activities in the media. While people like Bob Schulz, Devvy Kidd, Larken Rose, John Turner, Sherry Jackson, Joe Banister, and myself are comfortable in the public eye, it is not for everyone.

- 5) As I've said a million times – never, never, never, never, never, file for refund of taxes that you've already paid. Let it go. Move on. Accept that they got their pound of flesh, while taking steps to make sure they get no more. While the government will allow a nontaxpayer to leave the tax system (if done correctly), it will go after a refund-filing nontaxpayer like a rabid dog.

The Tax Honesty Movement has progressed a great deal in the last decade. We are many times more powerful than we were just a few years ago. Our numbers are growing every year. Our efforts to educate the public are having an affect. The profile of people who are joining our ranks now include mainstream businessmen, professionals, and people of wealth. Even in the face of Soviet-like tactics such as were employed in the Simkanin case, the Tax Honesty Movement continues to grow. The question is not if we will prevail, only when! However, as our battles against lawlessness and corruption continue, let us not throw ourselves upon our swords.

As I said at the outset of this message, the proper legal path of the nontaxpayer is narrow and well defined. There is no room to be “adventurous” in our legal conduct and we should immediately spurn those who would take us off the proper path and encourage us to be adventurous with tax law.

There may come a day when duty and honor will require painful sacrifices from each of us if we are to reclaim and preserve the liberties given to us by God and established by our forefathers. Until that day, stay on the narrow path and do not become a victim.

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