

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:09CR27-1-RLV

UNITED STATES OF AMERICA,)
)
)
v.)
)
BERNARD VON NOTHAUS,)
)
)
_____)

**DEFENDANT'S MOTION FOR
MISCELLANEOUS RELIEF**

NOW COMES the Defendant, through counsel, and hereby moves the Court for an amended Release Order clarifying its prior oral order setting conditions of release. In support of his motion, the Defendant shows the following

1. The Defendant is charged with being a member of the "Liberty Dollar Organization," which the Government alleges engaged in counterfeiting U.S. coins. The Defendant and others are indicted for violations of 18 U.S.C. §§ 371, 485-86, and 1341.
2. As a special condition of release, U.S. Magistrate Judge Cayer ordered that "Defendant shall not circulate or aid in the circulation of any coins or currency in relation to the Liberty Dollar Operation."
3. Apart from any role he may have with Liberty Dollar, the Defendant is a political activist. Prior to his indictment in the instant case, his business minted and accepted orders for "Tea Party Dollars". The Tea Party Dollar is a copper medallion which has "Freedom" written on one side with the profile of a woman's head with crown, and on the other side states "Tea Party Dollar" and has a picture of a teapot with the word "TAXES" on it with a line drawn through it. Below the teapot it states, "USE REAL

MONEY” and beneath that WWW.TEAPARTYDOLLAR.ORG and below that “888.LIB.DOLLAR”. Attached to this motion is a copy of the front and back of the medallion.

4. The Defendant advised counsel that he has many outstanding orders for the Tea Party Dollar, and that the customers have already paid. However, he has not filled the orders due to his concern that to do so might violate the conditions of his bond. He advises counsel that all customers are fully aware that the Tea Party Dollar is not a U.S. coin or currency and is not intended as such. Instead, it is intended as a show of support for a political position advocating, among other things, limited government, reduced government spending, and lower taxes. The Defendant further contends that he has a First Amendment right to express his political views via the Tea Party Dollar.
5. I have seen the Tea Party Dollar, and in my opinion no reasonable person would confuse it for real U.S. currency. There is no U.S. coin in circulation that is similar in size or color, and the Tea Party Dollar has no denomination of value on it. Also, the Tea Party Dollar does not purport to be a “Liberty Dollar”. Nonetheless, I advised the Defendant that I am not sure whether fulfilling orders of the Tea Party Dollar would violate the conditions of his bond, because “888.LIB.DOLLAR” does appear on the medallion. I advised the Defendant that the safer route would be to either not fulfill the orders or to file a motion requesting clarification of the Court’s conditions of release.

WHEREFORE, the Defendant moves the Court for an order clarifying whether its current release order prohibits the Defendant from fulfilling orders of the Tea Party Dollar.

Respectfully submitted this the 22nd day of September, 2009.

s/ Deke Falls
N.C. Bar # 24232
Barnett & Falls, P.A.
130-C North McDowell Street
Charlotte, North Carolina 28204
Phone: (704) 334-2044
Fax: (704) 334-2095
Email: deke@barnettfalls.com
Counsel for von Nothaus

CERTIFICATE OF SERVICE

I, Deke Falls, hereby certify that I have this day served a copy of the foregoing Defendant's Motion for Miscellaneous Relief upon the attorney for the government via electronic filing and addressed to the following:

Jill.Rose@usdoj.gov

Mark.Odulio@usdoj.gov

Steven.Kaufman@usdoj.gov

Thomas.ascik@usdoj.gov

Mpruden@tinfulton.com

Claire.Rauscher@fd.org

Joevonkallist@yahoo.com

This the 22nd day of September, 2009.

s/ Deke Falls
N.C. Bar # 24232
Barnett & Falls, P.A.
130-C North McDowell Street
Charlotte, North Carolina 28204
Phone: (704) 334-2044
Fax: (704) 334-2095
Email: deke@barnettfalls.com
Counsel for von Nothaus

