

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08cv230**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	ANSWER OF CLAIMANTS
)	
3039.375 POUNDS OF COPPER)	
COINS, <i>et al.</i>,)	
)	
Defendants.)	
)	

Claimants Shelter Systems, LLC, a/k/a Shelter Systems Warehouse (hereinafter, “Systems”), Bernard von NotHaus, Mary Nothhouse, Jeff Kotchounian, Matt Pitagora, Dave Gillie, Dan Morrow, Gerhart Reile, Karl Reile, Alan McConnell, Tom Olmsted, William H. Wesson, Dan Priest, and Vernon L. Robinson (hereinafter referred to as “CLAIMANTS”), for themselves alone and for no other Defendants or Claimants, hereby, demand a jury trial pursuant to Fed. R. Civ. Proc. 38(b), answers the Original Complaint of the Plaintiff United States of America for Forfeiture *In Rem*, (hereinafter referred to as “United States”), and admit, deny, and allege as follows:

Jurisdiction

1. Admit.
2. Admit.
3. Admit.
4. Admit.

Venue

5. Admit.

Defendant Properties

6. Deny for lack of information.
7. Deny for lack of information.
8. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”
9. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”
10. Admit, but state that “Liberty Services” was never incorporated and was never described as “Liberty Services, Inc.” “Liberty Services” has at all times been a sole proprietorship.
11. Admit, but state that “Liberty Services” was never incorporated and was never described as “Liberty Services, Inc.”
12. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”
13. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”
14. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”
15. Admit.
16. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

17. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 17, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

18. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

19. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

20. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

21. Deny.

22. Deny.

23. Deny.

24. Deny for lack of information.

25. Admit.

26. Admit that *The Liberty Dollar* (p.23) contains the quotation “direct competition.” Deny the remainder of paragraph 26 as such quotation is taken out of context.

27. Admit that *The Liberty Dollar* (p.1) contains the quotation “free market currency.” Deny the remainder of paragraph 27 as such quotation is taken out of context.

28. Admit that *The Liberty Dollar* (p.20) contains the quotation “is meant to be spent.” Deny the remainder of paragraph 28 as such quotation is taken out of context.

29. Admit that *The Liberty Dollar* (p.18) contains the quotation “in commerce.” Deny the remainder of paragraph 29 as such quotation is taken out of context.

30. Admit that *The Liberty Dollar* (p.22) contains the quotation “The Liberty Dollar is not an investment. It pays no interest, no return, nor promises any appreciation,” but state that such quotation must be read in context.

31. Admit that *The Liberty Dollar* (p.23) contains the quotation “The Currency is not sold. It is exchanged for those dreaded Federal Reserve Notes,” but state that such quotation must be read in context.

32. Admit that *The Liberty Dollar* (p.23) contains the quotation “ALD’s are not notes.” Deny the remainder of paragraph 32 as such quotation is taken out of context.

33. Admit that *The Liberty Dollar* (p.23) contains the quotation “NORFED is not a bank,” but state that such quotation must be read in context.

34. Admit that *The Liberty Dollar* (p.29) contains the quotation “The Liberty Dollar is NOT an investment. It is a currency,” but state that such quotation must be read in context.

35. Admit that *The Liberty Dollar* (p.29) contains the quotation “silver bullion.” Deny the remainder of paragraph 35 as such quotation is taken out of context.

36. Deny in that the statement referenced in paragraph 36 was only to the effect that Liberty Dollars are not *marketed* as numismatic items.

37. Deny.

38. Admit.

39. Admit.

40. Deny.
41. Deny that Liberty Dollars are engraved with the dollar sign of the United States. Admits that Liberty Dollars are engraved with "\$" and the word "dollar."
42. Deny.
43. Deny.
44. Admit.
45. Deny that American Liberty Dollars are "coins." Admit remainder of paragraph 45.
46. Admit.
47. Deny that American Liberty Dollars are "coins." Admit remainder of paragraph 47.
48. Admit.
49. Deny that American Liberty Dollars are "coins." Admit remainder of paragraph 49.
50. Admit.
51. Deny that American Liberty Dollars are "coins." Admit remainder of paragraph 51.
52. Deny that coins of the United States in the denominations of half-dollar, quarter, dime, and nickel are silver in color. Such coins are "nickel" in color, and such coins contain no silver.
53. Deny that American Liberty Dollars are "coins." Admit that American Liberty Dollar is specie, made of pure silver, and, therefore, are silver in content and color.

54. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 54.

55. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 55.

56. Deny for lack of information.

57. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 57.

58. Admit.

59. Admit.

60. Admit.

61. Admit.

62. Admit.

63. Admit.

64. Deny that the reference section from the *Liberty Dollar* (p.2) is a statement of value in U.S. dollars. Admit that in 2002 there were over 3 million American Liberty Dollars in circulation throughout the world.

65. Admit.

66. Admit.

67. Admit.

68. Admit.

69. Admit.

70. Admit.

71. Admit.

72. Admit.

73. Admit.

74. Deny that the quotation is a statement of Claimant Bernard von NotHaus.

Admit the remainder of paragraph 74.

75. Admit.

76. Admit.

77. Admit.

78. Admit that the statement was made. Deny the insinuation that the statement is false and that American Liberty Dollars are illegal.

79. Admit.

80. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 80.

81. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 81.

82. Admit.

83. Admit that the statement was made. Deny the insinuation that the statement is false and that warehouse receipts are not 100% backed by silver.

84. Admit.

85. Admit.

86. Admit that the statement was made. Deny the insinuation that the statement is false and that eLiberty Dollars receipts are not 100% backed by silver.

87. Deny because there are only three levels.

88. Deny that Regional Currency Officers are “selling” American Liberty Dollars. Instead, American Liberty Dollars are being “exchanged.” Admit the remainder of paragraph 88.

89. Deny that American Liberty Dollars are “coins.” Deny that Regional Currency Officers “purchase” American Liberty Dollars. Instead, American Liberty Dollars are being “exchanged.” Admit the remainder of paragraph 89.

90. Deny that the referring person receives a “profit” of \$100.

91. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

92. Deny for lack of information. Further deny that Merchants “purchase” American Liberty Dollars. Instead, American Liberty Dollars are being “exchanged.”

93. Deny.

94. Deny that Merchants “purchase” American Liberty Dollars. Instead, American Liberty Dollars are being “exchanged.” Admit the remainder of paragraph 95.

95. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

96. Admit.

97. Deny that the merchant automatically makes a “profit” by giving Liberty Dollars as change.

98. Deny that there are “purchasers” of American Liberty Dollars. Instead of being purchased, American Liberty Dollars are being “exchanged.” Admit the remainder of paragraph 98.

99. Admit, but clarify that a “purchaser,” as described in paragraph 99 is a purchaser of unrelated goods or services from a merchant.

100. Deny.

101. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

102. Deny that NORFED, Inc. “sells” American Liberty Dollars. Instead, American Liberty Dollars are being “exchanged.” Admit the remainder of paragraph 102, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

103. Deny.

104. Deny that Regional Currency Officers, Members, and Merchants “sell” American Liberty Dollars. Instead, American Liberty Dollars are being “exchanged.” Admit the remainder of paragraph 104.

105. Deny.

106. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 106.

107. Deny.

108. Admit, but state that “NORFED” is a dissolved corporation and should properly be described as “NORFED, Inc.”

109. Deny.

110. Admit.

111. Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 111.

112. Deny for lack of information.

113. Deny for lack of information.

114. Deny for lack of information.

115. Deny for lack of information.

116. Deny for lack of information.

117. Deny for lack of information.

118. Deny for lack of information.

119. Deny that NORFED, Inc. has “employees.” Deny that NORFED, Inc. paid “salaries.” Deny that American Liberty Dollars are “coins.” Admit remainder of paragraph 119.

120. Deny for lack of information.

121. Deny for lack of information.

122. Deny for lack of information.

123. Admit.

124. Deny for lack of information.

125. Deny for lack of information.

126. Deny for lack of information.

127. Deny for lack of information.

128. Deny that address is accurate. Admit remainder of paragraph 128.

129. Deny for lack of information.

130. Deny for lack of information.

131. Deny for lack of information.

132. Deny for lack of information.

133. Deny for lack of information.

134. Deny for lack of information.

135. Deny for lack of information.

136. Deny for lack of information.

137. Deny for lack of information.

138. Deny for lack of information.

139. Deny for lack of information.

140. Deny for lack of information.

141. Deny for lack of information.

142. Deny.

143. Deny.

144. Deny.

145. Deny.

146. Admit that those identified in paragraph 146 are interested parties. Deny that paragraph 146 is a complete list of the interested parties to this case.

Under the provisions of Rule 8 of *Federal Rules of Civil Procedure*, these answering CLAIMANTS deny both generally and specifically each and every allegation in the Complaint except those expressly admitted herein.

AFFIRMATIVE DEFENSES

147. Relief is sought pursuant to the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, and pursuant to Rule 65, Federal Rules of Civil Procedure, and under certain statutes for equitable and other relief.

148. This Court has jurisdiction over CLAIMANTS' affirmative defenses arising under the Constitution and laws of the United States, pursuant to 28 U.S.C. § 1331, for those claiming deprivation of civil rights under 28 U.S.C. § 1343 and for injunctive relief under Rule 65 of the Federal Rules of Civil Procedure.

Parties

149. Claimant Systems is a Wyoming limited liability company.

150. Claimant Jeff Kotchounian is now, and at all relevant times hereto, an individual and resident of the State of Michigan.

151. Claimant Matt Pitagora is now, and at all times relevant hereto, an individual and resident of the State of California.

152. Claimant Dave Gillie is now, and at all times relevant hereto, an individual and resident of the State of Michigan.

153. Claimant Dan Morrow is now, and at all times relevant hereto, an individual and resident of the State of California.

154. Claimant Karl Reile is now, and at all times relevant hereto, an individual and resident of the State of New York.

155. Claimant Alan McConnell is now, and at all times relevant hereto, an individual and resident of the State of Indiana.

156. Claimant Tom Olmsted is now, and at all times relevant hereto, an individual and resident of the State of Tennessee.

157. Claimant William H. Wesson is now, and at all times relevant hereto, an individual and resident of the State of Colorado.

158. Claimant Dan Priest is now, and at all times relevant hereto, an individual and resident of the State of California.

159. Claimant Vernon L. Robinson is now, and at all times relevant hereto, an individual and resident of the State of North Carolina.

160. Claimant Gerhart Reile is now, and at all times relevant hereto, an individual and resident of the State of New York.

161. Claimant Bernard von NotHaus is now, and at all times relevant hereto, an individual and resident of the State of Indiana.

162. Claimant Mary Nothhouse is now, and at all times relevant hereto, an individual and resident of the State of Florida.

163. Defendant properties and other property was seized from the premises at the business located at 750 West Canfield Avenue, Coeur d'Alene, Idaho, 83815, pursuant to a search warrant issued in the District of Idaho by the Honorable Mikel H. Williams, United States Magistrate Judge, Case No. MS-07-6337-MHW and a seizure warrant issued in the Western District of North Carolina by the Honorable Dennis L. Howell, United States Magistrate Judge, Case No. 1:07-mj-001-DLH; from the premises at the business location at the business located at 225 N. Stockwell Road, Evansville, Indiana, 47715, pursuant to a search warrant issued in the Southern District of Indiana by the Honorable Richard L. Young, United States District Court Judge, Case No. 3:07-mj-0017 and a seizure warrant issued in the Western District of North Carolina by the Honorable Dennis L. Howell, United States Magistrate Judge, Case No. 1:07-mj-120; and from four other premises pursuant to search and seizure warrants unknown to the CLAIMANTS.

164. During the searches and seizures, federal agents seized numerous items from the premises including the Defendant properties. Copies of the inventories of the items seized, as prepared by the federal agents whom conducted the searches, is attached hereto as Exhibit A. However, Exhibit A is not an exhaustive list of the items seized.

165. Claimant Systems has standing to bring this claim on behalf of itself and on behalf of others who are in fact the owners of the Defendant properties and other properties that were seized because Claimant Systems is entitled to lawful possession of the properties seized and because Claimant Systems is involved in a business from which the properties were seized.

166. Claimants Jeff Kotchounian, Matt Pitagora, Dave Gillie, Dan Morrow, Karl Reile, Alan McConnell, Tom Olmsted, William H. Wesson, Dan Priest, Vernon L. Robinson, Gerhart Reile, Bernard von NotHaus, and Mary Nothhouse have standing to bring this claim on behalf of themselves as the rightful owners of property that was seized.

167. This Court has jurisdiction to order the return of the items seized upon a showing of (1) irreparable injury, and (2) that CLAIMANTS otherwise lack a remedy at law. CLAIMANTS contend and believe that they have been irreparably harmed by the actions of the United States. The irreparable harm includes, but is not limited to, denial of CLAIMANTS' Fourth Amendment rights to protection from search and seizure based on an invalid warrant, CLAIMANTS' Fifth Amendment rights to privileges, CLAIMANTS' Eighth Amendment rights to protection from a grossly disproportionate fine and selective punishment, and CLAIMANTS' Fourteenth Amendment rights to due process, interference with private contracts, and interference with business operation.

The denial of CLAIMANTS' constitutional rights is continuing and cannot be remedied unless this Court orders the return of CLAIMANTS' property. CLAIMANTS ask this Court to return all of the items seized from them. In the alternative, all such documents and items should be returned to the CLAIMANTS with the United States preserving a copy or sample for future use, if any.

168. Claimants Jeff Kotchounian, Matt Pitagora, Dave Gillie, Dan Morrow, Karl Reile, Alan McConnell, Tom Olmsted, William H. Wesson, Dan Priest, and Vernon L. Robinson are bearers of negotiable warehouse receipts, issued pursuant to the Uniform Commercial Code, and are the true owners of warehoused property to which the negotiable warehouse receipts relate and that was seized from the premises at the business located at 750 West Canfield Avenue, Coeur d'Alene, Idaho, 83815.

169. Claimant Systems is the warehouseman (as defined by UCC § 7-102), bailee (as defined by UCC § 7-102), or person rightfully entitled to possession of property seized from the premises at the business located at 750 West Canfield Avenue, Coeur d'Alene, Idaho, 83815 by the United States on November 14, 2007 pursuant to the warrants, Exhibit B.

170. Claimant Bernard von NotHaus is the person rightfully entitled to possession of property seized from the premises at the business located at 225 N. Stockwell Road, Evansville, Indiana, 47715 and from other premises.

171. Claimant Gerhart Reile wired US\$96,382.25 to Claimant Bernard von NotHaus d/b/a Liberty Services on November 13, 2008. Such money was seized by the United States on November 14, 2007 pursuant to the warrants, Exhibit B. Claimant

Gerhart Reile is the person rightfully entitled to possession of the amount of US\$96,382.25 of the Defendant properties.

172. Mary Nothhouse is the owner of 16,000.05 ounces of silver bars, which were stored at the premises at the business located at 750 West Canfield Avenue, Coeur d'Alene, Idaho, 83815, under a contract that was wholly separate and distinct from NORFED, Inc., Liberty Services, Claimant Bernard von NotHaus, and Claimant Systems. Claimant Mary Nothhouse is the person rightfully entitled to possession of the Defendant 16,000.05 ounces of silver bars.

173. Claimants Systems, Jeff Kotchounian, Matt Pitagora, Dave Gillie, Dan Morrow, Karl Reile, Alan McConnell, Tom Olmsted, William H. Wesson, Dan Priest, Vernon L. Robinson, Gerhart Reile, and Mary Nothhouse are not the individuals or entities that are the targets of the criminal investigation, which is referenced in the warrants, Exhibit B.

174. Claimant Bernard von NotHaus is the individual or successor to the entities referenced in the warrants, Exhibit B. Claimant Bernard von NotHaus has not been indicted for the crimes alleged in the warrants.

175. "Anomalous jurisdiction" gives federal district courts power to order suppression or return of unlawfully seized property even though no indictment has been returned and thus no criminal prosecution is yet in existence. Jurisdiction to order suppression or return prior to indictment exists not by virtue of any statute but rather is derived from the inherent authority of the Court over those who are its officers.

176. Even if an illegal act was committed with respect to their property, CLAIMANTS did not know of or consent to the illegal use of their property, and, thus,

CLAIMANTS are not subject to forfeiture and are entitled to an immediate return of property seized from them under 18 U.S.C. § 983(d) and the Eighth Amendment to the United States Constitution.

177. CLAIMANTS ask this Court to return all of the items seized from them. But, in order to prevent further violation of their constitutional rights and because property seized from the premises are numismatic and include a collector value, CLAIMANTS request an order from the Court enjoining the United States from any additional handling, shipment, or movement of the seized property as mishandling numismatic material can negatively impact value.

178. The search and seizure in this case was unlawful and illegal because, among other reasons, the items were seized without probable cause, items were not described in the warrants which were overly broad, no search warrant was otherwise obtained as required by law, and the affidavit that was used to support and obtain the warrants was intentionally deceptive and misleading, as described herein.

179. Even if the search and seizure were lawful and legal, the United States no longer has a need to use the property that was seized as evidence, and such property should be returned to CLAIMANTS, who are its rightful owners. The United States has the ability to photocopy items, retain only a sample of the property, or to condition the return of property on the United States' access to the property at a future time.

Facts and Analysis

180. Liberty Services, a sole proprietorship, has a place of business in the State of Indiana. Liberty Services is formerly known as NORFED, Inc., a dissolved corporation.

181. Bernard von NotHaus is an officer and the sole owner of Liberty Services.

182. The Liberty Dollar and Hawaii Dala, which are referenced in the warrants, Exhibit B, are private voluntary barter currencies.

183. Between the dates of October 1, 1998 and November 13, 2007, Claimants Jeff Kotchounian, Matt Pitagora, Dave Gillie, Dan Morrow, Karl Reile, Alan McConnell, Tom Olmsted, William H. Wesson, Dan Priest, and Vernon L. Robinson and/or other individuals entered into warehouse arrangements with Claimant Systems, pursuant to Uniform Commercial Code § 7-104.

184. Pursuant to the warehouse arrangements, Claimant Systems, issued Negotiable Warehouse Receipts to Claimants Jeff Kotchounian, Matt Pitagora, Dave Gillie, Dan Morrow, Karl Reile, Alan McConnell, Tom Olmsted, William H. Wesson, Dan Priest, and Vernon L. Robinson and/or other individuals, which are redeemable by the bearer of such receipts on demand for the property seized, a sample copy of which is attached hereto as Exhibit C (hereinafter “paper warehouse receipts”).

185. Pursuant to the warehouse agreement, Claimant Systems distributed Digital Warehouse Receipts to Claimants Jeff Kotchounian, Matt Pitagora, Dave Gillie, Dan Morrow, Karl Reile, Alan McConnell, Tom Olmsted, William H. Wesson, Dan Priest, and Vernon L. Robinson and/or other individuals, which are redeemable by the bearer of such receipts on demand for the property seized, a sample copy of which is attached hereto as Exhibit D (hereinafter “digital warehouse receipts”).

186. Pursuant to the plain language of both the paper warehouse receipts and digital warehouse receipts, the bearers are entitled to redeem such receipts with Claimant

Systems, at any time before the expiration date on the receipts, for their Liberty Dollar medallions and Hawaii Dala medallions.

187. Pursuant to the plain language of both the paper warehouse receipts and the digital warehouse receipts, Claimant Systems, held the medallions as a “warehouseman,” as that term is defined by Uniform Commercial Code § 7-201.

Pursuant to contract, Claimant Systems subcontracted limited duties derived from the receipts to Sunshine Minting, Inc.

188. The property warehoused was the Liberty Dollar medallions and Hawaii Dala medallions.

189. The paper warehouse receipts and digital warehouse receipts are negotiable and may be freely exchanged. The bearers of the receipts are entitled to reclaim the property being warehoused upon demand.

190. The bearers of the receipts are the owners of the underlying property that is being warehoused.

191. Claimant Systems, as the warehouseman, is entitled to possession of the medallions that are being warehoused until the bearers of the receipts timely reclaim the medallions.

192. Claimant Systems was subcontracting warehouse space from Sunshine Minting, Inc., 750 West Canfield Avenue, Coeur d’Alene, Idaho 83815 to fulfill its obligations under the paper warehouse receipts and digital warehouse receipts.

193. The property that was seized from the premises at 750 West Canfield Avenue, Coeur d’Alene, Idaho 83815 is not the property of Claimant Bernard von NotHaus, NORFED, Inc., or others who are the targets of the criminal investigation.

194. In addition to the medallions that were seized, the United States seized from the premises pre-printed, paper warehouse receipts and dies used to mint the medallions, which were owned by Claimant Systems. The pre-printed warehouse receipts had not been issued. The pre-printed warehouse receipts and the dies are inventory of Claimant Systems.

195. On November 14, 2007, federal agents including, but not limited to, criminal investigation agents of the FBI, Secret Service agents, and agents of the U.S. Mint executed federal search warrants on multiple premises. CLAIMANTS have been provided with a copy of some of the warrants but have not been provided with the affidavit, which supported the application of the United States for the search warrants used to seize property at the premises at 750 West Canfield Avenue, Coeur d'Alene, Idaho 83815; 225 N. Stockwell Road, Evansville, Indiana, 47715; and four other premises.

196. CLAIMANTS seek the immediate disclosure of the affidavits for search warrants used to seize property at the premises at 750 West Canfield Avenue, Coeur d'Alene, Idaho 83815; 225 N. Stockwell Road, Evansville, Indiana, 47715, and four other premises. CLAIMANTS have obtained a copy of the affidavit used in the proceeding to secure the seizure warrant in the District of North Carolina, which is attached as Exhibit E. Pursuant to the Fourth Amendment, CLAIMANTS are entitled to receive a copy of the affidavits in support of the warrants after a search has been conducted and prior to any indictment.

197. In 2006, the U.S. Mint posted a warning regarding the Liberty Dollar medallions on its website (<http://www.usmint.gov/consumer/index.cfm?action=hotitems>)

under the designation “Consumer Awareness – Hot Items” The warning, states, *inter alia*, that:

The United States Mint and the United States Department of Justice have received inquiries regarding the legality of these so-called "Liberty Dollar" medallions. The United States Mint urges consumers who are considering the purchase or use of these items to be aware that they are not genuine United States Mint bullion coins and they are not legal tender. These medallions are privately produced products and are not backed by, nor affiliated in any way with, the United States Government. Moreover, prosecutors with the Department of Justice have determined that the use of these gold and silver NORFED "Liberty Dollar" medallions as circulating money is a Federal crime. (Emphasis Supplied)

* * *

Therefore, NORFED's "Liberty Dollar" medallions are specifically intended to be used as current money in order to limit reliance on, and to compete with the circulating coinage of the United States. Consequently, prosecutors with the United States Department of Justice have concluded that the use of NORFED's "Liberty Dollar" medallions violates 18 U.S.C. § 486.

198. The Liberty Dollar medallions that were seized by the United States from the premises on November 14, 2007 were not “medallions...specifically intended to be used as current money in order to limit reliance on, and to compete with the circulating coinage of the United States,” as alleged on the website of the U.S. Mint.

199. The Liberty Dollar medallions that were seized are warehoused property, which back the paper warehouse receipts and digital warehouse receipts, which comply with the Uniform Commercial Code. Only the receipts are intended for circulation and not the underlying medallions, which back the receipts.

200. As the receipts are not “coinage” they cannot violate 18 U.S.C. § 486, which only applies to coins. This conclusion is memorialized in an admission by Edmond C. Moy, Director of the U.S. Mint, in a letter dated November 28, 2006 to U.S. Senator Benson and attached hereto as Exhibit F.

201. The medallions that were seized from the premises at 750 West Canfield Avenue, Coeur d'Alene, Idaho 83815 are not intended for circulation, were never circulated, and cannot violate 18 U.S.C. § 486.

202. The medallions and the pre-printed paper warehouse receipts that were seized from the premises at 750 West Canfield Avenue, Coeur d'Alene, Idaho 83815 do not constitute contraband or other property subject to seizure.

203. On the face of the warrants, Exhibit B, the United States asserts that the warrant is conducted pursuant to alleged violations of 18 U.S.C. §§ 1956, 1957 ("Money Laundering"), 18 U.S.C. § 1341 ("Mail Fraud"), and 18 U.S.C. § 1343 ("Wire Fraud").

204. In the affidavit, Exhibit E, used by the United States to secure the search warrant from the Western District of North Carolina, the United States announces that it is investigating Claimant Bernard von NotHaus for alleged violations of 18 U.S.C. §§ 486, 489 ("Counterfeiting"). However, these alleged violations are not the basis for the search warrant and seizure. Pursuant to 200 Atty. Gen. 210 (1891), the United States has acknowledged that it does not have authority to seize property for alleged violations of 18 U.S.C. §§ 486, 489.

205. The warrants, Exhibit B, on their face, purport to be conducted pursuant to 18 U.S.C. § 982(a)(1) ("Criminal Forfeiture"), which only allows for forfeiture in cases of conviction for violations of 18 U.S.C. §§ 1956, 1957 ("Money Laundering"), 18 U.S.C. § 1341 ("Mail Fraud"), and 18 U.S.C. § 1343 ("Wire Fraud").

Lack of Probable Cause

206. The allegations in the affidavit, Exhibit E, do not constitute *prima facie* allegations of probable cause to support a search and seizure for alleged violations of

18 U.S.C. §§ 1956, 1957 (“Money Laundering”), 18 U.S.C. § 1341 (“Mail Fraud”), and 18 U.S.C. § 1343 (“Wire Fraud”).

207. Pursuant to the plain language of the affidavit, Exhibit E, there was no deception on the part of Claimant Bernard von NotHaus or NORFED, Inc. in marketing and distributing either the Liberty Dollar medallions or the Hawaii Dala medallions. The affidavit acknowledges that the FBI metallurgy lab has tested the medallions, and they contain the weight and quality of silver as represented by Bernard von NotHaus and NORFED, Inc. to customers. In addition, the affidavit indirectly acknowledges that Bernard von NotHaus and NORFED, Inc. provided full disclosure to their customers and agents of how the face value of the medallion is calculated based upon the spot price of silver, minting costs, and profit margins. Thus, because full disclosure is made to customers and agents before any exchange occurs, the allegation of the United States that Mail Fraud or Wire Fraud has occurred is without merit.

208. The affidavit, Exhibit E, provides no facts to support its claim that Money Laundering has been committed. An unsupported statement in an affidavit does not constitute probable cause for a search and seizure.

209. Neither CLAIMANT Bernard von NotHaus, NORFED, Inc., nor any other representative or agent of the Liberty Dollar organization have represented the Liberty Dollar medallions as legal tender, current money, or coin. Liberty Dollar has encouraged persons who utilize the barter currency to offer it to merchants as barter payment for goods and services but not as legal tender, current money, or coin. Thus, the use of the mail system or wire communications system to market and distribute gold or silver Liberty “medallions” as a “private voluntary barter currency” cannot constitute Mail

Fraud or Wire Fraud. Nevertheless, the Liberty Dollar medallions, which were seized from the premises at 750 West Canfield Avenue, Coeur d'Alene, Idaho 83815, were not intended for circulation and were only intended to back the paper warehouse receipts and digital warehouse receipts.

210. The Hawaii Dala does not contain any markings or symbol, which could suggest that it is a product of the U.S. Mint or other foreign government. A medallion representing a depiction from the Hawaii kingdom cannot fall under the counterfeiting statutes because Hawaii does not constitute a foreign government and such depiction cannot suggest that it is a product of the U.S. Mint.

211. The affidavit, Exhibit E, does not assert that the "fair market value" of the minted Liberty Dollar or Hawaii Dala valued in U.S. dollars, is less than the face value on each medallion. In the affidavit, Exhibit E, the United States arbitrarily asserts that the face value of each medallion is more than the spot market price of the precious metal contained in each medallion. In valuing each medallion, the United States fails to take into account the premium that the market commands for production, minting, and overhead costs to market silver and gold medallions as a product for barter. In addition, in valuing each medallion, the United States fails to take into account the numismatic collector value that the market commands for the minted Liberty Dollar medallions or Hawaii Dala medallions.

212. Because the allegations of fact contained in the affidavit, Exhibit E, do not constitute a violation of 18 U.S.C. §§ 1956, 1957 ("Money Laundering"), 18 U.S.C. § 1341 ("Mail Fraud"), and 18 U.S.C. § 1343 ("Wire Fraud"), the United States did not have probable cause to conduct the search and seizure on November 14, 2007.

213. The affidavit, Exhibit E, incorrectly alleges that an unsuspecting individual may unwittingly accept the Liberty Dollar medallion or Hawaii Dala medallion as change, believing that they are receiving U.S. currency.

214. As a comparison, the affidavit compares a \$20 Liberty Dollar medallion to the 1946 Roosevelt Dime, 2007 U.S. Mint Platinum Eagle Coin, and the 2007 U.S. Mint Presidential Coin.

215. The 2007 U.S. Mint Platinum Eagle Coin is not a medium of exchange in commerce, and, thus, there is no realistic threat that an unsuspecting individual will accept a Liberty Dollar medallion in the place of a 2007 U.S. Mint Platinum Eagle Coin.

216. In addition, because the \$1 U.S. Mint Presidential Coin is the largest denomination of coinage, which is a medium of exchange in commerce at the time of the seizure, there is no realistic threat that a \$20 Liberty Dollar will be inadvertently received in place of a \$20 U.S. currency piece. No one would take a \$20 Liberty Dollar in place of a \$1 U.S. currency piece.

217. A \$20 Liberty Dollar medallion is sufficiently discernable and different from the 1946 Roosevelt Dime and the 2007 U.S. Mint Presidential Coin in size, color and content to ensure that it will not be inadvertently received in their place.

218. The affidavit of the United States, Exhibit E, which was submitted to the Western District of North Carolina, Honorable Dennis L. Howell, United States Magistrate Judge, Case No. 1:07-mj-00121-DLH, in order to obtain the seizure warrant, included in Exhibit B, is materially and intentionally misleading.

219. In an attempt to show that the medallions at issue are “easily confused with U.S. currency,” the United States, in the affidavit, Exhibit E, compares photocopied

images of a \$20 Liberty Dollar medallion to images of the 1946 Roosevelt Dime and the 2007 U.S. Mint Presidential Coin.

220. The photocopy of the \$20 Liberty Dollar medallion is resized to match the size of the photocopies of the 1946 Roosevelt Dime and the 2007 U.S. Mint Presidential Coin. In addition, the black and white photocopies hide the distinguishing color difference between the \$20 Liberty Dollar medallion and the 2007 U.S. Mint Presidential Coin. The photocopies are intentionally and deceptively designed by the United States to mislead the Magistrate Judge into believing that the medallion is similar in size, weight, and color to the U.S. coins.

221. In reality, the Liberty Dollar is too large in size, too large in weight, and too distinctive in color to be easily confused with the 1946 Roosevelt Dime or the 2007 U.S. Mint Presidential Coin. The \$20 Liberty Dollar medallion is 1 1/2 inches in diameter, while the 1946 Roosevelt Dime and the 2007 U.S. Mint Presidential Coin are 11/16 inch and 1 1/16 inches in diameter, respectively. A 2007 U.S. Mint Presidential Coin is golden in color, while the \$20 Liberty Dollar is silver.

222. Had the Magistrate Judge been presented with an accurate description of the size, weight, and color of the medallion in comparison to the 1946 Roosevelt Dime and the 2007 U.S. Mint Presidential Coin, there would have been no basis for the statement of the United States, in the affidavit, Exhibit E, that the medallions are “easily confused with U.S. currency.”

223. Without the misleading depictions of the size, weight, and color of the medallion in comparison to the 1946 Roosevelt Dime and the 2007 U.S. Mint Presidential Coin, there is no probable cause for the issuance of the warrants.

224. The misleading depictions in the affidavit, Exhibit E, of the size, weight, and color of the medallion in comparison to the 1946 Roosevelt Dime and the 2007 U.S. Mint Presidential Coin violate the Fourth and Fourteenth Amendments to the Constitution.

Warrant is Overly-Broad

225. The warrant is overbroad because it fails the particularity requirement of the Fourth Amendment where it authorizes seizure of “American Liberty Dollar and/or Hawaii Dala currency and or precious metals of gold, silver, copper, platinum, or other substance and/or United States currency holdings”. Such items are not contraband or dangerous instrumentality.

226. The search and seizure on November 14, 2007 exceeded the scope of the warrants because the federal agents seized materials included on the United States’ inventory, Exhibit A, which are not included on the face of the warrants. Other items seized by the federal agents are not included in the warrant.

First Amendment

227. NORFED, Inc. was incorporated as a non-profit educational organization for the purpose of political association.

228. The First Amendment to the U.S. Constitution protects the practices of a political organization to promote its political beliefs.

229. Claimant Bernard von NotHaus d/b/a Liberty Services and NORFED, Inc., a dissolved corporation, has the political goal of bringing about the lawful repeal of the Federal Reserve Act. In order to promote his political beliefs, Claimant Bernard von

NotHaus engages in activities that are legally defined as “issue advocacy,” which the Courts have long held is exempt from government regulation.

230. On November 14, 2007, federal agents seized a vast amount of political literature, flyers, booklets, memos, etc., which are used by a political organization to promote its political beliefs.

231. The Defendant properties consisting of gold, silver, and copper medallions, which were seized on November 14, 2007, are produced and distributed in furtherance of the political goals of the political organization.

232. Some of the Defendant properties consisting of medallions, seized from the premises, are titled “Peace Dollar” medallions and include speech that is critical of the current war in Iraq. Seizure of all of the items constitutes interference with the free exercise of political speech.

233. The seizure of the Defendant properties included in Exhibit A, was carried-out pursuant to a criminal search and seizure warrant. However, the United States is prohibited from criminalizing the expression of disagreement with specific laws of our country. Such seizure is part of a revived COINTELPRO-type initiative. A COINTELPRO-type initiative would clearly be a violation of the Privacy Act, 5 U.S.C. § 552.

234. The conduct of the United States in this case is substantially similar to conduct that has been outlawed by the Privacy Act, 5 U.S.C. § 552 and deemed unconstitutional by the Supreme Court on numerous occasions. The Supreme Court has decreed that “a pointed expression of anguish...about the...current domestic and foreign affairs of the government” is protected by the First Amendment and cannot be criminally

punished except in the most compelling circumstances. No such circumstances are present in the instant case.

235. The Defendant properties include medallions that bear the image of Presidential candidate Ron Paul (hereinafter, "Ron Paul medallions"). The Ron Paul medallions are political paraphernalia created for the purpose of promoting a candidate for election. The seizure of the Ron Paul medallions violates the First Amendment rights of Claimant Bernard von NotHaus to political expression & political association and constitutes direct interference by the United States in the Presidential election process. The Ron Paul medallions are exempt from control by the United States.

Fifth Amendment

236. A civil court proceeding was filed by Claimant Bernard von NotHaus at 3:07-CV-038 in the Southern District of Indiana on March 20, 2007. In addition, the U.S. Mint posted a warning on its website in 2006, which informed the Clients that a criminal investigation was underway.

237. Many of the documents and computer storage devices seized during the raid on the Indiana location constitute privileged materials under the attorney-client and work-product doctrines relating to these two legal events.

238. The seizure of these items and review by the United States constitutes a violation of the Fifth Amendment of the U.S. Constitution.

239. The documents and computer storage devices are easily subject to being copied and reproduced. The United States has had since November 14, 2007 to preserve such copies or reproductions. Thus, these items must be returned to Claimant Bernard von NotHaus immediately.

Unreasonable Delay in Affording Deprivation Hearing

240. The Defendant properties were taken from CLAIMANTS as part of *ex parte* seizures on November 14-15, 2007. The CLAIMANTS were not afforded a predeprivation hearing to raise defenses or to contest whether the United States has probable cause to seize the Defendant properties.

241. Upon filing its Complaint in the case at hand, the United States sought and obtained an *ex parte* Order of this Court to stay this case.

242. As of the date of this Answer, the CLAIMANTS have not been afforded a timely postdeprivation hearing to raise defenses or to contest whether the United States has probable cause to seize the Defendant properties.

243. The Due Process Clause of the Fourteenth Amendment to the Constitution requires the United States to afford notice and a meaningful opportunity to be heard before seizing the Defendant properties. In the alternative, the Due Process Clause of the Fourteenth Amendment to the Constitution requires the United States to afford a timely and meaningful opportunity to be heard immediately after seizing the Defendant properties.

244. The failure of the United States to afford notice and a meaningful opportunity to be heard before seizing the Defendant properties, or, in the alternative, to afford a timely and meaningful opportunity to be heard after seizing the Defendant properties; constitutes a violation of the Due Process Clause of the Fourteenth Amendment to the Constitution.

Excessive Fines Clause of the Eighth Amendment

245. At the time of the filing of this Answer, the value of the Defendant properties exceed US\$4 million.

246. As part of this case, the United States seeks the forfeiture of all of the Defendant properties as punishment for the alleged commission of the acts set forth in the Complaint.

247. Comparison of the fine sought by the United States to the alleged conduct sought to be punished is grossly disproportionate to the alleged offense, unconscionable, and, therefore, violates the Excessive Fines Clause of the Eighth Amendment to the U.S. Constitution and 18 U.S.C. § 983(g).

248. In addition, the use of other medallions, warehouse receipts, and private barter currency, similar to the specie of the American Liberty Dollar, is widespread in the United States. Examples of substantially similar currency exchanged for purposes of making a profit include Berkshares (currency used and distributed by banks in Western Massachusetts), Disney Dollars (currency exchanged in all Disney theme parks and widely collected as numismatic items), Ithaca Hours (currency used in Ithaca, NY), and Billiken Bucks (currency exchanged at Saint Louis University and off-campus private businesses). Substantially similar currency is exchanged for purposes of making a profit at multiple universities, theme parks, charitable organizations, etc.

249. The United States has not labeled these other similar currencies as “contraband” and has not sought to prevent their exchange or use. The United States is selectively attacking American Liberty Dollars in violation of the Eighth Amendment.

Relief Sought

250. CLAIMANTS seek an immediate return of their property seized at the multiple premises and an Order finding that the Defendant properties are not subject to forfeiture. Furthermore, CLAIMANTS seek an IMMEDIATE return of the Ron Paul medallions because of the impending political conventions and the immediate interference with the political process.

251. In the alternative, CLAIMANTS seek a temporary restraining order, and preliminary injunction, as well as a final injunction, prohibiting the United States from additional handling, shipment, or movement of the Defendant properties.

252. In addition, CLAIMANTS seek an Order requiring the United States to provide to CLAIMANTS a copy of the affidavits that were submitted by the United States to secure the search warrants, included in Exhibit B, in Idaho and in Indiana in the case at hand.

253. CLAIMANTS seek an Order requiring the United States to provide a more detailed inventory of the property seized at each of the six premises.

254. CLAIMANTS seek the return of the Defendant properties seized because such seizure occurred without being afforded a timely deprivation hearing. In the alternative, CLAIMANTS seek a deprivation hearing in the immediate future.

Respectfully submitted,

/s/ John R. Seymour

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been forwarded to all counsel of record by means of electronic filing on this 13th day of August, 2008.

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Date: August 13, 2008

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