

1. James Lovett

3. [REDACTED]
4. [REDACTED]

5. Attornatus Privatus
6. For the Petitioner/Claimant

7. Treasury Inspector General for Tax Administration
8. United States Attorney, Los Angeles, Public Corruption Sec.

9. COMMON LAW COURT OF RECORD

10. SACRAMENTO, CALIFORNIA REPUBLIC
11.

12. James Lovett,
13. Claimant/Complainant

14. Vs.

15. Kelvin Wilkins,
16. Accts Receivable Agent, FTB
17. Jozel Brunett" Chief Counsel FTB
18. And Does 1-20
19. Perpetrator/Employees

) Ref: Re: 410:JLB
) Account # 16104391-52
) Before Taxpayer Advocate, Cal
) Attorney General and the
) Treasury Inspector General
) for Tax Administration, TIGTA
)
) AMMENDED COMPLAINT FOR:
) AVOIDANCE OF KNOWN DUTY,
) OBFUSCATION, CORRUPTION,
) FRAUD, FALSE STATEMENTS,
) FAILURE TO CORRECT ERRORS,
) SUPPRESSION OF RIGHTS.
)
) Date: October 18, 2019

20. REDRESS OF GRIEVANCES

21. AMMENDMENT TO AFFIDAVIT OF COMPLAINT (filed Sept. 10, 2019)

22.
23. Claimant, one of the people of California, having observed
24. violations of law by employees under California Attorney
25. General, TIGTA and grand jury dominion, brings his amended
26. *redress of grievances* in the form of a complaint at law against
27. perpetrators individually and severally for willfully and
28. intentionally neglecting their sworn legal duty and knowingly

1. violating claimant's fundamental, common law, and statutory
3. rights by engaging fraud, deceit, and oppression, causing injury
4. to claimant. By misprision (18 USC §4), claimant is compelled
5. to report felony violations by bureau employees and supervisors
6. which he observed or has cause to know. Claimant is further
7. compelled to report one additional *cause of action* (Count 5)
8. springing from FTB Chief Counsel's constructive avoidance (fraud
9. through silence) of the actual written law and desperate attempt
10. to obstruct its operation by evading her duty to address even
11. one of the core issues presented for consideration. Based on
12. personal knowledge and documented evidence, claimant issues this
13. Amendment to the instant Verified Criminal Complaint.

14.
15. **INTRODUCTION: AMMENDMENT TO THE COMPLAINT**

16.
17. As is the claimant's duty under the Misprision statute, 18 USC
18. §4, having received a "CHIEF COUNSEL DETERMINATION ON PENALTY
19. RELIEF REQUEST" dated August 29, 2019 (410:JLB), an additional
20. count must be added to the complaint, which will reveal
21. continuing fraud, corruption, obfuscation and intentionally
22. misleading statements spawned at the management level of the
23. California Franchise Tax Board. The Chief Counsel's
24. *constructive avoidance* of her official duty to perform under the
25. clearly written law ought to be fully investigated as a
26. violation of 26 USC §§7214(a)(1) & (2) and her oath of office.
27. Evidence will reveal a systemic corruption of her office
28. approaching a nascent financial crimes enterprise, RICO, 18 USC

1. §225. The identified parties, the introduction, and the first
3. four counts tendered in the initial complaint, (TIGTA Complaint
4. no. TRN-1908-0253) are unchanged and included by reference as if
5. fully stated herein. The original complaint is unmodified.
6. This is simply an addition based on a subsequent violation of
7. law and new evidence.

8.
9. INTRODUCTION TO AMENDMENT

10.
11. On September 6, 2019, complainant received a long-awaited
12. “determination” from the Franchise Tax Board’s Chief Counsel,
13. **Joze1 Brunett**, that the request to relieve a disputed penalty
14. was denied by referencing R&TC §19179(e), with no articulated
15. facts or cited statutory violation whatsoever, according to her
16. prewritten (computer generated and computer signed) notice. The
17. claimant’s documentation in support of the request for abatement
18. of the penalties contained the actual written law from the
19. bureau’s own books that the public has a right to rely upon,
20. nothing more. Complainant’s legal researcher confirmed that
21. nothing in the Penalty Abatement Request has been declared
22. “frivolous” according to the Secretary’s official list or the
23. courts. The Request cautiously restricted the arguments
24. presented to precise quotations from the government’s own law
25. books, which ought to negate any accusation of a “frivolous”
26. submission. However, upon receipt of the instant
27. “determination” it became very clear that either arrogance or
28. lethargy in the FTB legal office has caused Ms. Brunett to

1. disregard her known legal duty to serve the public and
3. administer the law fairly and precisely as it is written.
4. Complainant's Memorandum of Law as provided with the initial
5. complaint is the same document submitted with the Request for
6. abatement of the penalty. The Chief Counsel expressed in her
7. "determination" that given her "*complete review*," she believes
8. she can sustain the penalties in "*good conscience*." She
9. purportedly made a "complete" review, thus admitting that she is
10. fully informed that the penalty rides upon a controlling federal
11. IRC section that precludes the penalty from taking effect until
12. the day after the IR Title (1986) is enacted, 26 USC §7851
13. (a)(6)(A), and not offend the First Amendment right to redress.

14.
15. Counsel's "determination" letter stated:

16.
17. *"After a complete review of the request and the documentation provided,*
18. *I have determined that relief from the penalties will not be allowed*
19. *under the Revenue and Taxation Code section 19179(e). In the statement*
20. *provided in support of the Request, you submitted arguments that have*
21. *been rejected consistently by the Office of Tax Appeals and/or state*
22. *and federal courts. Therefore, imposing the penalty would not be*
23. *against equity and good conscience and rescinding the penalty would not*
24. *promote compliance with, and the effective administration of, the*
25. *Personal Income Tax Law or Corporation Tax Law."*

26.
27. The "determination" containing the above quote is an intentional
28. obfuscation of the written law, attempting to sustain the

1. bureau's extortion of a penalty by use of a currently inactive
3. code section. Chief Counsel, Brunett, has relied on the very
4. general wording of R&TC §19179(e) with an irrelevant splash of
5. legal color to sustain a jurisdiction she does not lawfully
6. possess. It should not escape the attention of any competent
7. investigator that she completely avoided the specific legal
8. citations presented with the Request for penalty abatement and
9. legal memorandum. She did not mention any of the law she was
10. given in the documents she stated that she read, not one.
11. Accordingly, Chief Counsel knows that her "determination" rests
12. on legal fiction and inactive statutes, and by not acknowledging
13. or addressing any of the written law in her response, she has
14. engaged fraud and is herself "frivolous."

15.
16. *"A claim, or defense, is frivolous if a proponent can present no*
17. *rational argument based upon the evidence or law in support of that*
18. *claim, or defense". [Black's Law dictionary, 6th Edition, 1991]*

19.
20. She presented no active law or facts to support her frivolous
21. determination. That no active law permits assessment of the
22. disputed penalty is not enough to cause her to doubt the
23. presumed authority of the bureau to impose a penalty upon the
24. public not described in the statutes as the *person liable*, and
25. declared by the Supreme Court to not even apply to the income
26. tax. Then she deceptively states that Appeals and the courts
27. have consistently rejected the arguments provided with the
28. request. Your complainant quoted the applicable and controlling

1. Law on the books exclusively, yet Ms. Brunett “determined” that
3. the courts have consistently rejected them. Chief Counsel’s
4. conceit and lack of candor are truly breathtaking. If any
5. investigator of this matter believes that the actual written law
6. does not matter and the holdings of the Supreme Court are
7. “frivolous,” then the FTB truly is a financial crimes syndicate.

8.
9. This matter needs serious fact-checking. Did Appeals and the
10. Courts consistently rule that the following are “frivolous?”

11.
12. 1. State may import [only] enacted IRC penalties, AB-154, (9-30-2015).
13. 2. IRC §6702 penalties will take effect on the day after enactment of the
14. (1986) Title, §§7851(a)(6)(A) and (a)(7). No enactment date found.
15. 3. The “person liable” for the penalty has a corporate duty to perform,
16. §6671(b), and is qualified by the Supreme Court decision in Slodov v.
17. United States, 436 US 238, 249-250, (1978) as inapplicable to the
18. “income type-of-tax.”
19. 4. “...only those who violate the regulations (not the Code) may incur
20. civil or criminal penalties,” Calif. Bankers Assoc. v. Shultz, 416
21. U.S. 25, 44 (1974). *Assessable penalties require regulations*, 26 CFR
22. §601.702.
23. 5. “Congress shall make no law... abridging... the right of the people... to
24. petition the government for a redress of grievances.” *First Article*
25. *of Bill of Rights*. See also *Cal Const. 1-10, “Right to Petition.”*

26.
27. With the Request, complainant offered to withdraw if the date of
28. enactment of the underlying imported Title and code section used

1. to assess the California penalties is furnished to the record.
3. However, not a single California or federal official has been
4. able to furnish the enactment date for the Title first
5. containing §6702 compliant with §7851(a)(6)(A). Rather, in
6. addition to constructively avoiding submission of the enactment
7. date to the record, officials have effectively prevented the
8. compulsory operation of the controlling statute, §7851(a)(6)(A).

9.
10. Full recitation of the law and decision that your complainant
11. has a right to rely on is found in the Legal Memorandum attached
12. to the original complaint, and included by reference as if fully
13. stated herein. Of all the evidence and law presented, the last
14. item listed (no. 5, supra) is the most unassailable, highest law
15. of the land, and the First Amendment protected right is also
16. inalienable. The complainant cannot lose his right to free
17. speech or redress even by agreement or mistake. It is clearly a
18. fundamental and protected right that no court of record has
19. ruled against even once, much less "consistently ruled against."

20.
21. *"Anyone with knowledge of constitutional infractions has a liability,*
22. *where it is within their power, to correct such wrong. Failure or*
23. *neglect to correct may result in a year in jail and a \$1,000 fine."*

24. 42 USC §1986

25.
26. Apparently only Ms. Brunett's conscience is unaffected by
27. denying First Amendment rights to the people she "serves" while
28. arrogantly and falsely claiming Appeals, the state, and federal

1. courts consistently agree with her. Perhaps she simply has no
3. conscience, although her oath of office ought to provide some
4. doubt¹ even as her overzealous nature and *esprit de corps*
5. desperately seeks a legal basis to suppress the retained rights
6. of the people while cloaking herself with a contrived authority
7. and just a hint of *plausible deniability*. *Warring with the*
8. *constitution* is a punishable offense.

9.
10. *"If in a limited government the public functionaries exceed the limits*
11. *which the constitution prescribes to their powers, every such act is an*
12. *act of usurpation in the government, and, as such, treason against the*
13. *sovereignty of the people."* Tucker's Blackstone Vol. 1 Appendix Note B
14. [Section 3] 1803-

15.
16. Chief Counsel perhaps regards her oath and the duty owed to the
17. people to be insignificant compared with the bureau's ability to
18. efficiently oppress the people's rights by cultivating fear and
19. avoiding an embarrassing appeal to the actual written law.
20. Chief Counsel pursues the power and the money, when the law
21. asserts the peoples' rights are paramount. As the victim of
22. this sinister evasion of the written law, it becomes
23. complainant's duty to issue one additional count in amendment of
24. the instant Verified Criminal Complaint, 18 USC §4.

25.
26.
27. ¹ *"Where administrative action may result in loss of both property and life, or of all that makes life worth living, any*
28. *doubt as to the extent of power delegated to administrative officials is to be resolved in citizen's favor, and court*
must be especially sensitive to the citizen's rights where proceeding is non-judicial." United States v. Minker, 350
U.S. 179 (1956).

1. COUNT FIVE OF THE COMPLAINT

3. Constitutional Infractions, Failure to Correct, 42 USC §1986

4. False Statements and Entries Generally, 18 USC §1001

5.
6. As stated in the Introduction, supra, the government actor has a
7. duty to correct any constitutional violation made known to him
8. of her. The First Article in Amendment states that no law shall
9. be made that interferes with the right of the people to redress
10. their grievances. As well explained in the initial four counts
11. to this complaint and the legal memorandum furnished to Chief
12. Counsel, an arbitrary and vaguely defined \$5,000 unilateral
13. administrative penalty execution would violate *separation of*
14. *powers* and certainly tend to interfere with the people's right
15. to *redress of grievances*. Further, the consideration of whether
16. a specified "frivolous" argument was actually made on a tax
17. document is irrelevant and a completely separate issue as to
18. whether the bureau has active statutory jurisdiction to
19. unilaterally impose a non-judicial penalty absent an active code
20. section, in a vacuum of regulations, and with no individual
21. penalty liability created for the "income type-of-tax."

22.
23. Given the documents and the legal memorandum accompanying the
24. request for penalty relief, FTB Chief Counsel cannot claim
25. ignorance of the laws that complainant has presented. Further
26. her own "determination" stated that she made a "*complete review*
27. *of the documents provided.*" Therefore, she confesses that she
28. is in possession of and aware of the actual words of the law she

1. is obligated to observe and administer. Complainant alleges
3. that her purported "complete review" is a total fabrication.
4. Nothing in her "determination" even mentioned any of the key
5. legal elements in the Request or memorandum, not one. Admitting
6. that she is aware of the laws she is knowingly violating, her
7. career, pension, and reputation are clearly in jeopardy.

8.
9. Setting aside that she is arguably ill-informed of the law
10. governing her office as it applies to abating inactive
11. penalties, she certainly had a every opportunity to confirm the
12. accuracy of the statutory citations supplied in the Request.
13. Instead she utilized a one-size-fits-all, template response to
14. avoid personal liability for suppressing rights guaranteed by
15. the Bill of Rights and the statutes cited: RRA-98, §1203(a), 26
16. USC §§7214 (a)(1), (3), (7) & (8), in violation of Separation of
17. Powers by sustaining a *unilateral administrative execution*,
18. without signing (or swearing to the validity of) the documents
19. purportedly creating the penalty obligation, Statute of Frauds
20. (California Civil Code §1624) and 26 USC §§6061(a) & 6751(b)(1).

21.
22. *"Where rights secured by the Constitution are involved, there can be no*
23. *rule making or legislation which would abrogate them."* Miranda vs
24. Arizona 384 U.S. 436, 491 (1966).

25.
26. *"It has long been established that a State may not impose a penalty*
27. *upon those who exercise a right guaranteed by the Constitution...*
28. *Constitutional rights would be of little value if they could be...*

1. indirectly denied..." Harman v. Forssenius, 380 U. S. 528, 540 (1965),
3. Dunn v. Blumstein, 405 US 330 (1972).

4.
5. Evidence will show that FTB counsel and agents engaged in a
6. gross infringement of the claimant's constitutionally protected
7. First, Seventh, and Ninth Amendment rights by carrying into
8. effect a *Bill of Pains and Penalties*² in order to nefariously
9. obstruct justice, prevent §7851(a)(6)(A) from operating, and to
10. achieve a bureau-contrived result rather than an impartial and
11. lawful administrative resolution. Whether she actually made a
12. complete review or just ordered up a standard template letter
13. from her computer to dispose of the issues is irrelevant. She
14. is presumed to know the law, and is required to give operation
15. to the law precisely as written, but refuses. Knowing that the
16. law protects the public, then evading it in favor of her
17. personal desire that the law say otherwise, is a violation of
18. the complainant's constitutional rights and the statutes that
19. require her to correct discovered wrongs, 42 USC §1986.
20. According to California law, abating inapplicable penalties is
21. clearly within her power, R&TC §19179(e).

22.
23. The FTB Chief Counsel claimed to have completely reviewed the
24. Legal Memorandum accompanying the Request and has, therefore,
25. confessed that her bureau routinely assesses §19179 penalties

26. _____
27. ² A bill, from the species of *Bill of Attainder*, that is prohibited by the constitution as subversive of the
28. separation of powers principle. Constitution Art. 1, Sec. 9, Cl. 3; California Constitution §16. *A bill of
attainder is: 1) an act of a legislative body, 2) naming a described individual or group of people or
entities, 3) imposing pain or penalty, 4) without first consulting a jury for authority.*

1. upon individuals never made liable, stemming from inactive
3. statutes, and having no implementing regulations on the books
4. whatsoever. Complainant alleges that Chief Counsel could not
5. have reviewed the Request and Legal Memorandum without becoming
6. fully informed that the §19179/§6702 penalty does not visit
7. legal force upon the requestor. By her official determination,
8. she has confessed that she knew her statements were false in
9. violation of 18 USC §1001 or more likely she lied when she wrote
10. that she “reviewed” the documents, also a false statement in
11. violation of §1001, and a fraud upon the people.

12.
13. R&TC §19179(e)(3), involves only the authority to rescind, and
14. no court or agency may overturn the exercise of that one
15. authority, since it protects the people. However, it does not
16. give any reciprocal prohibition for refusing to rescind because
17. the redress rights of the people are never vulnerable to
18. administrative or statutory erosion. The peoples’ inalienable
19. rights to protest and to redress exercised by the complainant
20. cannot be alienated by a self-serving interpretation of a vague
21. statute, especially when fraud is involved to separate the
22. people from their rights, as in this case. It is the
23. complainant’s wish that the perpetrators be held to account for
24. their malfeasance and corruption as expressed in five counts.

25.
26. For the Tribunal: **James Lovett**
27. **People of California**
28. *Attornatus Privatus*

1. **Verification**

3. I declare under penalty of perjury, 28 U.S.C. §1746(1), pursuant to of the
4. laws of the United States of America that I have read the foregoing criminal
5. complaint, know its contents, and to the best of my knowledge and belief, the
6. statements therein are true, correct, complete, and made in good faith.
7. Having first-hand knowledge of the facts of this matter, the forgoing would
8. be my testimony if called upon to witness.

9. Submitted October 18, 2019

10. _____
11. James Lovett
12. _____

13. Notary acknowledgement:

14. In the Republic of California, USA
15. _____

16. On the _____ day of _____, 2019, before me personally came
17. James Lovett, a man, known by me (or proved to me, on the basis of
18. satisfactory evidence) to be the individual described in and who executed
19. in my presence the foregoing instrument.

20. _____
21. Notary Public
22. My Commission expires: _____

