

David Randall Jenkins  
In Proper Person  
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tucjenkins@aol.com

United States Department of the Treasury  
Internal Revenue Service  
Office of Appeals

In re:	)	EFIN No. [REDACTED]
	)	
Algorithm LLC, an Arizona limited	)	
liability company; and, David Randall	)	APPEAL FROM THE ADVERSE
Jenkins, Responsible Official,	)	IRS EFIN DECISION DATED
	)	MAY 22, 2015
Appellants.	)	
	)	

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David Randall Jenkins (Jenkins), in proper person for himself individually and in his capacity as responsible official for Algorithm LLC, an Arizona limited liability company, appeal to the Internal Revenue Service Office of Appeals from the May 22, 2015 adverse decision of the Internal Revenue Service Office of Electronic Products & Services Support rejecting appellants' application to participate in IRS e-file. A true and correct copy of the Internal Revenue Service Electronic Products & Services Support May 22, 2015 letter denying the Algorithm LLC IRS e-file application with Jenkins as the responsible official is attached hereto and incorporated herein by this reference. Appellants pray the Internal Revenue Service Office of Appeals reverse the foregoing adverse decision and approve appellants' application to participate in IRS e-File program on the following grounds and for the following reasons:

1. The Internal Revenue Service knew or should have known the criminal prosecutions in Pima County Causes CR-24054, CR-28738, and CR-24054 were void *ab initio* as fraud on the courts.
2. The Internal Revenue Service participated in the Supreme Court of the United States' historic exercise of its supervisory powers jurisdiction to correct illegal conduct in the courts in matters related to Pima County Causes CR-24054, CR-28738, and CR-24054 and, as a result, knew or should have known such proceedings against Jenkins had been undertaken to thwart the discovery and prosecution \$65 million of Admiral bonds were void and unenforceable.
3. The Internal Revenue Service knew or should have known Jenkins was aiding the Supreme Court's supervisory powers investigations and prosecutions by and through abandoning certain criminal defenses in Pima County Causes CR-24054, CR-28738, and CR-43071 to enable capturing official corruption in the JNC related federal and state civil, bankruptcy, and criminal proceedings.
4. The Internal Revenue Service, during its investigation of the debt relief income tax consequences of the Admiral Insurance Company release of the JNC limited partners from the obligation to make interest and principal payments on their promissory notes, used its subpoena power to find a bankruptcy judge's unlawful order authorizing the trustee in bankruptcy to plea bargain the JNC Companies to a state felony conviction by listening to bankruptcy proceeding voice recordings and, upon finding same, delivered a transcript to Jenkins.
5. The Internal Revenue Service knows or should know the Supreme Court of the United States acquired and yet retains supervisory jurisdiction over Jenkins'

person and property rights in the matter of its exercise of supervisory powers jurisdiction to correct ICMC illegal conduct in the courts.

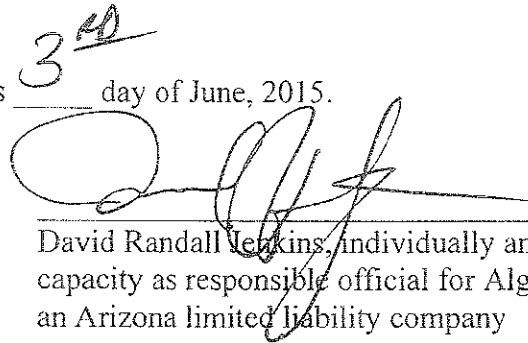
6. The Department of Homeland Security, Transportation Security Administration, has cleared Jenkins to transport hazardous materials throughout the United States for the five year period ensuing from September 17, 1994.
7. Jenkins is an AACSB academically qualified business school and tax professor owing to two recent articles published in peer reviewed academic tax journals.
8. The Internal Revenue Service knows or should know it has never alleged Jenkins has been grossly negligent or has intentionally disregarded rules or regulations in the preparation of any income tax return.
9. The Internal Revenue Service knows or should know the decision of the United States Court of Appeals for the District of Columbia in the matter of *Loving v. Internal Revenue Service*, holds the Internal Revenue Service cannot, as a matter of law, impose standards under 31 U.S.C. §330 in the matter of the instant e-File application for the reason electronically filing returns does not constitute practice before the Internal Revenue Service.

Based on the foregoing, Jenkins prays the Internal Revenue Service Office of Appeals determine the Office of Electronic Products & Services Support's May 22, 2015 decision to reject the Algorithm LLC application to participate in the IRS e-File program amounted to plain and obvious error, an abuse of discretion, or was undertaken without or in excess of lawful right, power, authority, and jurisdiction and, thereupon, vacate the denial and grant the subject application.

This appeal is supported by the Affidavit of David Randall Jenkins and supporting exhibits submitted herewith under separate cover and incorporated herein by this reference.

Under penalty of perjury, I avow the foregoing averments are true and correct to the best of my knowledge, information, or belief and would testify to same if called as a witness.

Respectfully submitted this 3<sup>rd</sup> day of June, 2015.



David Randall Jenkins, individually and in his capacity as responsible official for Algorithm LLC, an Arizona limited liability company

Internal Revenue Service  
Electronic Products & Services Support  
310 Lowell Street, Stop 983  
Andover, MA 01812

Department of the Treasury  
Date: May 22, 2015  
Phone: 1-866-255-0654  
EFIN: [REDACTED] and all  
associated EFINS

ALGORITHM LLC  
DAVID R JENKINS  
1776 SOUTH PALO VERDE AVENUE L13  
TUCSON, AZ 85713

Dear DAVID R JENKINS:

We've reviewed your application to participate in IRS e-file. We received information from the Federal Bureau of Investigation (FBI) and before a decision can be made, we need to know the disposition and circumstances surrounding the following arrests:

Arrested by the Phoenix, AZ DPS-Compl Info SRV on November 22, 1988 for warrant commercial Bribery 18 counts, warrant Fraudulent Schemes, Warrant Criminal Enterprise and Warrant Sale Security.

Arrested by the Tucson, AZ Sheriff's Office on September 27, 1989 for Fraud Purch SL of SEC F 20 counts, SL of Unreq Sec Sec 25 counts, SL Sec by Unreg dealer, Illegal Control of Enterprise, Lead Org Crime, Money Laundering, Theft, Perjury and Conspiracy to Commit Theft and Bribery.

Arrested by the Tucson, AZ Sheriff's Office on September 21, 1994 for Sale Unregistered Securities.

Please provided a certified record of the court disposition along with a detailed explanation of the charge. For this reason we've denied your participation in IRS e-file.

We suggest that you familiarize yourself with the requirements for acceptance into IRS e-file which can be found in Publication 3112, IRS e-file Application and Participation.

If you want to appeal this decision, your appeal must include a detailed explanation of why you believe we should reverse our decision and documents to support your position. Please mail your appeal with a copy of this letter to the address shown above to the attention of the Office of Appeals.

You have 30 days from the date of this letter to appeal our decision or you will forfeit your right to an administrative review. If we don't receive your appeal within this time, this letter will then be considered your notice that you are denied participation in IRS e-file. You may reapply on or after March 30, 2017, or sooner if you resolve the suitability issue (s).

If you have any questions concerning this letter, you may call IRS e-help desk toll free at 1-866-255-0654, Monday through Friday, between the hours of 7:30 a.m. and 7:00 p.m. (ET).

Sincerely,

  
Patricia LaPosta, Director  
Electronic Products & Svcs Support

V78HB

Letter: 2916(SC/CG) Rev: 2003-10-08 1

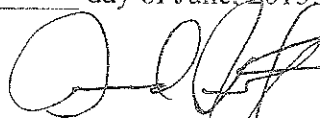
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United States Department of the Treasury  
Internal Revenue Service  
Office of Appeals

In re:	)	EFIN No. ██████████
	)	
Algorithm LLC, an Arizona limited	)	NOTICE OF FILING AFFIDAVIT
liability company; and, David Randall	)	OF DAVID RANDALL JENKINS
Jenkins, Responsible Official,	)	IN SUPPORT OF APPEAL FROM
	)	THE ADVERSE IRS EFIN
Appellants.	)	DECISION DATED MAY 22, 2015
	)	

David Randall Jenkins (Jenkins), in proper person for himself individually and his wholly owned limited liability company, Algorithm LLC, appellants, give notice of filing the Affidavit of David Randall Jenkins in support of their "Appeal from the Adverse IRS EFIN Decision Dated May 22, 2015" submitted here with under separate cover.

Respectfully submitted this 3<sup>rd</sup> day of June, 2015



David Randall Jenkins, individually and in his capacity as responsible official for Algorithm LLC, an Arizona limited liability company

Affidavit  
of  
David Randall Jenkins

David Randall Jenkins, being first duly sworn upon his oath deposes and says the following facts are true and correct to the best of his knowledge, information, or belief and that he would testify to same if called as a witness.

1. The three criminal proceedings described in the May 22, 2015 adverse IRS e-file decision in the matter of EFILE No. 863270 arise out of the same nucleus of operative facts and respectively involve Pima County Causes CR-24054, CR-28738, and CR-43071.
2. Pima County Cause CR-24054.
  - 2.1. On or about November 1988, Jenkins was charged by Information on 32 counts of commercial bribery, fraudulent schemes, Arizona racketeering, and securities law violations.
  - 2.2. On or about April 1989, Jenkins was bound over for trial on 19 of the foregoing felony counts.
  - 2.3. Thereafter, Jenkins discovered constitutional violations on several grounds:
    - 2.3.1. The *Ex Post Facto* Constitutional Violation.
      - 2.3.1.1. Jenkins alleged the charges violated federal and Arizona constitutional protections against *ex post facto* crimes.
      - 2.3.1.2. The theory of criminality involved an alleged deprivation of an employee's honest and faithful services.
      - 2.3.1.3. The Supreme Court of the United States, in *McNally v. United States*,<sup>1</sup> held an employer's right to an employee's honest and faithful services was an intangible right and intangible rights had never been protected by the federal mail fraud statute, 18 U.S.C. §1341, since its inception in the late 1800s.
      - 2.3.1.4. The Arizona Supreme Court, in *State v. Haas*,<sup>2</sup> held federal decisions interpreting the federal mail fraud statute were persuasive in construing Arizona's fraudulent scheme statute since the latter was derived from the former.
      - 2.3.1.5. In June 1989, two months after Jenkins was bound over for trial on the *ex post facto* theory of criminality, the Arizona legislature added a provision to A.R.S. §13-2310 intended to overturn *McNally*'s impact on Arizona's fraudulent schemes statute.<sup>3</sup>

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<sup>1</sup> 483 U.S. 350 (1987).

<sup>2</sup> 138 Ariz. 413 (1983).

<sup>3</sup> See, A.R.S. §13-2310(E).



- 2.3.1.6. During the April 1989 preliminary hearing, the Pima County Attorney argued Jenkins should be bound over for trial because a three-judge panel of the United States Court of Appeals for the Sixth Circuit relied on a *McNally* dissenting opinion to sustain a Michigan prosecution that, *prima facie*, otherwise violated *McNally's* mandate.<sup>4</sup>
- 2.3.1.7. Jenkins filed a Motion to Dismiss because the prosecutor knew or should have known the *en banc* Sixth Circuit reversed the three judge panel decision and failed to tell the preliminary hearing trial court the truth about the Sixth Circuit's decisions.<sup>5</sup>
- 2.3.2. The Illegal Grand Jury Proceeding Constitutional Violation.
  - 2.3.2.1. Prior to November 1988, the Pima County Attorney, prior to November 1988, requested the Pima County Superior Court grant four persons (Jenkins' former wife, former business partners and two loan brokers) use immunity in Pima County Grand Jury Cause 83-GJ-008.
  - 2.3.2.2. On receiving the grants of use immunity the Pima County Attorney took the use immunized depositions of the four persons, not before the 83<sup>rd</sup> Pima County Grand Jury, but in the offices of and in the presence of private attorneys representing interests adverse to Jenkins' interests in then pending federal civil and bankruptcy proceedings, all in violation of Arizona's grand jury secrecy laws (a criminal violation).
  - 2.3.2.3. The private attorneys were allowed to ask the use immunized deponents questions.
  - 2.3.2.4. One of the members of the 83<sup>rd</sup> Pima County Grand Jury was a limited partner in one or more of the real estate limited partnerships central to the common nucleus of facts.
- 2.4. Jenkins' Motions to Dismiss
  - 2.4.1. Beginning summer 1989, Jenkins filed several motions to dismiss in Pima County Cause CR-24054 seeking dismissal of all charges for both the *McNally* intangible rights *ex post facto* constitutional violations and pursuant to the grand jury constitutional violations (based on the fruit from the poisonous tree doctrine holding the chain of evidence derived from the tainted grand jury proceedings would be inadmissible).
  - 2.4.2. The Pima County Superior Court denied all Jenkins' motions to dismiss.
- 2.5. The Pima County Attorney's Motion to Dismiss
  - 2.5.1. No material activity had transpired in Pima County Cause CR-24054 from the time of the filing of Jenkins' Motions to Dismiss in

<sup>4</sup> See, *United States v. Runnels*, 883 F.2d 1183 (6<sup>th</sup> Cir. 1987).

<sup>5</sup> See, *United States v. Runnels*, 877 F.2d 481 (6<sup>th</sup> Cir., *En Banc*, 1989).

- summer 1989, and the trial court's denial of same in October 1989, prior to late 1992.
- 2.5.2. On its own account and in late 1992, the Pima County Attorney filed a motion to dismiss with prejudice all charges in Pima County Cause CR-24054 and, contrary to the Arizona Rules of Criminal Procedure, did not state any basis for the dismissal with prejudice.
  - 2.5.3. On December 18, 1992, the Pima County Superior Court granted the Pima County Attorney's motion to dismiss with prejudice all charges in Pima County Cause CR-24054.
  - 2.5.4. A certified copy of the disposition of Pima County Cause CR-24054 is submitted herewith under separate cover as Exhibit 1 and is incorporated herein by this reference.
3. Pima County Cause CR-28738
    - 3.1. The Indictment
      - 3.1.1. A true bill was returned on September 26, 1989 against Jenkins in Pima County Cause CR-28738, indicting Jenkins on 283 felonies including securities law violations, fraudulent schemes, and Arizona racketeering.<sup>6</sup>
      - 3.1.2. The JNC Companies was an Arizona corporation owned one-third by Jenkins, one-third by Jenkins' former wife, and one-third by Jenkins' former business partner.
      - 3.1.3. Jenkins and The JNC Companies were general partners in several Arizona real estate limited partnerships.
      - 3.1.4. The partnerships were similarly organized.
      - 3.1.5. Approximately forty limited partners were involved in each limited partnership venture.
      - 3.1.6. Rather than contribute cash to the partnership, the limited partners executed unsecured promissory notes in favor of the partnership.
      - 3.1.7. Admiral Insurance Company (Admiral) issued its limited partnership financial guaranty bond insuring each limited partners' interest and principal payments under the terms of the promissory notes.
      - 3.1.8. The notes were then collaterally assigned to lenders in financing transactions amounting to a total of \$85 million, reduced to approximately \$65 million at the time of the JNC Chapter 11 bankruptcy filings on September 17, 1987.
    - 3.2. The IRS Investigation
      - 3.2.1. The limited partners were organized in two principal litigation groups in the federal civil and bankruptcy proceedings beginning on or about September 17, 1987.

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<sup>6</sup> Jenkins believes and therefore alleges the true "bill" was returned on September 26<sup>th</sup> because that is the date in 1986 that William H. Rehnquist became Chief Justice of the United States. The informal information signal implicates Jenkins was "true" to "Bill's" side in the war between the Supreme Court of the United States and the Informal Capital Market Cartel. This war is more fully described later in this affidavit.

- 3.2.2. Admiral, prior to summer 1991 and in the matter of the JNC related federal civil litigation, had entered into settlement agreements with the two principal JNC limited partner litigation groups essentially releasing the limited partners from all obligations to make payments under the terms of their real estate limited partnership promissory notes.
- 3.2.3. At the same time, Jenkins believes and therefore alleges, Admiral had paid approximately \$65 million in claims submitted to it by the note lenders.
- 3.2.4. In summer 1991, the Internal Revenue Service initiated its audit of the JNC limited partners' settlement with Admiral Insurance Company; the settlement that led to Admiral's complete and unequivocal release of the JNC limited partners' obligations to pay on their \$65 million of subscription promissory notes.
- 3.2.5. Jenkins inserted himself into the Internal Revenue Service investigation and met with Revenue Agent Richard Rich and others on numerous occasions.<sup>7</sup>
- 3.2.6. When Jenkins visited the Internal Revenue Service offices in Tucson, Arizona, Revenue Agent Richard Rich introduced Jenkins to many supervisors and other personnel.
- 3.2.7. The Revenue Agent Report determined, pursuant to *OKC Corporation v. Commissioner*, 82 T.C. 638 (1984), Admiral's release of the limited partners' obligations to pay \$65 million under the terms of their promissory notes amounted to taxable debt relief income to the JNC limited partners and further held the relief provisions of 26 U.S.C. §108 did not generally apply.
- 3.2.8. The Internal Revenue Service appellate conferee reversed the Revenue Agent Report's determination and excused the JNC limited partners' obligations to report Admiral's release as debt relief income.
- 3.3. The Bankruptcy Judge's Scheme to Plea Bargain JNC to a State Felony Conviction
  - 3.3.1. The Pima County Cause CR-28738 indictment charged Jenkins, Jenkins' then wife, and JNC with criminal offenses.
  - 3.3.2. Jenkins' then wife was charged with approximately 36 felonies for the sale of unregistered securities.
  - 3.3.3. In summer 1993, Jenkins' wife pled to one open-ended class six felony and was sentenced to probation.
  - 3.3.4. The attorney for the trustee in bankruptcy appeared in the CR-28738 state criminal proceedings on or before August 16, 1990, claiming the federal bankruptcy judge had authorized the trustee to plea bargain JNC to a state felony conviction.

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<sup>7</sup> See, *In re David Randall Jenkins*, Petition for Writ of Habeas Corpus, filed in Supreme Court of the United States No. 98-5130, submitted herewith under separate cover as Exhibit 2 and incorporated herein by this reference. All nine justices denied the petition on October 5, 1998 at 525 U.S. 807 (1998).

- 3.3.5. In summer 1990, Jenkins, attorney Donald E. Gabriel representing JNC, and Ralph E. Seefeldt representing the federal trustee in bankruptcy appeared before Pima County Superior Court Judge Thomas Meehan on the trustee's motion to plea bargain JNC to a state felony conviction over Jenkins' objection.
- 3.3.6. Judge Meehan granted the trustee's motion and stayed that order to enable attorney Gabriel to seek special action (extraordinary writ) relief in the Arizona Court of Appeals, Division Two.
- 3.3.7. On August 16, 1990, the Arizona Court of Appeals, in its published opinion, *JNC Companies v. Meehan*, barred the federal bankruptcy judge from interfering in the state criminal proceedings and reversed Judge Meehan's order authorizing same.<sup>8</sup>
- 3.3.8. Although the trustee's counsel continued to claim the federal bankruptcy judge had authorized the trustee's JNC Companies plea bargaining action, Jenkins was unable to find such authorization in the dockets of any of the JNC bankruptcy cases.
- 3.3.9. Internal Revenue Service Revenue Agent Richard Rich, together with an agent colleague, used IRS subpoena power to review all the bankruptcy court's voice recordings surrounding the most likely date of occurrence.
- 3.3.10. The IRS agents found the proceeding in which the bankruptcy judge had authorized the plea bargain scheme.
- 3.3.11. The transcript revealed that when the bankruptcy clerk of the court asked the bankruptcy judge whether he wanted to call the record in the matter of the trustee's motion to plea bargain JNC Companies to a state felony conviction, the judge responded, "No."
- 3.3.12. Jenkins believes and therefore alleges that when the bankruptcy judge directed the clerk of the court not call the record he did so with the intention of hiding conduct he knew to be unlawful because that is why the plea-bargaining Order did not appear in the bankruptcy docket.
- 3.3.13. IRS Revenue Agent Richard Rich caused the voice recording to be transcribed and then gave Jenkins a copy of the transcript.<sup>9</sup>
- 3.4. The Double Jeopardy Claim
  - 3.4.1. Subsequent to the Arizona Court of Appeals decision in *JNC Companies v. Meehan*, the Pima County Attorney filed a motion in

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<sup>8</sup> See, *JNC Companies v. Meehan*, 165 Ariz. 144 (Ariz.App.Div.2 1990). The foregoing opinion was authored by Judge John Roll. Judge Roll later became a federal district court judge and was the Chief Judge of the United States District Court for the District of Arizona at the time he was killed on January 8, 2011 in the melee that wounded Congresswoman Gabriel Giffords.

<sup>9</sup> While Jenkins is presently not in possession of a copy of the transcript he believes he may have filed same as a pleading exhibit in one of the three state criminal proceedings. If a copy of the transcript is material and significant in the determination of this appeal, then Jenkins requests leave to search the criminal files yet in possession of the Clerk of the Pima County Superior Court to find same. Jenkins believes and therefore alleges the Internal Revenue Service has a copy of the transcript retained in its internal files relating to the JNC limited partners income tax investigation referred to herein.

- Pima County Cause CR-28738 to dismiss with prejudice all charges against the JNC Companies.
- 3.4.2. Since the JNC Companies and Jenkins were charged with the same criminal offenses in the Pima County Cause CR-28738 proceeding and Jenkins controlled JNC, Jenkins filed a motion to dismiss the CR-28738 charges against him individually on grounds the charges were then barred by the double jeopardy clause of the federal and Arizona constitutions.
  - 3.4.3. The double jeopardy claim was successively denied by a) the Pima County Superior Court, b) the Arizona Court of Appeals, c) the Arizona Supreme Court, and d) the Supreme Court of the United States.
- 3.5. The Scheme to Destroy the S-2361-I Securities Division's Public Records
- 3.5.1. In late 1986 and early 1987, the Securities Division of the Arizona Corporation Commission investigated Jenkins and the JNC Companies for possible securities violations in the matter of the S-2361-I investigation.
  - 3.5.2. Following Jenkins' deposition on or about January 1987, the Securities Division of the Arizona Corporation Commission took no further action against Jenkins or JNC and made no criminal referral to the Arizona Attorney General in the matter of its S-2361-I investigation.
  - 3.5.3. Securities Division investigating attorney J. D. Nielsen delivered all S-2361-I public records, including the agency's internal memoranda documenting why it took no action in 1987 against Jenkins or JNC, to the Pima County Grand Jury in the matter of the 83-GJ-008 grand jury investigation without being compelled to surrender the records by grand jury subpoena.
  - 3.5.4. Jenkins believes and therefore alleges, Securities Division attorney J. D. Nielsen, in concert with the Pima County Attorney, knowingly and willfully unlawfully disposed of the S-2361-I public records and internal memoranda under the cloak of the grand jury proceeding because the records documented the investigation's conclusion the limited partners were not protected by Arizona's securities laws for the reasons they did not make an investment of money in the partnerships.<sup>10</sup>
  - 3.5.5. Jenkins believes and therefore alleges the S-2361-I investigation records would have revealed the Pima County CR-28738 prosecution would have been barred on double jeopardy grounds for the reason the state of Arizona already concluded the JNC limited partnership transactions were not protected by Arizona's securities laws.

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<sup>10</sup> See, *SEC v. W. J. Howey Co.*, 328 U.S. 293 (1946) (an investment contract requires an investment of money in a common enterprise where profits are derived solely through the efforts of others); and, *Int'l Brotherhood of Teamsters v. Daniel*, 439 U.S. 551 (1979) (an investment in money means cash, property, or contributed services).

- 3.5.6. Jenkins believes and therefore alleges the Securities Division of the Arizona Corporation Commission and the Pima County Attorney conspired to destroy the Securities Division's S-2361-I public records to foreclose Jenkins' double jeopardy claims.
- 3.6. The State's Motion to Dismiss Pima County Cause CR-28738
  - 3.6.1. On or before February 16, 1994 and on its own motion, the Pima County Attorney filed its Motion to Dismiss with Prejudice all Pima County Cause CR-28738 criminal charges pending against Jenkins.
  - 3.6.2. On February 16, 1994, the Pima County Superior Court granted the foregoing motion and dismissed with prejudice all criminal charges pending against Jenkins in Pima County Cause CR-28738 without complying with the Arizona Rules of Criminal Procedure and stating the underpinning basis warranting its action.
  - 3.6.3. A certified copy of the disposition of Pima County Cause CR-28738 is submitted herewith under separate cover as Exhibit 3 and is incorporated herein by this reference.
4. Pima County Cause CR-43071
  - 4.1. The Indictment
    - 4.1.1. On or about September 1993, Jenkins was indicted in Pima County Cause CR-43071 on 60 felony counts including Arizona securities law violations and fraudulent schemes.
  - 4.2. Jenkins' Waiver of Criminal Defenses in Favor of the Supreme Court's Supervisory Powers Investigations and Prosecutions
    - 4.2.1. On or about September 1987 and continuing thereafter, Jenkins had several conversations with attorney Gerry Smith (Smith) at Lewis and Roca's Phoenix office.
    - 4.2.2. Smith had informed Jenkins he had close ties with judges on the United States Court of Appeals for the Ninth Circuit.
    - 4.2.3. When Jenkins considered retaining Phoenix criminal defense attorney Murray Miller he first called Smith to garner Smith's opinion of retaining Miller.
    - 4.2.4. Smith advised Jenkins Miller was "bad news."
    - 4.2.5. Jenkins understood the implied message from Smith that hiring Miller would further the effort of the Supreme Court in the historic exercise of its supervisory powers jurisdiction to correct illegal conduct in the courts orchestrated by the Informal Capital Market Cartel (ICMC).<sup>11</sup>
    - 4.2.6. Accordingly, Jenkins hired Miller to represent Jenkins in the Pima County Cause CR-43071 proceedings.

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<sup>11</sup> An account of my involvement in the Supreme Court's Supervisory Powers assault on the ICMC is detailed in my treatise, *Judicial Martial Law*, available on my Academia.edu website at: [https://www.academia.edu/12730778/Judicial\\_Martial\\_Law](https://www.academia.edu/12730778/Judicial_Martial_Law). Jenkins believes and therefore alleges the matters he averred in this treatise are true and correct to the best of his knowledge, information, or belief and would testify to same if called as a witness.

- 4.2.7. The Pima County Cause CR-43071 theory of criminality was “Jenkins told the limited partners they really did not have to pay their JNC real estate limited partnership promissory notes.”
- 4.2.8. Jenkins believes and therefore alleges the JNC limited partners who testified against him at his August/September 1994 CR-43071 criminal trial should have been collaterally estopped from testifying Jenkins told them they really did not have to pay their JNC real estate limited partnership promissory notes for the reason the same testifying limited partners filed federal income tax returns where such returns were signed under penalty of perjury that they were “at risk” on their respective promissory notes to enable sufficient basis in their limited partnership interests to entitle them to take their share of pre-1986 partnership ordinary losses as deductions against other sources of ordinary income.
- 4.2.9. Jenkins believes and therefore alleges the Internal Revenue Service in the matter of its investigation into the income tax consequences of Admiral releasing the JNC partners from their obligations to pay their promissory notes and consistent with the Supreme Court’s supervisory powers direction, used the abatement of debt relief income as an informal information signal to Jenkins not to use the collateral estoppel argument as a defense in his CR-43071 criminal trial.
- 4.2.10. Jenkins believes and therefore alleges the Supreme Court’s denial of double jeopardy relief was an informal information signal not to use the intentional destruction of the S-2361-I documents as a double jeopardy defense in his CR-43071 criminal trial.
- 4.2.11. When Miller insisted Jenkins not pursue the collateral estoppel and double jeopardy defenses, Jenkins acquiesced to further the Supreme Court’s supervisory powers investigation into illegal conduct in the courts.
- 4.3. The Pima County Cause CR-43071 Conviction and Sentence
  - 4.3.1. Jenkins was convicted on 58 of the 60 CR-43071 felony counts (two counts were dismissed prior to the jury verdict) on September 21, 1994.
  - 4.3.2. Jenkins was sentenced in Pima County Cause CR-43071 on December 1, 1994.
  - 4.3.3. A certified copy of the Pima County Cause CR-43071 Sentence of Imprisonment is submitted herewith under separate cover as Exhibit 4 and is incorporated herein by this reference.
  - 4.3.4. Jenkins was sentenced to fourteen years imprisonment and a \$580,000 fine.
  - 4.3.5. Jenkins was not sentenced to any restitution.<sup>12</sup>
- 4.4. Jenkins’ Habeas Corpus Fraud on the Court Claims
  - 4.4.1. While incarcerated in the Arizona Department of Corrections’ Mohave Unit in Douglas, Arizona, Jenkins filed a motion in the

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<sup>12</sup> See Exhibit 4.

- matter of his criminal appeal pending before the Arizona Court of Appeals, Division Two seeking the appointment of counsel to aid Jenkins in the preparation of his CR-43071 criminal appeal.
- 4.4.2. Jenkins also asked the court to appoint a specific attorney known to Jenkins whom, although not a criminal defense attorney, was a person Jenkins trusted.
  - 4.4.3. The Arizona Court of Appeals granted the motion but appointed counsel of its own choosing: William E. Wilkinson.
  - 4.4.4. On August 4, 1995, Jenkins received Wilkinson's letter addressed to him dated July 28, 1995.
  - 4.4.5. A true and correct copy of the July 28, 1995 Wilkinson letter addressed to Jenkins is submitted herewith under separate cover as Exhibit 5 and is incorporated herein by this reference.
  - 4.4.6. When Jenkins read Wilkinson's July 28, 1995 letter he ran to the pay phones and called Wilkinson collect.
  - 4.4.7. When Wilkinson accepted the collect call, Jenkins blurted out, "The bonds are void. It's in the Exit Interviews. They threatened my life. I lost my wife. It was Judge Bilby."<sup>13</sup>
  - 4.4.8. After incurring the foregoing emotional release, Jenkins developed the fraud on the court claims set forth in his habeas corpus petition filed in Supreme Court No. 98-5130.
  - 4.4.9. The fraud on the court derives from Admiral bribing public officials to thwart the discovery and prosecution the real estate limited partnership bonds it issued in favor of the JNC limited partnerships were void for the reason they amounted to the unlawful transaction of insurance in the state of Arizona.<sup>14</sup>
  - 4.4.10. As a result, Admiral was liable to make good on the lenders' claims against it under the bonds but was not permitted to seek redress against the limited partners on their promissory notes or seek redress claims in equity or at law under the bond indemnity agreements.<sup>15</sup>
  - 4.4.11. Since the Admiral bonds were void as a matter of law, the JNC bankruptcy estates should have enjoyed the \$65 million windfall

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<sup>13</sup> The bonds refer to the Admiral real estate financial guaranty bonds issued to enable the JNC limited partnership financings in the amount of \$65 million. The Exit Interviews are described in *Admiral Insurance Co. v. United States District Court for the District of Arizona*, 881 F.2d 1486 (9<sup>th</sup> Cir. 1989). Judge Richard M. Bilby was the Chief Judge of the United States District Court for the District of Arizona at the commencement of the JNC federal civil and bankruptcy litigation.

<sup>14</sup> Unlawful transaction of insurance in Arizona is proscribed by A.R.S. §20-401.01 and is classified as a class 5 felony by A.R.S. 20-401.06. The Admiral bonds amounted to mortgage guaranty insurance as defined in A.R.S. §20-1541 for the reason Admiral took security interests in the JNC limited partnerships' real properties to secure indemnity agreements. The prevailing version of A.R.S. §20-1547 at the time of the issuance of the Admiral bonds made the issuance of the Admiral bonds the unlawful transaction of insurance because Admiral was involved in other lines of suretyship at the same time it was writing mortgage guaranty insurance.

<sup>15</sup> See, *Northern v. Elledge*, 72 Ariz. 166 (1951); *Commercial Standard Ins. Co. v. Cleveland*, 86 Ariz. 288 (1959).



resulting from Admiral's unlawful conduct and should have been accordingly reorganized.

- 4.4.12. Instead, the trustee in bankruptcy sold all the JNC limited partnership properties for pennies on the dollar in excess of amounts necessary to pay off non-Admiral secured lenders, all in furtherance of the Admiral scheme to forestall the discovery and prosecution that its bonds were void and unenforceable as a matter of law.
  - 4.4.13. Jenkins believes and therefore alleges the Internal Revenue Service materially participated in the Supreme Court's exercise of supervisory powers jurisdiction and, therefore, know or should know the Pima County CR-24054, CR-28738, and CR-43071 criminal charges against Jenkins and his CR-43071 conviction were obtained by frauds on the court intended to forestall the discovery and prosecution the Admiral bonds were void and unenforceable.
  - 4.4.14. As a further result, Jenkins believes and therefore alleges the Internal Revenue Service knows or should know the Pima County CR-24054, CR-28738, and CR-43071 criminal charges against Jenkins and his CR-43071 conviction are void *ab initio*.
  - 4.4.15. Jenkins believes and therefore alleges the Internal Revenue Service knows or should know the Supreme Court has not yet vacated Jenkins' CR-43071 conviction, not because Jenkins is not entitled to such relief, but because the time for vacating the conviction in the best interests of the supervisory powers investigation and prosecutions has not yet arrived.
5. Jenkins' Fraud on the Court Prayer for Relief
    - 5.1. Based on the foregoing paragraphs 1 through 4, the Internal Revenue Service Office of Electronic Products & Services Support committed plain and obvious error, abused its discretion, or acted without or in excess of its lawful right, power, authority, and jurisdiction when it denied the Algorithm LLC IRS e-file application wherein Jenkins is listed as the responsible official when the IRS knew or should have known through its participation with the Supreme Court and Jenkins as aforescribed that all criminal proceedings against Jenkins were obtained by a fraud on the court and are void *ab initio*.
    - 5.2. Jenkins prays Office of Appeals reverse the May 22, 2015 denial to participate in IRS e-File and grant the Algorithm LLC IRS e-file application with Jenkins as the responsible official on the grounds and for the reasons the IRS knows the cited criminal proceedings were undertaken and obtained in furtherance of a fraud on the court known to the IRS by and through its investigation of the JNC limited partner debt relief income tax consequences.
  6. In the hypothetical event the Internal Revenue Service denies Jenkins relief from the IRS e-file denial on the grounds alleged in paragraphs 1 through 5 in this affidavit then Jenkins believes the following grounds warrant reversing the denial and granting the subject IRS e-file application:

- 6.1. Jenkins has obtained clearance from the United States Department of Homeland Security to transport hazardous materials throughout the United States.<sup>16</sup>
- 6.2. Jenkins is an academically qualified business school and tax professor pursuant to standards promulgated by the Association to Advance Collegiate Schools of Business (AACSB) International owing to the following peer reviewed tax journal publications:
  - 6.2.1. D. R. Jenkins, “Why Section 530 of the Revenue Act of 1978 Applies to the States,” *The Contemporary Tax Journal*, 4(1), Fall 2014.
  - 6.2.2. D. R. Jenkins, “Section 4975(e)(2)(G) Management and Investment Risk Diversification Standards,” *The Journal of Taxation of Investments*, 32(4), Summer 2015, forthcoming.<sup>17</sup>
- 6.3. Participation in the IRS e-File Program does not constitute practice before the Internal Revenue Service within the meaning of 31 U.S.C. §3330 and, as a result, the Office of Electronic Products & Services Support used the wrong standard in denying Jenkins the right to e-file returns he prepares for clients on the grounds and for the reasons of the criminal prosecutions in Pima County Causes CR-24054, CR-28738, and CR-43071.
- 6.4. By using the wrong standard in denying Jenkins the right to participate in the IRS e-file program the IRS is imposing an unreasonable restraint against Jenkins’ constitutionally protected right to earn a living.<sup>18</sup>
- 6.5. Jenkins’ preparation of income tax returns has not resulted in any IRS allegations that Jenkins has exercised gross negligence or intentional disregard for rules or regulations.
- 6.6. Based on the foregoing, the Internal Revenue Service Office of Electronic Products & Services Support committed plain and obvious error, abused its discretion, or acted without or in excess of its lawful right, power, authority, and jurisdiction when it denied the Algorithm LLC IRS e-file application wherein Jenkins is listed as the responsible official and the Office of Appeals should reverse the denial and grant the Algorithm LLC IRS e-file application with Jenkins as the responsible official.

Further, Affiant sayeth naught.

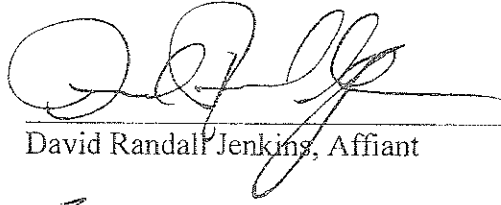
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<sup>16</sup> A true and correct copy of the September 17, 2014 Transportation Security Administration addressed to Jenkins is submitted herewith under separate cover as Exhibit 6 and is incorporated herein by this reference.

<sup>17</sup> The editor of the *Journal of Taxation of Investments* has authorized Jenkins to provide his contact data to confirm the publication decision. The editor’s contact data are: Erik M. Jensen, Coleman P. Burke Professor of Law, Case Western Reserve University, 11075 East Blvd., Cleveland, OH 44106, Phone: (216) 368-3613, fax: (216) 368-2086, email: emj@case.edu.

<sup>18</sup> See, *Loving v. Internal Revenue Service*, 742 F.3d 1013 (D.C. Cir. 2014).

Dated this 3<sup>RD</sup> day of June, 2015.

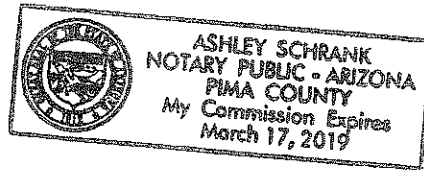
  
David Randall Jenkins, Affiant

SUBSCRIBED AND SWORN to this 3 day of June, 2015 by David Randall Jenkins, a person known to me.

  
Notary Public

My Commission Expires:

March 17, 2019



City/Country of Pima  
State of Arizona  
The foregoing instrument was acknowledged before me  
this 3 day of June, 2015  
by Ashley Schrank  
My commission expires March 17, 2019

Internal Revenue Service  
Electronic Products & Services Support  
310 Lowell Street, Stop 983  
Andover, MA 01812

Department of the Treasury  
Date: August 6, 2015  
Phone: 1-866-255-0654  
EFIN: [REDACTED] and all  
associated EFINs

ALGORITHM LLC  
DAVID R JENKINS  
1776 SOUTH PALO VERDE AVENUE L13  
TUCSON, AZ 85713

Dear DAVID R JENKINS:

Thank you for the information you provided on June 8, 2015.

After careful consideration of the facts presented, we have concluded that the issue(s) have been resolved, therefore you may participate in IRS e-file. Any additional suitability issues not covered in our letter dated May 22, 2015 may result in suspension.

We suggest that you familiarize yourself with the requirements for acceptance into IRS e-file which can be found in Publication 3112, IRS e-file Application and Participation.

If you have any questions concerning this letter, you may call IRS e-help toll free at 1-866-255-0654, Monday through Friday, between the hours of 7:30 a.m. and 6:00 p.m. (ET).

Sincerely,



Patricia LaPosta, Director  
Electronic Products & Sves Support

9BFBB

Letter: 2914-D/OWNAFT1S Rev: 2005-  
06-14 2914

Internal Revenue Service  
Electronic Products & Services Support  
310 Lowell Street, Stop 983  
Andover, MA 01812

Department of the Treasury  
Date: August 6, 2015  
Phone: 1-866-255-0654  
EFIN: ██████████

ALGORITHM LLC  
DAVID R JENKINS  
1776 SOUTH PALO VERDE AVENUE L13  
TUCSON, AZ 85713

Dear DAVID R JENKINS:

We are pleased to inform you that you have been accepted as an Authorized IRS e-file Provider in IRS e-file. Your Electronic Filing Identification Number (EFIN) is shown above. Refer to Publication 3112, IRS e-file Application and Participation, for information on the use of your EFIN. Please protect and safeguard your EFIN.

The business location for this EFIN is:  
1776 SOUTH PALO VERDE AVENUE L13  
TUCSON, AZ 85713

This acceptance letter is not an endorsement of the quality of services you provide or any software you use and/or develop. You may not state in any advertising or contact with your clients that the software you use and/or develop is approved or endorsed by the IRS.

If you have not already registered for e-services, we encourage you to do so by choosing the e-services link under tax professionals on our website at [www.irs.gov](http://www.irs.gov). Once you have registered, you will be able to view and update your e-file application online. Please ensure your information is correct in accordance with the section title "Reporting Changes" located in the Publication 3112, IRS e-file Application and Participation.

Thank you for your interest in IRS e-file. We are looking forward to working with you. If you need assistance, please contact the IRS e-help desk toll free at 1-866-255-0654, Monday through Friday, between the hours of 7:30 a.m. and 7:00 p.m. (ET).

Sincerely,



Patricia LaPosta, Director  
Electronic Products & Svcs Support

9BFBB

Letter: ERO ACCEPTANCE Rev:  
2007-10-12