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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

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11
12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 vs.

15 IRWIN SCHIFF,
16 CYNTHIA NEUN,
and LAWRENCE N. COHEN,

17 Defendants.

Case No. CR-S-04-0119-KJD(LRL)

GOVERNMENT'S OPPOSITION TO
DEFENDANT SCHIFF'S MOTION TO
DISMISS SINCE THIS COURT
CANNOT HAVE JURISDICTION
SINCE THE INDICTMENT FAILS TO
CHARGE AN OFFENSE

18
19 COMES NOW the United States of America, through DANIEL G. BOGDEN, United
20 States Attorney, by MELISSA SCHRAIBMAN, LARRY WSZALEK, and JEFFREY A. NEIMAN,
21 Trial Attorneys, United States Department of Justice, Tax Division, and DANIEL R. SCHIESS,
22 Assistant United States Attorney, and submits this opposition to defendant Irwin Schiff's Motion to
23 Dismiss Since this Court Cannot Have Jurisdiction Since the Indictment Fails to Charge an Offense
24 (Docket # 163).

25 . . .

26 . . .

1 As the government argued in United States' Consolidated Memorandum in Opposition to
2 Defendant Schiff's Motion to Dismiss (Docket # 59), defendant's argument that the District Court has
3 no subject matter jurisdiction is frivolous.

4 As the government argued in United States' Consolidated Memorandum in Opposition to
5 Defendant Schiff's Motion to Dismiss (Docket # 59), defendant's argument that failing to pay income
6 taxes is not a civil or criminal offense is frivolous.

7 As the government argued in United States' Consolidated Memorandum in Opposition to
8 Defendant Schiff's Motion to Dismiss (Docket # 59), defendant's argument that the government's
9 definition of "income" is incorrect is frivolous.

10 As the government argued in United States' Consolidated Memorandum in Opposition to
11 Defendant Schiff's Motion to Suppress (Docket # 76), defendant's argument that IRS Agents have no
12 authority to enforce the Internal Revenue Code, apply for and execute a search warrant, or to carry
13 firearms is frivolous.

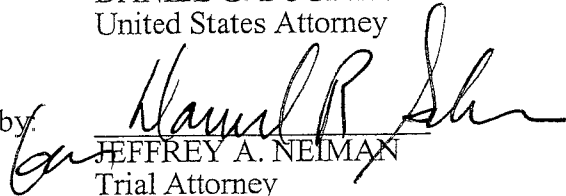
14 As the government argued in Government's Memorandum in Opposition to Defendant Schiff's
15 Motion to Dismiss Counts 18-23 Because the Tax Returns At Issue Were Not Filed Voluntarily
16 (Docket # 72), defendant's argument that his tax returns were not filed voluntarily is frivolous.

17 As the government argued in Government's Opposition to Defendant Schiff's Motion to
18 Dismiss All Counts In the Indictment Involving Him, Due to His Reliance on Supreme Court
19 Decisions and Other Government Claims (Docket # 75), defendant's argument that his good faith
20 reliance on prior Supreme Court decisions is an affirmative defense to willfulness is frivolous.

21 For the foregoing reasons, defendant Schiff's motion should be denied.

22 Respectfully submitted,

23 DANIEL G. BOGDEN
24 United States Attorney

25 by: 
26 JEFFREY A. NEIMAN
Trial Attorney
U.S. Department of Justice
Tax Division

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4
5 UNITED STATES OF AMERICA,)

6 Plaintiff,)

7 vs.)

Case No. CR-S-04-0119-KJD(LRL)

8 IRWIN SCHIFF,)
9 CYNTHIA NEUN,)
and LAWRENCE N. COHEN,)

CERTIFICATE OF SERVICE

10 Defendants.)
11

12 I, Jean Umland, hereby certify that I am an employee of the United States Attorney's Office,
13 United States Department of Justice, and that on this day I served a copy of the **Government's**
14 **Opposition to Defendant Schiff's Motion to Dismiss since this Court Cannot Have Jurisdiction**
15 **since the Indictment Fails to Charge an Offense** by placing said Opposition in the U.S. mail box
16 upon the following:

17 Irwin A. Schiff, Pro Se
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18 Las Vegas, NV 89104

19 Michael Cristalli
Attorney for Cynthia Neun
20 3960 Howard Hughes Pkwy, Suite 850
Las Vegas, NV 89109
21

22 Chad Bowers
Attorney for Larry Cohen
23 3202 W. Charleston
Las Vegas, NV 89102
24

25 DATED: July 26th, 2005.


26 JEAN UMLAND