

The Money Laundering Suppression Act of 1994  
&  
The Law of Structuring

31 USC § 5324

“Where NO SAFE HARBOR EXISTS for law  
abiding small businesses that deposit cash”

Testimony of Andrew S. Clyde

February 11, 2014

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## **Background.**

### **The Company:**

I am Andrew Clyde, the CEO and owner of Clyde Armory, Inc. We are a small business with a Federal Firearms License that sells guns, ammunition and related accessories to both law enforcement agencies and the local population from our retail store in Athens, GA. I have lived the American dream with my business.

### **The Beginnings:**

I started "Clyde Armory" as a sole proprietor "home business" in 1991. My initial focus was to sell firearms to law enforcement agencies and then eventually to expand the business to serve the general public. I grew the business as my finances allowed until 1997. I then went back to school, to the University of Georgia for my Masters in Business. While there I built the business plan that would allow me to successfully launch Clyde Armory in a bigger way. When I graduated with my MBA in 1999, I decided to become a true entrepreneur and make Clyde Armory my primary source of income.

I moved the business from my house to a small rented retail location in 1999 and as I put in hard work and long hours it grew. I worked as its only employee until 2002 when I made my first full time hire. By the end of that year I had 4 total employees.

During that time I was still a Reserve Officer in the US Navy and was called to active duty for service in Operation Iraqi Freedom from January – June 2003. I returned to my business and it continued its growth through 2004.

Also in 2004, Clyde Armory obtained its first insurance policy. It was NRA Endorsed Business Insurance from Lockton Risk Services. The standard policy regarding cash covered \$10,000 of cash losses outside the premises. Therefore, to better manage risk, Clyde Armory's policy for taking cash outside the premises mirrored the limits of its insurance policy. This means that cash taken to the bank for deposit was always less than \$10,000.

In the fall of 2004, Clyde Armory expanded its footprint from 1,400 square feet to 2,900 square feet and business increased. In February 2005 I was again mobilized to active duty by the Navy to serve with my SeaBee Regiment in combat, attached to the 1<sup>st</sup> Marine Expeditionary Force in Fallujah, Iraq. After a successful deployment, I returned in June 2005 to again focus on my small business.

In 2007 I hired my first employee who had Information Technology (IT) experience with the intention of transitioning the business to an automated Point of Sale (POS) System. In November 2007 I was again mobilized by the Navy to serve in Operation

Enduring Freedom which supported combat operations in both Iraq and Afghanistan. I returned in June 2008 after a third successful combat deployment and then transitioned to the inactive Navy Reserve.

### **Significant Growth:**

In late 2008 Clyde Armory broke ground to build its first dedicated Armory building totally owned by the company. In January 2009, Clyde Armory Incorporated was born and the company transitioned from a sole proprietorship to a real corporation. In June 2009 Clyde Armory, Inc. acquired its first automated Point of Sale system and began using barcodes and scanners for all its sales.

In May of 2010, the new Clyde Armory building was finished and a move was made to the new location which was now over 12,000 square feet. Business continued to be strong and in April of 2011 a new, more robust POS system was acquired to handle the increase in customers and sales.

In May 2012, Clyde Armory obtained a new insurance policy. This time it was from Philadelphia Insurance, which offered the same \$10,000 coverage limit on cash outside the premises. More recently I learned from our insurance broker, BB&T, that the \$10,000 cash limitation is a standard limit in the insurance industry for small businesses.

### **Cash in the Firearms Industry:**

Though most firearms are not purchased with cash, there are still many people who use cash to purchase firearms and ammunition and their reasons are very legitimate.

- 1) Purchase of a gift for a spouse or family member, so there is no check book or credit card record for the spouse to see the cost.
- 2) Purchase of a gift for YOU, so there is no check book or credit card record for the spouse to see the cost. This is very common.
- 3) Using your "sock money" which has been squirreled away for something special.
- 4) Bubba doesn't have a credit card or a checking account so he only uses cash

### **Sandy Hook Tragedy, Newtown, CT:**

The firearms industry is very sensitive to government regulation. When Barak Obama was re-elected President on 6 November 2012, firearm sales increased significantly. When the Newtown tragedy occurred in December 2012, the President said that banning black rifles was part of the solution. That legislative effort sent the market into orbit and every AR15 rifle I had in my store sold out in less than two weeks. Firearm and ammunition sales sky rocketed immediately thereafter and continued until all inventory

on hand and in the pipeline was exhausted. People began buying other guns as well and we would sell out of product as soon as it would arrive. AR15 rifles became hard to acquire but we had good connections and were able to purchase at least some inventory to sell. However, the store looked quite empty compared to normal.

We experienced business like I have never seen before. In the 5 months that followed we made about \$7.5 million in sales of firearms and related product of which about 15% was in cash. That translated to about 1.2 million dollars of cash. Clyde Armory had banked with Robins Federal Credit Union (RFCU) since 2009 and my financial manager generally made daily deposits of funds. During this time of record sales, Clyde Armory held to the company policy of not carrying more than \$10,000 off premises to deposit in the bank at any one time.

I learned from documents in the case that at least one IRS field agent visited Clyde Armory on February 6, 2013 to provide reconnaissance information. Clyde Armory was described by the agent in his report as “a high end gun shop that looked like a castle”. There was no mention of even the suspicion of illegal activity from the recon mission.

### **My Personal Day That Will Live in Infamy.**

On Friday April 12<sup>th</sup>, 2013 I was visited by two IRS agents who interviewed me about my business processes, and then served me with a seizure warrant which notified me that \$940,313 had already been seized from my companies bank account in Robins Federal Credit Union. They also educated me on both the term structuring and “CTR”, as I had no idea what either of them were, and they notified me that structuring was a felony. This is the first I had ever heard of the term structuring and the first time I became aware of the legal requirement for banks to report cash deposits over \$10,000. Though I was told on this day that “structuring” was a felony, I was also told that the US Attorney was considering this just a civil forfeiture matter.

I was never so afraid in my life, not even in combat, so much so that I trembled when they left. A felony, how could this be a felony? I was just depositing my own hard earned and legally earned cash in the bank. How can that be a felony? I pay my taxes, I try to do everything correct. This is illogical. But if they were right then I could lose everything I had worked for in my business, all 22 years of building my dream. A person cannot have a felony and own a firearms business. I immediately called my counsel.

### **The Immediate Business Impact:**

Three days later on April 15th my 2012 taxes were due and so were the estimated taxes for the first quarter of 2013. By the time I had paid both tax bills and the next employee payroll, I had no working capital left to run my business. If it were not for the grace of Almighty God and my banker at Wells Fargo that believed in me and lent me the

\$80,000 I needed, we would have been in such serious financial trouble as to put my whole business at risk.

I immediately cancelled whatever product orders I could, which amounted to hundreds of thousands of dollars in purchase orders with firearms manufacturers. This had a distinct negative impact on my reputation with the affected manufacturers as cancelling purchase orders on short notice is considered a bad business practice. I also indefinitely suspended a new Point of Sale system we had planned to purchase and implement. A year earlier I had specifically hired a new IT employee to spearhead the integration of our web site with a Point of Sale (POS) system. This integration required a new POS system and a new web site. The project, including installation was going to cost over \$100,000. But now, with no money to pay for the project, my new hire had almost nothing to do.

### **The Governments 1<sup>st</sup> Demand:**

My attorney started negotiations to attempt recovery of the seized money. On April 18<sup>th</sup>, a meeting was held between the two IRS agents who visited me, the Assistant US Attorney, myself, my counsel and my accountant with the intent of explaining the misunderstanding and recovering the \$940,313.

On May 7<sup>th</sup>, the Government responded via email with the following offer:

“I have authority to resolve this case by forfeiting \$325,000 to the United States and returning the balance to your client.

It is this Office’s view that your client knowing violated federal law when he structured \$940,313 by way of 109 transactions from May 3, 2012, to March 25, 2013. This offer to resolve the matter already takes into consideration Mr. Clyde’s contention that the cash was legitimately earned and that appropriate withholdings were made, two matters that we will not challenge for purposes of this settlement negotiation only. “

The Government wanted my money without any record of a formal complaint even being filed. Of course then it would not be public either and that would mitigate the chance of damage to my reputation, so they said. And that was a real threat, because “A good name is more desirable than great riches, to be esteemed is better than silver or gold” (Proverbs 22:1). I had worked hard to earn a good name in the community and with structuring being part of the Money Laundering Act, the headline could have read:

“1 Million in Local Gun Dealers Cash Seized by the IRS for Money Laundering”.

Regardless whether you believed the headline or not, that would sink a small retail business as people would stay away for fear of being associated with money laundering. I would also spend all my time explaining that I was innocent because our society has a

natural bent to believe that the law is good and is fairly applied. And our society should believe that as we are a government of “we the people” with the best Constitution in the world. So this threat against my name was real, but so was my innocence. This was another attempt by the Government to pressure me to acquiesce. I am not a man who uses curse words so I responded as did BG McAuliffe when surrounded at Bastogne, “NUTS” and directed my attorney to politely decline the Governments offer.

A formal complaint was then filed by the USDOJ on May 29, 2013 seeking civil seizure of the entire \$940,313 and I was reminded by the AUSA that though this is now a civil case, anything found during civil discovery could easily turn this into a personal criminal matter against me. Again, this was another attempt by the Government to pressure me into voluntarily forfeiting my hard earned money.

### **The Judge:**

Not until July 22<sup>nd</sup>, 3 ½ months after the seizure were we able to get a mitigation hearing in front of a Judge. At the hearing the Judge asked if any other laws were violated or if only simple structuring was the basis for the entire forfeiture. The Government admitted in open court that they had no evidence of any other violations, only simple structuring, but that structuring stood on its own. Prior to the hearing, and at my own expense, I had a forensic tax auditor go through my records to validate that my records were correct. So the government admitted that all my cash revenue was legal and properly reported on tax returns.

The Judge then strongly suggested that the Government return a substantial portion of the seized funds as he was concerned that the seizure was so large as to create Constitutional issues. The Government refused and correctly told the Judge that there was no provision in the law that would allow the Court to order a return of the money short of a trial. The Judge again strongly suggested that the Government return a substantial portion of the seized funds or the trial would begin in 9 days. If something could be worked out, then the trial would begin in 30 days.

Three days later the Government offered a return of \$440,313 and amended the complaint to US vs. \$500,000. Trial was then set for about 30 days later on August 26<sup>th</sup>.

### **The Governments 2<sup>nd</sup> Demand:**

The Government came back and again offered to settle the case for only \$109,000 this time, and I was again reminded that this case could easily go criminal against me personally during discovery. My answer was the same, and again my attorney politely declined their offer.

The agreed upon \$440,313 was returned to Clyde Armory on August 7<sup>th</sup> with no interest paid by the government. \$500,000 was still retained by the government as the new basis for their claim of structuring.

In deposition before the trial, the IRS agent confirmed under oath that there was “no floor for deposits that cannot be considered structuring”. That means any cash deposit of 10,000 or less can be considered structuring by the IRS. For me it was as low as a cash deposit of \$1,628 that they considered structuring. This means there is NO SAFE HARBOR for any small business that deals in cash, because though they can define what structuring is, they cannot define what it is not, when the cash deposit is less than \$10,000. So any deposit or withdrawal of cash under \$10,000 can be considered as structuring. That means every small business is completely vulnerable.

### **The Settlement:**

Three days before the trial, and under duress, I agreed to forfeit \$50,000 to settle the case. It was a business decision based on the projected cost of the trial and that my business was not going to survive very well if I lost all \$500,000. In total, my legal defense cost me \$149,336 in pre-tax income.

This was my tactical retreat, so I could live to fight another day.... and that day is today. I did not serve three combat tours in Iraq only to come home and be extorted and shaken down by my government’s corrupt use of civil forfeiture laws. But that is what I feel they have done to me and I need Congress to stop it from happening to anyone else.

When I asked the US Attorney why he was doing this, his response was, I’m just following the law. So he laid the responsibility right at the feet of Congress. Therefore, I am asking Congress to change the law and take away their legal authority to go after legally earned and reported cash money, and then restore those of us who have been abused.

The remaining \$450,000 was finally returned on September 13, 2013. The government calculated the interest to be \$3.91 for the 4 months of retaining the initial \$440,313 and slightly more than \$5.00 for retaining the \$450,000 over 5 months. Total interest was calculated at less than \$10.00 and in the end no interest was ever paid.

If the appropriate IRS interest rate of 3% had been used, the government would have owed \$10,028.13 in interest.



## **The Pressure of the DOJ.**

The DOJ used the following tactics to attempt to coerce me into a settlement.

- 1) The money was seized on April 12<sup>th</sup>, three days before both year-end taxes and estimated quarterly taxes were due to be paid on April 15<sup>th</sup>. This ensured maximum money was obtained and the business was bled as dry as possible to exert maximum financial pressure.
- 2) Though a meeting was held 6 days later ( April 18<sup>th</sup>) with my counsel and my tax accountant to explain to both the IRS investigators and the Assistant US Attorney (AUSA) that the money in question was both legitimate and properly reported, it quickly became apparent that the IRS / USA was in no hurry to have the matter decided and return the money.
- 3) Twenty Six days later the AUSA proposed an expedited settlement if I agreed to forfeit \$325,000 of the \$940,313 seized. I immediately saw that the AUSA was not really interested in pursuing a criminal case, (which would have given me more rights and set a higher burden of proof for the gov't) but that the real motive was confiscating money and I believe I appeared to be a flush target.
- 4) Forty eight days after seizure, a civil complaint was finally filed by USDOJ, but it was filed against the money and not against me personally. I was not the defendant, I was simply the principle that owned the defendant. By doing this, it limited my ability in a future trial to use character witnesses on my behalf, as money has no character.
- 5) The government reminded me at each settlement offer that if the case continued and went to the discovery phase, anything they found out could easily turn this into a personal criminal matter, as this was a criminal statute. I believe this suggestion was intended to exert significant additional pressure to force me into a monetary settlement prior to the trial. After all, any felony conviction would mean they would take all my firearms and it would be the absolute end of my business.
- 6) The statue is currently interpreted to not allow a Judge to grant the return of any of the seized cash, short of a final trial. Only if the entire business is seized is there a possibility of court relief prior to trial. So the IRS seizes the cash and not the business so there is no opportunity for recourse until the trial. This exerts monumental pressure on the business to negotiate a settlement as rarely is a trial expedited. Usually it takes at least a year or more and by that time fatal injury has usually occurred within the business as cash is the life blood of a business. Truly No cash, No blood and No life!

- 7) The Governments delay tactics increased my legal bills and put more financial pressure on my business, which was already reeling from the \$940,313 seizure.
- 8) The Government offered a settlement without any record of a formal complaint even being filed. Then it would not be public, and that would mitigate the chance of damage to my good reputation, so they said. And that was a real threat. I had worked hard to earn a good name in the community and with structuring being part of the Money Laundering Act, the headline could read:

“1 Million in Local Gun Dealers Cash Seized by the IRS for Money Laundering”.

Regardless whether you believed it or not, that would sink a retail business as people would stay away for fear of being associated with money laundering. I would also spend all my time explaining that I was innocent, because our society has a natural bent to believe that the law is good and is fairly applied. And our society should believe that as we are a government by “we the people” with the best Constitution in the world. So this threat against my name was real, and had to be evaluated seriously.

None of the above tactics worked very well on me because of many factors. By the grace of God I was able to keep some life blood in the business by reducing incoming purchase orders and inventory, tapping into a line of credit for \$80,000 at another bank, delaying or cancelling planned capital projects and managing the finances to the penny.

I was 100% convinced of my complete innocence and that drove me forward with conviction. I also had difficulty grasping the interpretation of this statute. It is not intuitive that a statute meant to catch illegal proceeds or unreported proceeds would ever be used against legal cash proceeds that are totally reported as income on tax returns. It remains illogical to me. But it is still dangerous and the risk of losing in court is always a possibility and I had to come to grips with that.

The Judge breathed more life blood back into my business when he persuaded the Government to return \$440,313 of the company life blood. But a public trial with a loss of \$500,000 would still have set us back two years in growth and could have caused significant harm to our reputation in the industry. So agreeing to forfeit the \$50,000 in post-tax income to get back the \$450,000 was a business decision based on the projected cost of the trial and that my business was not going to survive very well if I lost all \$500,000. In total, my legal defense including the forfeiture cost me the equivalent of \$149,336 in pre-tax income.

**Legal Issue #1** - Legal and Illegal Cash is treated the same:

**The IRS is using laws meant to catch illegal and unreported income as a justification to seize the legally earned and fully reported cash income of individuals and legitimate businesses.**

There are a myriad of legitimate reasons for small business (and individuals) to keep deposits at \$10,000 or less to avoid or mitigate risk:

- 1) Security of the deposit (managing the risk so you never risk too much)
  - a. Employee theft
  - b. Accidental loss from mishap (traffic accident & car fire, etc.)
  - c. Robbery
  - d. Cash is irreplaceable if lost or stolen
- 2) Insurance limitations of \$10,000 on carrying cash outside the business
- 3) Fear that high cash deposits will result in increased chance of IRS audit
- 4) Fear of not being treated fairly by the IRS during an audit
- 5) Right to financial privacy (especially cash)

There is NO SAFE HARBOR for any legitimate business that deposits cash unless the business saves up cash and consistently makes its deposits in excess of the \$10,000 threshold delineated in the structuring laws of 31 USC § 5324.

The IRS can consider any cash amount of \$10,000 or less to be involved in structuring transactions. I experienced an amount as low as \$1,628.00 that the IRS considered to be structuring. From my research I have seen an amount as low as \$800.00 in cash. From sworn testimony on 8/22/2013 in the deposition of IRS Special Agent Bryant L. Brooks, page 42, Lines 16-24, he concurred under oath that there is no floor for deposits that cannot be considered structuring.

This is so discretionary that I can NEVER do normal business and positively know that I am not breaking the law in their eyes.

The IRS considers the willfulness aspect of structuring to have been removed by Congress in the 1994 Money Laundering Suppression Act.

“12. Willfulness is not an element of a civil forfeiture action for property involved in a structuring violation. See *United States v. Ratzlaf*, 510 U.S. 135, 146 n.16 (1994). Accordingly, in this instant forfeiture action, the Government only needs to show by a preponderance of the evidence that cash deposits in excess of \$10,000 were divided into amounts less than that amount for deposits in such a manner so as to avoid the filing of CTR's.”

Therefore, in order to win their case, the IRS simply needs to prove a “pattern of deposits” that together would have made an amount over \$10,000 but is deposited in amounts less than \$10,000.

Even if the business is successful in defending itself, it still takes a massive financial hit in both capital and time invested in the defense. Most, if not all of the cost of the defense, will never be reimbursed by the Government. My defense cost me \$149,336. in pre-tax income.

If the small business’s defense is not successful, it faces both possible felony convictions and massive fines up to \$500,000 simply for the way it deposits it’s legitimately earned or owned cash.

In addressing this issue on October 25, 2014, Chief Richard Weber of IRS Criminal Investigation stated in an open letter to the New York Times that:

“I.R.S.-C.I. will no longer pursue the seizure and forfeiture of funds associated solely with “legal source” structuring cases unless there are exceptional circumstances justifying the seizure and forfeiture”

But it is still legal for them to go after legal source money, according to the IRS. This “policy update” to no longer go after legal source cash, that they have decided to do today, doesn’t mean that tomorrow they cannot change their minds and start going after it again. NO! Congress must permanently take away their authority to ever go after legal source cash again and provide relief to the business owner/individual if the IRS ever does. That is the ONLY WAY we will be safe from their abuses in this area.

### **Suggested Legislative Changes to Create the Safe Harbor:**

Below I have copied the US Code 31 USC 5324. I am recommending that the code be amended to include what I have highlighted below. I am no Law Clerk but I believe that what I have added would sufficiently insulate citizens and small businesses from the overreach of an aggressive IRS while still maintaining the value of the code to law enforcement as a useful tool in fighting monetary crime.

### **31 USC § 5324**

**(a) Domestic Coin and Currency Transactions Involving Financial Institutions.**—No person shall, for the purpose of evading the reporting requirements of section [5313\(a\)](#) or [5325](#) or any regulation prescribed under any such section, the reporting or recordkeeping requirements imposed by any order issued under section [5326](#), or the

recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508—

(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section [5313 \(a\)](#) or [5325](#) or any regulation prescribed under any such section, to file a report or to maintain a record required by an order issued under section [5326](#), or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508;

(2) cause or attempt to cause a domestic financial institution to file a report required under section [5313 \(a\)](#) or [5325](#) or any regulation prescribed under any such section, to file a report or to maintain a record required by any order issued under section [5326](#), or to maintain a record required pursuant to any regulation prescribed under section [5326](#), or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508, that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions subject to the following –

A legal business cannot be guilty of structuring unless it has first been notified by being given a notice of law by the agency concerned.

**(b) Domestic Coin and Currency Transactions Involving Nonfinancial Trades or Businesses.**— No person shall, for the purpose of evading the report requirements of section [5331](#) or any regulation prescribed under such section—

(1) cause or attempt to cause a nonfinancial trade or business to fail to file a report required under section [5331](#) or any regulation prescribed under such section;

(2) cause or attempt to cause a nonfinancial trade or business to file a report required under section [5331](#) or any regulation prescribed under such section that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with 1 or more nonfinancial trades or businesses.

**(c) International Monetary Instrument Transactions.**— No person shall, for the purpose of evading the reporting requirements of section [5316](#)—

(1) fail to file a report required by section [5316](#), or cause or attempt to cause a person to fail to file such a report;

(2) file or cause or attempt to cause a person to file a report required under section [5316](#) that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.

**(d) Criminal Penalty.—**

(1) **In general.**— Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

(2) **Enhanced penalty for aggravated cases.**— Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section [3571](#) of title [18](#), United States Code, imprisoned for not more than 10 years, or both.

**(e) Exclusions.** – [5324](#) Sections (a), (b) and (d) shall not apply to the legal source income of a legitimate and legal business or individual. If found to be applied to the legal source income of a legitimate and legal business or individual, the government shall be liable for reasonable interest, attorney’s fees and damages suffered by the business or individual.

**(f) Restoration.** – Any individual or business damaged by civil forfeiture or criminal prosecution solely for a violation of [5324](#) Sections (a), (b) or (d) involving only legal source income shall be restored by the return of all forfeited funds, payment of interest due, reasonable attorney’s fees and damages as the court determines. If convicted of a felony, their record shall be expunged of the conviction and completely restored.

**Legal Issue # 2:** – No Authority for the Court to Allow Remission Before Trial

**The law, as applied, subjects a person to the seizure without being able to contest the probable cause finding in an emergency fashion.**

From a legislative standpoint, we would ask that you look at our argument regarding 18 USCS § 983 (f), and particularly part 8 of the provision. That provision on its face appears to state that a party can seek remission currency only when the Government seizes the whole business, not when they just seize the currency of the business. We submit this is nonsensical, as an ongoing business needs currency to operate.

**Legal Issue #3.** - Little or No Interest Paid When Seized Funds are Returned.

**Interest paid on funds returned from seizure should be paid at the same rate as interest charged for late payment of taxes.**

Current rate for the late payment of taxes: 3%

Current rate for interest on seized funds: .005% or nothing.

The current rate for interest paid on the return of seized funds is tied to the 30-Day Treasury Bill as explained below. This comes from an 8/28/13 Treasury email.

“Currency seized by participating agencies is deposited into the Treasury Suspense Account, which is located in the Federal Reserve Bank of New York. Every month, managers of the Forfeiture Fund identify the amount of monies available for investing. That portion is provided to the Bureau of Public Debt, which invests the monies in 30-Day Treasury Bills.”

Therefore, those who have had their assets unjustly seized by the IRS only get a chance at the smallest interest rate imaginable.

Whether or not seized currency is invested by the Bureau of Public Debt should have no impact on the payment of interest to parties who have had their seized funds returned. If the money is rightfully returned, then it was not proper for it to be seized in the first place. If this is a government for the people, then returned money should be accompanied by an appropriate amount of interest. It should be at least the same interest rate as what the government charges its citizens for the late payment of taxes.

If the Government was a “For Profit Corporation” then I could possibly understand a disparity in interest rates, but the Government is not a “For Profit Corporation”. The Government is to be for the people and this disparity should not exist.

Legislation needs to be created to mandate that interest be paid by the Government on any seized money that is returned. The legislation also needs to tie the rate for interest paid on the returned money to the same as that charged by the Government on late tax payments.

### **Additional Background from the Trial Order:**

This case now involves the seizure of funds in the amount of \$500,000.00, from Robins Credit Union, held in the name of Clyde Armory, Inc. Plaintiff (US Attorney) contends that the Claimant Property constitutes property involved in funds structured into a domestic financial institution with the intent to evade the currency reporting requirements or caused or attempted to cause a financial institution to fail to file a report, all in violation of Title 31, United State Code, Section 5324, and is therefore, subject to forfeiture pursuant to 31 U.S.C. § 5317(c)(2), in conjunction with 18 U.S.C. § 984.

Claimant, Andrew Clyde is a long time resident of Athens, Georgia. He has a distinguished reputation, having served in the United States Navy on active duty for 11 years and in a reserve capacity for 17 years. He is also an active member of his local church, Prince Avenue Baptist Church, having served as a deacon since 2003. During his tenure in the military, he performed three tours of combat duty in the Iraqi theater. Mr. Clyde received numerous medals for his service including the Defense Meritorious Service Medal (the 3<sup>rd</sup> highest award from the Department of Defense for a member of the military)

In addition to his military service, Mr. Clyde has served in local law enforcement (Wilkes County) as a firearms instructor since 2010. Mr. Clyde is also a Federal Firearms License holder. In short, Mr. Clyde has been subjected to numerous background investigations and other security reviews; he is more than a model citizen of his community and of this country.

Claimant, Clyde Armory, Inc, is a federal firearms licensee, which has a 12,000 square foot brick and mortar facility in Athens, Georgia that employs 26 people. The company sells all manner of firearms and ammunition, including federally restricted rifles to Law Enforcement Agencies. In addition to retail the company contracts with various law enforcement agencies including the Clarke, Oconee, DeKalb, Cobb & Los Angeles County Sheriff Departments. Clyde Armory is also a primary weapons provider for the United States Marine Corps Exchange Service.

The Government initially seized \$940,313.00<sup>1</sup> from Clyde Armory's primary holding account on the allegation that Mr. Clyde structured the deposit of the cash. The Government announced in open Court in a preliminary proceeding that they do not have evidence to support the contention that cash is the result of illegal activity or that the cash was not properly handled. (all cash revenue properly reported on tax returns)

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<sup>1</sup> The Government has agreed to remit \$440,313.00.



The Government contends that Mr. Clyde made 109 transactions which violate 31 USC § 5324. Mr. Clyde denies the allegation on the basis that he was not aware of the legal requirement for either 31 USC § 5313(a) or 5324 and therefore could not of taken these actions “for the purpose of evading the reporting requirements” of those statutory provisions that he did not know even existed.

**Pictures of CLYDE ARMORY, Inc. in Athens, GA**



Clyde Armory – Customer Entrance



Clyde Armory – Road View



Clyde Armory – Retail Floor View

What the IRS agent would have seen during his 6 February recon mission except that there would have been a lot less rifles on the walls. The gun racks on the walls and the glass display cases would have been about empty in early February 2013.