AFFIDAVIT OF REVOCATION AND RESCISSION

I, Kenneth C. Breckenfelder, of 509 East Butler St., Manchester, Iowa 52057, by my signature affixed to this document, do hereby make the following statement of fact, and affirm:

1. That I was unaware that completed, signed, and submitted Internal Revenue Service "tax forms" are voluntarily executed instruments which could be used as prima facie evidence against me in criminal trials and civil proceedings to show that I had voluntarily waived my constitutionally secured rights and that I had voluntarily subjected myself to the federal income/excise tax, to the provisions of the Internal Revenue Code, and to the authority of the Internal Revenue Service by signing and thereby affirming under penalty of perjury that I was in effect a "person" subject to the tax.

2. That I was unaware of the legal effects of signing and filing an income tax form as shown by the decision of the United States Court of appeals for the 9th Circuit in the 1974 ruling in the case of Morse v. U.S., 494 F2d 876,880, wherein the Court explained how a citizen became a "taxpayer" by stating: "Accordingly, when returns were filed in Mrs. Morse's name declaring income to her for 1944 and 1945, and making her potentially liable for the tax due in that income, she became a taxpayer within the meaning of the Internal Revenue Code." Emphasis added.

3. That I was unaware that the signing and filing of an income tax form is an act of voluntary compliance for a free sovereign individual citizen and/or resident of the United States when executed and submitted by said individual living and working within the States of the Union; that I was unaware that in a court of law the completed Internal Revenue Service documents can become prima facie evidence sufficient to sustain a legal conclusion by a judge that the signer has voluntarily changed his legal status from that of a free sovereign individual citizen who is not subject to any federal tax and who possesses all of his God-given Constitutionally secured rights when dealing with government, to the legal status of a "taxpayer" (any individual, trust, estate, partnership, association, company or corporation subject to a federal excise tax,) a "person" who is subject to a federal excise tax and is therefore subject to the authority, jurisdiction and control of the federal government under Title 26 of the United States Code, the statutes governing federal taxation and to the regulations of the Internal Revenue Service, thereby imposing the tax on himself and waiving his God-given Constitutionally secured rights in respect to the federal income/excise tax statutes and their administration by the and establishing himself as one who Internal Revenue Service has privileges only, but no rights in dealings with the Internal Revenue Service, the same as a corporation; that it is my

FILE No. 155-1950
RECORDING FEE $ 35.00
TRANSFER FEE $
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STATE OF IOWA, DELAWARE COUNTY
Jane A. Lloyd, Recorder
Aff.

understanding that the change of status resulting from the signed documents is very similar to the change of status that occurs when one enlists in the military service and voluntarily takes an oath that subjects him to the authority, jurisdiction and control of the federal government under Title 10 of the United States Code, the statutes governing the armed forces and the regulations of the military service, thereby waiving his Constitutional rights in relation to dealings with the military services.

4. That I am a natural born free sovereign United States citizen, and a citizen of the State of Iowa, a freeman and I am endowed by my Creator with numerous inalienable rights including my rights to "life, liberty, and the pursuit of happiness," which rights are specifically identified in the Declaration of Independence and protected by the United States Constitution; that my birthright to "pursuit of happiness" has been interpreted by both the framers of the Constitution and the U.S. Supreme Court as including my inalienable right to contract, to acquire, to deal in, to sell, rent, and exchange properties of various kinds, real and personal, without requesting or exercising any privilege or franchise from government; that I have learned that these inalienable property rights also include my right to contract for the exchange of my labor for other properties such as wages, salaries, and other earnings, that I have never knowingly or intentionally waived any of these inalienable rights.

5. That I understand that if the exercise of rights were subjected to taxation, the rights could be destroyed by increasing the tax rates to unaffordable levels; therefore courts have repeatedly ruled that government has no power to tax the exercise of any rights of citizens, as shown by the U.S. Supreme Court in the case of Murdock v. Penna., 319 U.S. 105 (1943) which stated: "A state may not impose a charge for the enjoyment of a right granted [secured] by the Federal Constitution."

6. That for years past I have been influenced by numerous and repeated public warnings made by the Internal Revenue Service via radio, television, the printed press and other public communication media warning of the "deadline" for filing a "Form 1040 Income Tax Return" and/or other Internal Revenue Service forms and documents.

7. That in addition to the aforesaid warnings, I have also been influenced by misleading and deceptive wording of Internal Revenue Service publications, Internal Revenue Service generated news articles, the pressure of widespread rumors and misinformed public opinion, and the advice and assurances of lawyers, C.P.A.'s and income tax preparers which misled me to incorrectly believe that the 16th Amendment to the United States Constitution authorized Congress to impose a direct tax on me, my property, my exchanges of property and/or property received as a result of

exercising my constitutionally secured right to contract; that I was further misled into believing I had a legal duty and obligation to file Internal Revenue Service.

8. That I have also been further influenced, misled and alarmed by rumors, misinformed public opinion and the advice and assurance of lawyers, C.P.A.'s and income tax preparers to the effect that "the IRS will get you," and that it would be a crime punishable by fine and/or imprisonment if I did not fill out, sign and file with the Internal Revenue Service forms and documents; that in actuality the only person named within the Internal Revenue Code required to collect, file a return, and pay an income tax is a "Withholding Agent."

9. That in addition to all of the reasons stated in paragraphs 6, 7, and 8 above, I was influenced by the common and widespread practice of employers who either knowingly or unknowingly mislead their employees to believe that they are all subject to withholding of "income taxes" from their earnings, either with or without their permission, based upon the employers' possible mistaken assumption that they, as employers, are required by law to withhold "income taxes" from the paychecks of their employees, which is contrary to Internal Revenue Code Section 7701(a)(16), absent a voluntary execution of Form W4, "Employee's Withholding Allowance Certificate."

10. That I have also been influenced and impressed by the Internal Revenue Service's annual public display and indiscriminate offering of large quantities of the tax forms in banks, post offices, and through the United States mail.

11. That said tax forms contained no reference to any law or laws which would explain just exactly who <u>is</u> or <u>is not</u> subject to or liable for the income tax, nor do they contain any notice or warning to anyone that merely sending said completed forms to the IRS would waiver of the right to privacy secured by the 4th Amendment and the right to not having to be a witness against oneself secured by the 5th Amendment to the United States Constitution, and that the forms would in themselves constitute legal evidence admissible in a court of law, that the filer is subject to and liable for the income/excise tax even though and regardless of the fact that I, or any other free individual citizen, are actually and legally not subject to or liable for any income/excise tax and have no legal duty or obligation whatsoever to complete and file an income tax form.

12. That at no time was I ever notified or informed by the Internal Revenue Service, by any of its agents, or employees, nor by any lawyer, C.P.A., or tax preparer of the fact that the <u>16th Amendment</u> to the United States Constitution, <u>as correctly interpreted</u> by the U.S. Supreme Court in such cases

as Brushaber v. Union Pacific R.R. Co., 240 U.S. 1 (1916) and Stanton v. Baltic Mining Co., 240 U.S. 103 (1916) identified the income tax as an indirect excise tax in accordance with Article 1, Section 8, Clause 1 of the United States Constitution, and that the 16th Amendment does not authorize a tax on individual citizens living and working within the States united, but is applicable to nonresident aliens as stated by the Commissioner of the Bureau of Internal Revenue in T.D. (Treasury Decision) 2313, March 21, 1916.

13. That my attention has been called to Report No. 79-131 A, titled "Some Constitutional Questions Regarding the Federal Income Tax Laws" published by the American Law Division of the Congressional Research Service of the Library of Congress, May 25, 1979; that this publication described the tax on "income" identified in the 16th Amendment of the United States Constitution as an indirect excise tax; that this report stated: "The Supreme Court, in a decision written by Chief Justice White, first noted that the 16th Amendment did not authorize any new type of tax, nor did it repeal or revoke the tax clauses of Article I of the United States Constitution, quoted above, and further stated: "Therefore, it can clearly be determined from the decisions of the United States Supreme Court that the income tax is an indirect tax, generally in the nature of an excise tax," thus proving in my mind that the "income tax" is not a tax on me as an individual citizen.

14. That I was unaware of the truth of the Internal Revenue Service's rarely publicized statement that the "income" tax system is based upon "voluntary compliance with the law and self-assessment of tax"; that it has never been my intention or desire to voluntarily self-assess an excise tax upon myself; that I always thought that compliance was required by law.

15. That I have examined sections 6001, 6011, 6012(a), 1441, 1442, 1443, 7203, and 7205 of the Internal Revenue Code (Title 26 U.S.C.) and I am convinced and satisfied that I am not now, and never was any such "person" or individual referred to by these sections.

16. That after careful study of the Internal Revenue Code and consultations with others on the provisions of the Code I have never found or been shown any section of the Internal Revenue Code that imposed any requirement on me a individual citizen, living within a State of the Union, to file an "Income Tax Return," or that imposed a liability upon me to pay a tax on "income," or that would classify me as a "person liable," a "person made liable" [26 U.S.C. Section 7701(a)(16) and Section 1461], or a "taxpayer," as the term "taxpayer" is defined in 26 U.S.C. Section 7701(a)(14) which states: "The term 'taxpayer' means any person subject to any internal revenue tax."

17. That after the study and consultations mentioned in paragraph 16, the only mention of any possible liability and/or requirement upon me, as an individual citizen, to complete and file a tax form and pay a tax on "income" that I could find or was shown in Title 26 United States Code was Subtitle A, Chapter 1, Subchapter A Section 1, "Tax on Individuals" and Subtitle F, Chapter 61A, Part II, Subpart B, Section 6012(a); that a careful study and examination of these parts of the Code revealed that the "Individuals" referred to were taxed according to a tax treaty, because of living and working within a foreign country.

18. That after study and consultations mentioned in paragraph 16, my attention was called to Internal Revenue Code Subtitle C, "Employment Taxes," Chapter 21 titled "Federal Insurance Contributions Act" (social security), to Subchapter A of Chapter 21 titled "Tax on Employees," which includes Section 3101 wherein the (social security) tax is identified as a tax on "income," not as an "Insurance Contribution," and not as a "Tax on Employees," or on wages or earnings; that my attention was further called to these facts: there is no provision in the Code that imposes the tax on employees or requires them make an application for a Social Security Number, (needed to participate in the Social Security Welfare Program), or to pay the tax; a voluntarily signed completed Form W-4, "Employee's Withholding Allowance Certificate," containing the Social Security Number, allows an employer to withhold money from a worker's pay for (social security) "income" tax, only if the "employee" has <u>voluntarily</u> made an application on Form SS-5 for a Social Security Number for the purpose of "obtaining or retaining a benefit within the Social Security Welfare Program.

19. That after the study and consultations described in paragraph 16, my attention was called to Section 61(a) of the Internal Revenue Code which lists items that are sources of "income" and to these facts: that Internal Revenue Service Collection Summons Form 6638 confirms that these items are sources, not "income," by stating that the following items are "sources": "wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, pensions, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money).", that <u>sources are not income</u>, but sources become "income" if they are entered as "income" on a signed "Form 1040" because <u>the signer affirms under penalty of perjury that the items entered in the "income" section of the "Form 1040" are "income" to the signer</u>; that Section 61(b) clearly indicates which Sections of the Code identify and list items that are included in "income" by stating: "For items specifically included in gross income, see Part II (sec. 71 and following)."

20. That my attention was then called to the said Part II, titled: "Items Specifically Included in Gross Income;" that I

studied sections 71 through 87 and noticed that wages, salaries, commissions, tips, interest, dividends, pensions, rents, royalties, etc., are not listed as being included in "income" in those sections of the code; that, in fact, those items are not mentioned anywhere in any of these sections of the Internal Revenue Code.

21. That after further study it appears clear to me that the only way that property received by me as a individual citizen, living and working within the States of the Union, in the form of wages, salaries, commissions, tips, interest, dividends, rents, royalties, and/or pensions could be, or could have been legally considered to be "income" is if I <u>voluntarily</u> completed and signed a income tax return, thereby affirming under penalty of perjury that information on the tax form was true and correct, and that any amounts listed on the tax form in the "income" block are "income," thereby acknowledging under oath that I am, or was subject to the tax and have, or had a duty to file a income tax return and/or other Internal Revenue Service forms, documents, and schedules, none of which instruments I have ever signed with the understanding that they were voluntarily signed.

22. That with reliance upon the aforementioned U.S. Supreme Court rulings and upon my constitutionally protected rights described within the 5th and 9th Amendment of the United States Constitution to lawfully contract, to work, and to lawfully acquire and possess property, I am convinced and satisfied that I am not now, nor was I ever subject to, liable for, or required to pay any income/excise tax, that I am not now and never was a "taxpayer" as the term is defined and used in the Internal Revenue Code, and that I have never been notified by the Internal Revenue Service, according to Delegation Order 24, of any legal duty or obligation whatsoever to file or make any "income tax return," or sign any other Internal Revenue forms, submit documents or schedules, pay any income tax, keep any records, or supply any information to the Internal Revenue Service.

23. That both the United States Congress and the Internal Revenue Service, by deceptive and misleading words and statements in the Internal Revenue Code, as well as Internal Revenue Service publications and Internal Revenue Service generated news articles <u>committed constructive fraud</u> by misleading and deceiving me, as well as the general public, into believing that I was required to file Internal Revenue Service forms, and also to keep records, supply information, and to pay income taxes.

24. That by reason of the aforestated facts, I do hereby exercise my rights as a free sovereign citizen of the State of Iowa, upheld by various court decisions to revoke, rescind, cancel and to render null and void, both currently and

retroactively to the time of signing, based upon the constructive fraud perpetrated upon me by the United States Congress and the Internal Revenue Service, all Internal Revenue Service forms, schedules, and documents ever signed and/or submitted by me, and all my signatures on any of the aforementioned items, to include the "SOCIAL SECURITY" application (Form SS-5), which caused a file bearing the identifying number [redacted] to be established for myself; that this revocation and rescission is based upon my rights in respect to constructive fraud as established in, but not limited to the cases of Tyler v. Secretary of State, 184 A.2d 101 (1962), and also El Paso Natural Gas Co. v. Kysar Insurance Co., 605 Pacific 2d. 240 (1979) which stated: "Constructive fraud as well as actual fraud may be the basis of cancellation of an instrument."

25. That further, I do hereby declare that I am not and never was a "taxpayer" as that term is defined in the Internal Revenue Code, a "person liable" for any Internal Revenue tax, or a "person" subject to the provisions of that Code, and declare that I am, and have always been, a "nontaxpayer"; that courts have recognized and acknowledged that individuals can be nontaxpayers, "... for with them Congress does not assume to deal and they are neither of the subject nor of the object of revenue laws...", as stated by the Court in Long v. Rasmussen, 281 F. 236 (1922), and also Delima v. Bidwell, 182 U.S. 176, 179 and Gerth v. United States, 132 F. Supp. 894 (1955).

I now affix my signature to these affirmations:

Kenneth C. Breckenfelder
Affirmant (Seal)
KENNETH C. BRECKENFELDER

The foregoing was subscribed and sworn to before me, a Notary Public, of the State of Iowa
County of Delaware, this 22 day of January, 1992.

Sharon Mc Crabb
Notary Public SHARON MC CRABB

My Commission Expires On: 6-14-93