

THE BEST JUDGES THAT MONEY CAN BRIBE

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There has been much discussion recently in some quarters concerning the necessity for the federal judiciary to be completely independent of the government. Certainly this was the intention of the Founding Fathers, although some of them expressed grave doubts as to whether or not this was possible. Recently in the Arizona Republic, the paper's editorial staff took the liberty of quoting United States Supreme Court Justice William Rehnquist, who stated that Judicial independence is "one of the crown jewels of our system of government." Rehnquist was also quoted as saying that judges, while not above criticism, should never be threatened with removal because of their rulings because "integrity requires independence."

We would agree with Chief Justice Rehnquist that integrity requires independence. However, we also state that the converse is true: that lack of independence - especially where large sums of money are concerned - can throw the integrity of the federal judiciary into serious question.

Have you ever wondered why some Federal Judges rule the way they do on certain issues? Does it often seem as if some members of federal judiciary utterly dismiss many arguments which plaintiffs bring into court, arguments based solely on statutes, when these arguments contradict the government's unsupported assertions? Does it often seem as if some federal judges permit federal employees to behave in lax, even unlawful, ways without sanctions? Finally, does it often seem that many members of the federal judiciary, particularly U. S. District Court Judges, often rule inexplicably and apparently arbitrarily in favor of the government?

In this article, we shall present a premise, grounded in statute, that the federal judiciary is not at all as independent as Chief Justice Rehnquist claims it to be; indeed, we believe that the allegedly "independent" federal judiciary has the capacity, because of the statutes which we are about to reveal, to be as corrupt and as influenced by money as is any organized mob. There can be no independence nor integrity in a system which permits what essentially appears to be lawful one-sided bribery.

Our fundamental question is this: How can the federal judiciary be independent and impartial when the law permits the federal government to privately award judges up to \$25,000 in undisclosed "cash awards", and

further, to privately "erroneously" overpay them up to \$10,000, and then to privately "waive" the overpayments?

Although the preceding statement is incredible, we shall support it with specific statutory cites. The reader can then draw his own conclusions.

Let us begin with an analogy: Two people, whom we'll call Mr. White and Mr. Brown, agree to a business arrangement: Mr. White, who produces a certain kind of widget, agrees to sell 100 of these widgets to Mr. Brown. In the agreement, Mr. White promises Mr. Brown that the widgets will perform a certain function. After the sale, Mr. Brown discovers that the widgets do not perform the requisite function. Mr. Brown angrily tells Mr. White that the widgets have failed to perform as advertised. He then threatens to sue Mr. White if he does not make good on the deal. It is clear that the two men cannot reach an agreement. A lawsuit is imminent. Mr. White then suggests to Mr. Brown that, instead of going to court, they go to arbitration. Mr. Brown agrees. But there is one simple thing that Mr. White has neglected to mention: in the state in which both men live, a statute exists that permits *only* Mr. White to offer the arbiter a "cash award", since Mr. White owns the arbitration company, and furthermore, another statute exists that Mr. White's arbitration company is the only arbitration company lawfully permitted to do business in this state. However, still another statute exists that states that, should Mr. Brown, or anyone other than Mr. White, attempt to offer the arbiter a cash award i.e. a bribe, he will have committed a felony. Does this scenario sound fair? Does the arbiter have "independence"? Is the arbiter encouraged by this set-up to have "integrity"? What are the chances of the arbiter's making a truly fair ruling, or that Mr. Brown will receive a "fair trial"?

As ridiculous as the previous scenario sounds, the potential for this same set-up exists in statute for the Federal Judiciary. We shall attempt to lead you, the reader, through the maze of federal statutes which, when added together, provides ample evidence that the strong potential for one-side bribery exists in statute from the federal government to its employees, U.S. District Court Judges.

Let us start with Title 5 of the United States Code (USC) - "Government Organization and Employees" - Part III (Employees), Subpart C (Employee performance) Chapter 45 (Incentive Awards) Subchapter I(Awards for Superior Accomplishments) Section 4502. This section of Title 5 reveals that government employees can receive "cash awards" from their employer of up to \$25,000.00:

"(a) Except as provided by subsection (b) of this section, a cash award under this subchapter [5 USCS §§ 4501 et seq.] may not exceed \$10,000.

"(b) When the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort for which the award is proposed is highly exceptional and unusually outstanding, a cash award in excess of \$10,000 but not in excess of \$25,000 may be granted with the approval of the Office.

"(c) A cash award under this subchapter [5 USCS §§ 4501 et seq.] is in addition to the regular pay of the recipient. Acceptance of a cash award under this subchapter [5 USCS §§ 4501 et seq.] constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee, his heirs, or assigns.

"(d) A cash award to, and expense for the honorary recognition of, an employee may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting. The head of the agency concerned determines the amount to be paid by each activity for an agency award under section 4503 of this title. The President determines the amount to be paid by each activity for a Presidential award under section 4504 of this title.

"(e) The Office of Personnel Management may by regulation permit agencies to grant employees time off from duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Government operations."

Obviously the wording of the preceding statute is somewhat difficult to follow, but careful reading and rereading of it plainly shows that the government has built into its statutes the payment to its employees of what are called "cash awards", and has set up the conditions under which these payments are made. From 5 USC, we now go to 28 USC - known as "Judiciary and Judicial Procedure": Title 28 at Section 602 (Employees) states:

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the

Administrative Office of the United States Courts Personnel Act of 1990."

Subsection (a) of 28 USC § 602 seems fairly innocuous. But what exactly is the "Administrative Office of the United States Courts Personnel Act of 1990? Well, at Section 3 (a) (1) of the Act, is stated that the Act:

"establish(es) procedures for employee evaluations, the granting of periodic pay adjustments, incentive awards..."

So who are these "employees" that may be "granted" "incentive awards" of up to \$25,000.00?

According to 5 USC § 3371 (3), the Administrative Office of the United States Courts is defined as a "federal agency". 5 USC § 7342 reveals that the Administrative Office of the United States Courts is the "employing agency" for certain federal judges.

5 CFR § 870.103 reveals that the Administrative Office of the United States Courts is the "employing office" for judges of all United States Courts of Appeals; All United States District Courts; The Court of International Trade; The Claims Court; and The District Courts in Guam, the Northern Mariana Islands, and the Virgin Islands. So the law states that these specific categories of federal judges can receive "cash awards" of up to \$25,000.00.

But isn't there some law that requires Federal Judges to disclose all of the money that they receive, and whatever sources from which they receive it? Actually, there isn't. The Ethics in Government Act (5 USC Appx §§101 et seq, at § 102, specifically forbids the disclosure of monies earned from the Federal Government. The Ethics in Government Act exists ostensibly only to discourage conflicts of interest between private industry and government employees, between private individuals and government employees, between foreign entities and government employees. However, the Ethics in Government Act ironically fails to protect the general public from any knowledge of graft, corruption or bribery within the government itself. Furthermore, personal financial information is exempt from disclosure under the Privacy Act. Federal judges can thus be paid off completely privately and secretly - and lawfully - by their employer - the federal government - with a payment statutorily dubbed in this case an "incentive award", also referred to as a "cash award." In the case of a private individual, if he or she tried to offer a federal Judge a secret "incentive award" or a "cash award," it would be called a "bribe." The attempt of a private individual to bribe a judge is classified by the government as a felony.

But what about the Inspector General, whose job is defined in Title 5 as being "to conduct and supervise audits and investigations relating to the programs and operations of establishments" relevant to federal government employees, and also "to prevent and detect fraud and abuse in such programs and operations"? Can't he determine whether or not federal Judges are being paid off with "cash awards" from the government or "bribes" from private individuals? The Inspector General Act of 1978, (5 USC Appx.)§ 8D, reveals that the Inspector General is "under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations...concerning...(E) other matters the disclosure of which would constitute a serious threat to national security. " Section 8D further states:

"the Secretary of the Treasury may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena (sic), after such Inspector General has decided to initiate, carry out, or complete such audit or investigation, or to issue such subpoena (sic), if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States."

Section 8E reads exactly the same, except for the substitution of the term "Attorney General" for the term "Secretary of the Treasury." Perhaps it would be an "impairment to the national interests of the United States" to permit the Inspector General to audit the federal Judiciary. And remember, the Attorney General and the Secretary of the Treasury are both appointed to office by the President, and both have the authority to prevent the audit of whomever or whatever they choose, including the accounts of federal judges.

Other government agencies are also permitted to award money to federal judges. The Internal Revenue Service handbook of Delegation Orders 1229-91 reveals that the IRS is permitted to pay "cash monetary awards" to employees of "other government agencies" - which term can easily include federal judges.

The preceding cites would seem to provide enough information to support our contention that federal Judges receive "cash awards" (alias bribes) from their employer, the "United States." But let us go still further; we have evidence that there is in place in the statutes yet another form of bribery, called "erroneous payment" and "waiver." Let us examine portions of the Code of Federal Regulations. 4 CFR (the regulations relevant to 4 USC - "Flag and Seal, Seat of Government and the States") § 91.4 states the following:

"The Director of the Administrative office of the United States Courts may grant a waiver in whole or in part of a claim of the United States in an amount aggregating not more than \$10,000 arising out of an erroneous payment of pay...." 4 CFR § 91.5 (a)(2): "... all doubts are to be resolved in favor of the applicant."(read Judge). 4 CFR § 91.6 (b): "An erroneous payment, the collection of which is waived pursuant to this subchapter, is deemed valid payment for all purposes."

Again, not only judges are permitted these overpayments and waivers. 28 CFR § 0.155 reveals that employees of the Department of Justice, (e.g. FBI agents and United States Attorneys) are permitted the same waivers. 28 CFR § 0.143 reveals that DOJ employees are eligible for "Incentive Awards." 28 CFR § 0.11 reveals that DOJ employees are eligible for incentive awards for "...personal effort which contributes to the efficiency, economy or other improvement of Government operations..."

What actions might constitute a contribution "to the efficiency, economy or other improvement of Government operations"? Well, the seizure and forfeiture of private property by government agencies certainly adds millions every year to the government coffers. Might those responsible for such actions possibly receive "incentive awards" from the government? The U.S. Attorneys, who have prosecuted the citizens who have been forced to forfeit their houses in IRS seizures, have certainly contributed to the "economy" and "efficiency of Government operations" of the federal government. Federal judges, who have sanctioned those same seizures, have also certainly contributed to the "economy" and "efficiency of Government operations." Both U.S. Attorneys and judges have placed millions of dollars of seized properties into auctions, the profits of which go straight to the federal government. Never mind the havoc in personal lives wrought by the seizure and sale of property by the government; the "Government operations" of this nature are both "efficient" and "economical," at least as far as the coffers of the federal government is concerned. And the U.S. Attorneys and the federal judges are, by law, entitled to cash awards for their contributions to this "efficiency" and "economy." Knowing this, it should come as no surprise that the U.S. Attorneys and federal judges usually have their offices located in the same building, sometimes on the same hall.

But isn't there some sort of rule that prevents a presiding judge from hearing a case in which he has an interest in the subject matter of the case? In fact, there is. 28 USC § 455 (b) (4) reveals that a judge should disqualify himself if he has a "financial interest" in the proceeding. However, we must examine what is actually meant by the term "financial interest." 28 USC § 455(d):

"(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

"(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

"(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

"(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

"(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities."

So the "cash awards" statutorily awarded to judges do not technically constitute a "financial interest" within the meaning of the term defined.

What we are therefore left with is this: we private Citizens must rely solely upon the integrity of federal judges and others who are eligible for these substantial - and privately awarded - cash awards. The following list is that of numerous court cases in which judges and other employees and agents of the federal government were convicted of crimes which clearly proved them to be without integrity:

Judges

(a) Slade v. United States, 85 F.2d 786 (10th Cir. 1936): Judge bribed juror to acquit a defendant; judge convicted of bribery.

(b) United States v. Manton, 107 F.2d 834 (2nd Cir. 1939): Court of Appeals judge involved in bribes to influence decisions.

(c) McDonald v. Alabama, 57 Ala. App. 529, 329 So.2d 583 (1975): sex for leniency.

(d) United States v. Campbell, 684 F.2d 141 (D.C. Cir. 1982): traffic tickets, judge and gratuity.

- (e) United States v. Murphy, 768 F.2d 1518 (7th Cir. 1985): Greylord.
- (f) United States v. Hollaway, 778 F.2d 653 (11th Cir. 1985): Two Mobile state court judges.
- (g) United States v. LeFevour, 798 F.2d 977 (7th Cir. 1986): Greylord.
- (h) United States v. Claiborne, 765 F.2d 784 (9th Cir. 1985); see Harry's vindication, State Bar of Nevada v. Claiborne, 756 P.2d 464 (Nev. 1988).
- (i) United States v. Nixon, 816 F.2d 1022 (5th Cir. 1987); habe at 881 F.2d 1305 (5th Cir. 1989): U.S. District Judge convicted of bribery.
- (j) United States v. Conn, 769 F.2d 420 (7th Cir. 1985): Greylord.
- (k) United States v. Devine, 787 F.2d 1086 (7th Cir. 1986): Greylord.
- (l) United States v. Holzer, 816 F.2d 304 (7th Cir. 1987): Greylord.
- (m) United States v. Reynolds, 821 F.2d 427 (7th Cir. 1987): Greylord.
- (n) United States v. Glecier, 923 F.2d 496 (7th Cir. 1991): Greylord.
- (o) United States v. Hastings, 681 F.2d 706 (11th Cir. 1982): This was pre-trial appeal, and later Alcee won criminal case. Is now a member of Congress.
- (p) United States v. Kahaner, 317 F.2d 459 (2nd Cir. 1963): State judge and former AUSAs.

I.R.S. and Other Federal Agents

- (a) Smiler v. United States, 24 F.2d 22 (5th Cir. 1928): Bribe.
- (b) Delaney v. United States, 199 F.2d 107 (1st Cir. 1952): Bribe.
- (c) United States v. Nunan, 236 F.2d 576 (2nd Cir. 1956): Former IRS Commissioner convicted of tax evasion.
- (d) United States v. Umans, 368 F.2d 725 (2nd Cir. 1966): Bribe.
- (e) United States v. Barash, 412 F.2d 26 (2nd Cir. 1969): Bribe.
- (f) United States v. Polansky, 418 F.2d 444 (2nd Cir. 1969): Bribe.
- (g) United States v. Greenberg, 445 F.2d 1158 (2nd Cir. 1971): IRS agent and bribes.
- (h) United States v. Weiser, 428 F.2d 932 (2nd Cir. 1969): IRS agent and bribes.

- (i) United States v. Lipton, 467 F.2d 1161 (2nd Cir. 1972): IRS agent and bribes.
- (j) United States v. Lanci, 669 F.2d 391 (6th Cir. 1982): FBI agent and bribes.
- (k) United States v. Miller, 874 F.2d 1255 (9th Cir. 1989): FBI agent giving documents to Soviets.
- (l) United States v. Gorman, 807 F.2d 1299 (6th Cir. 1986): AUSA convicted of taking gratuities.
- (m) Glasser v. United States, 315 U.S. 60, 62 S.Ct. 457 (1942): AUSA and bribes.
- (n) Attalallah v. United States, 955 F.2d 776 (1st Cir. 1992): customs agents killed for \$700,000.
- (o) United States v. Mangan, 575 F.2d 32 (2nd Cir. 1978): crooked IRS agent.
- (p) United States v. Johnson, 398 F.2d 29 (7th Cir. 1968): IRS agent guilty of defrauding by filing false returns.
- (q) United States v. Morales, 11 F.3d 915 (9th Cir. 1993): IRS agent and bribe.
- (r) United States v. Provinzano, 50 F.R.D. 361 (E.D.Wis. 1970): homosexual IRS agent indicted.

Prosecutorial misconduct.

- (a) United States v. OMNI International Corp., 634 F.Supp. 1414 (D.Md. 1986): Prosecutor Elizabeth Trimble and Special Agents fabricated evidence and a case was dismissed.
- (b) United States v. Burnside, 824 F.Supp. 1215 (N.D. Ill. 1993); United States v. Andrews, 824 F.Supp. 1273 (N.D.Ill. 1993); United States v. Boyd, 833 F.Supp. 1277 (N.D.Ill. 1993); United States v. Griffin, 856 F.Supp. 1293 (N.D. Ill. 1994): El Rukn cases where lots of "gifts" and benefits to prosecution witnesses caused vacation of convictions. A major scandal.
- (c) United States v. Demjanjuk, 518 F.Supp. 1362 (N.D.Ohio 1981), aff'd, 680 F.2d 32 (6th Cir. 1982). Demjanjuk v. Petrovsky, 776 F.2d 571 (6th Cir. 1985). Demjanjuk v. Meese, 784 F.2d 1114 (D.C.Cir. 1986). Demjanjuk v. Petrovsky, 10 F.3d 338 (6th Cir. 1993): OSI misconduct.
- (d) People v. Auld, 815 P.2d 956 (Colo. App. 1991): governmental misconduct caused dismissal of complaint.
- (d) The Inslaw affair: Cases dealing with DoJ theft of Promis software.

1. In re Inslaw, Inc., 76 B.R. 224 (Bkrctcy., D.D.C. 1987).
 2. In re Inslaw, Inc., 88 B.R. 484 (Bkrctcy., D.D.C. 1987).
 3. United States v. Inslaw, Inc., 113 B.R. 802 (D.D.C. 1989).
 4. Inslaw, Inc. v. Thornburgh, 753 F.Supp. 1 (D.D.C. 1990), rev., United States v. Inslaw, Inc., 932 F.2d 1467 (D.C.Cir. 1991).
 5. In re Inslaw, Inc., 885 F.2d 880 (D.C.Cir. 1989).
- (e) LaRouche: In re Caucus Distributors, Inc., 106 B.R. 890.

None of the bribery charges cited in any of the above cases reflects any prosecutions or convictions for the ubiquitous "incentive award" or overpayments which we have revealed, since these "cash awards" are "lawful" bribes, and therefore can never be prosecuted as crimes while the statutes permitting them are in force.

We believe that the citizens of these United States of the American Union can never truly be "free" unless and until the federal judiciary is completely free from the possibility of government-sponsored graft and corruption. We believe that Congress needs to be apprised of the facts in this article, and that it needs to write laws which permit the Citizens to closely scrutinize the monies which federal judges receive from their employer, the government, especially in cases in which the Citizens' property or freedom is at stake. Until this happens, we believe that we as private Citizens shall be at the disadvantage of the "awards" which the federal government may bestow undisclosed upon federal judges - judges who are supposed to be impartial and to insure us all a fair trial.

Because there is no provision of law for disclosure of financial information on judges, and because there is no Privacy Act System of Records which purports to maintain records on financial affairs relevant to federal judges, we have no proof whatsoever that any federal judge has ever received any of the incentive awards, overpayments or waivers described in this article. We have written this article simply to reveal the evidence published in statute that there exists an enormous potential for what is, essentially, government-sanctioned bribery of judges by the federal government itself, and that there is no way for the public to know whether or not such bribes are being paid. We believe that not all judges know about this information, nor would all judges accept such bribes were they offered.

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