

Exhibit 9

February 8, 1999

Mr. I
Supervisory Special Agent
Internal Revenue Service, Criminal Investigation Division
55 South Market Street, Suite 815
San Jose, California 95113

Dear

This is undoubtedly the most difficult letter I have ever written in my life. Still, my duty as a citizen, my duty as a federal law enforcement officer sworn to support and defend the Constitution of the United States, and my adherence to the Old Testament's 9th Commandment which prohibits me from bearing false witness against my neighbor requires that it be written. As you know, I have been employed as a Special Agent for the U.S. Department of the Treasury, Internal Revenue Service, Criminal Investigation Division, since 1993. My education, training, and experience gained prior to being appointed as an agent with the U.S. Department of the Treasury includes:

- Bachelor of Science Degree, Business Administration, Concentration in Accounting, San Jose State University, 1986
- 3 years with *KPMG Peat Marwick* as a senior tax specialist and staff auditor
- 4-5 years as Accounting and Tax professional in private industry and later as a self-employed Certified Public Accountant (California license CPA 57875).

In 1993, my dream of becoming a federal law enforcement officer became a reality when the IRS Criminal Investigation Division appointed me to the position of GS-1811 Criminal Investigator, more commonly known as *special agent*. My duties as an IRS Special Agent include investigating violations of the U.S. Code, specifically the Internal Revenue Code (Title 26), money laundering and conspiracy violations under the Criminal Code (Title 18), and violations of the reporting requirements of the Bank Secrecy Act (Title 31). I am also authorized to execute or serve search warrants and arrest warrants, to make arrests without warrant, to carry firearms, and seize property subject to forfeiture. In addition to my investigative duties, I am currently the Asset Forfeiture Coordinator and Organized Crime Drug Enforcement Task Force Coordinator for the Central California District. I also participate in community outreach and assist in firearms and enforcement training in our District.

The most important day of my career as a federal law enforcement officer was probably the first day, when I swore an oath to God to support and defend the Constitution of the United States. I have always taken that oath very seriously. With members of my family watching, I swore to the following words:

I, Joseph R. Banister, do solemnly swear, that I will support and defend the Constitution of the United States against all enemies foreign and domestic, that I will bear true faith and allegiance to the same, that I take this obligation freely without any mental reservation, or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

The above oath is very powerful. I have always relied on it to guide me in my responsibilities as a federal law enforcement officer. I have also been mindful of maintaining my ethics and moral standards as a public servant. The importance of these standards is summarized in a paragraph from the Introduction contained in Chapter 1 of the Internal Revenue Service Rules of Conduct (Document 7098 (7-86)):

Confidence in the Service and faith in its dependability and integrity are factors having a vital impact on our ability to carry out our purpose. We can maintain the public confidence only to the extent that every one of our contacts with the public reflects the highest ethical and moral standards.

Executive Order 11222 of May 8, 1965, the language of which is included in the Department of the Treasury, Minimum Standards of Conduct, at 31 CFR Part 0, Subpart A, Section 0.735-3, states:

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or advisor of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

Further, throughout my career in public service, I have remained cognizant of the Internal Revenue Service *Mission Statement*.

The purpose of the IRS is to collect the *proper* amount of tax revenues at the least cost to the public, and in a manner that warrants the *highest degree* of public confidence in our integrity, efficiency and fairness. (Emphasis added)

. . . which was recently revised to state:

Provide America's taxpayers top quality service by *helping them understand* and meet their tax responsibilities and by applying the tax law with *integrity* and *fairness* to all. (Emphasis added)

The previous excerpts are but a small sample of the principles promulgated by Department of the Treasury, the Internal Revenue Service, and the government in general. Adhering to the highest standards of honesty, integrity, morality, impartiality, ethics, trustworthiness, and loyalty to the United States of America are clearly a necessity for public servants working in a government which derives its authority from the consent of the governed.

In 1997, I was presented with an opportunity to determine whether or not I was really serious about abiding by those standards. I was presented with allegations relating to the very profession I had chosen and the very agency I was employed by, namely the public accounting/income tax profession and the Internal Revenue Service, respectively. Among the allegations presented to me was that (1) the federal income tax is voluntary and the filing of federal income tax returns is not required, that (2) the 16th Amendment to the U.S. Constitution was never ratified, and that (3) federal income taxes are not used to operate the federal government. Needless to say, these allegations were not only

unbelievable but they were contrary to everything that I had been taught and contrary to everything I believed to be true. Notwithstanding the unbelievable nature of these allegations, they came from a source that I had found credible in the past. The credibility of this source was so strong that I felt more investigation was warranted.

I assumed from the beginning that I would have trouble convincing top officials in the IRS Criminal Investigation Division that government resources should be committed to investigating these allegations, serious though they were. This assumption is due to the ridicule that is commonly laid upon anyone who speaks of such matters. Most people espousing such beliefs about the federal income tax are usually dismissed as being crazy, a racist, a militia member, or a tax protester. I do not fit into any of those categories and neither does my source. Therefore, in order to both seek the truth and avoid ridicule, I made up my mind to investigate the allegations off-duty and at my own expense.

As I said previously, these allegations were contrary to everything I knew to be the truth. Therefore, I was prepared for the possibility that upon closer investigation, these allegations might prove to be just another scheme to distort the facts or the law, as the Internal Revenue Service has claimed in the past. I believed that my background in the areas of income tax law, income tax compliance, and income tax enforcement would enable me to separate fact from fiction. The results of my personal investigation were far from what I expected.

In short, based on my education, training, and experience, I believe that the allegation regarding the voluntary nature of the income tax does have merit and it is therefore immoral and illegal to fine, prosecute, or otherwise penalize those who do not volunteer. I also believe that, contrary to public perception, the income tax is not used to supply the federal government with needed operating revenue. I fully realize that my conclusions regarding these issues may have far-reaching consequences. However, based on the obligations and duties I described previously, I believe I must bring these matters to your attention.

I continue to have the utmost respect and admiration for those I have worked with not only in the IRS Criminal Investigation Division but all federal and state law enforcement officers and prosecutors. I have found these officials to be of the highest character and talent. I would like to continue to work with these officials but due to the nature of the allegations and evidence contained in my report, I am strongly considering resigning from the Service. Ultimately, my decision will hinge upon the Service's response to this letter. If the Internal Revenue Service will commit – in writing – to conduct its own point by point answer/analysis of the allegations and evidence set forth in my report, I will consider remaining in my position. If the Service declines to conduct its own analysis, or dismisses the evidence in this report without proper review, then I must tender my resignation. My oath to support and defend the Constitution of the United States was made to God and I can not serve two masters.

I have enclosed a copy of a report I prepared called *Investigating The Federal Income Tax: A Preliminary Report*, which summarizes the allegations and the evidence supporting them. I respectfully request that you simultaneously review this report and forward it to your superiors up to and including

Internal Revenue Service Memorandum



Date: February 17, 1999

To: Special Agent Joseph Banister

From: Chief, Criminal Investigation Division
Central California District

Subject: Response to your letter to Group Manager Robert Gorini dated 2/8/99

This memorandum is in response to your request for the Internal Revenue Service to commit in writing to conduct a point by point answer/analysis of points set forth in your report entitled, "The Federal Income Tax". In your letter you state that if the Internal Revenue Service declines to conduct its own analysis, you must tender your resignation.

The Internal Revenue Service will not be responding to your request and will provide you with the necessary paperwork to tender your resignation. You will be placed on administrative leave effective upon receipt of this memorandum for a period of seven calendar days to consider what actions you wish to take. During this period you should remain available for us to contact you during regular working hours.

Paul Varville

February 25, 1999

Mr. Charles O. Rossotti
Commissioner, Internal Revenue Service
1111 Constitution Avenue NW
Washington D.C. 20224

Dear Commissioner Rossotti:

I am deeply saddened by the response, or lack thereof, to my report entitled *Investigating The Federal Income Tax: A Preliminary Report*, submitted to my immediate supervisor on February 8, 1999. Although I am very confident that my group manager and the Chief of my division properly and swiftly submitted my report through channels as I had requested, I am not so confident about the reception the report received after it left my Chief's desk.

Because I am not in management, I can only speculate which Internal Revenue Service or Treasury Department officials have been briefed on my report or its contents. I have learned that, at a minimum, the Assistant Commissioner, Criminal Investigation has been briefed. I have also been told that, because of the unusual nature of my request, any actions taken by my group manager and my Chief resulted from advice they had received from government legal counsel. I have no way of knowing if you personally have been briefed about my report or its contents. I will assume, for purposes of this letter, that you have been briefed.

The last official correspondence that I received from IRS upper management was a memorandum signed by my Chief February 17, 1999. The treatment I have received since receipt of that memorandum, when my duty firearm was taken from me and I was placed on administrative leave, has left me utterly baffled.

Under ordinary circumstances, I would not feel it was appropriate for a Special Agent from the Criminal Investigation Division to condemn or criticize the actions of the Commissioner of the Internal Revenue Service or those management officials below him. However, these are clearly not ordinary circumstances. As such, I must make some statements that are not intended to show disrespect, yet, it is likely they will not be well received. However, my duty and oath of office dictate that I make these statements regardless of their reception.

I am very confused about the treatment I have received for a number of reasons. The first reason is because, on April 28, 1998, you sent out a memorandum to all IRS employees regarding "Reporting of Misconduct, Fraud, Waste and Abuse." In the memorandum, you stated that "[a]ll Internal Revenue Service (IRS) employees have an obligation to report misconduct, fraud, waste and abuse. The IRS has a stringent policy that guarantees employees freedom from reprisal when they report such action." You further stated that "[e]very employee should take proactive steps to report wrongful actions." Apparently, I

was mistaken to have relied upon your memorandum as a commitment to protect me from reprisal or other adverse treatment.

The second reason has to do with the background investigations I endured prior to my appointment as a federal law enforcement officer and the reasons those background investigations are administered. Before being appointed as an IRS-CID Special Agent, I applied to, and was nearly hired by, the Federal Bureau of Investigation. Unfortunately, a hiring freeze occurred at an inopportune time and the FBI was unable to extend an employment offer to me. Despite the hiring freeze, a thorough background investigation was conducted. Based on my conversations with FBI recruiters, I passed the background investigation. Later, when the IRS Criminal Investigation Division extended an employment offer to me, I was subjected to a second background investigation, this one conducted by the Inspection Division of the Internal Revenue Service. Based on the fact that I was eventually hired, I think it is fair to assume that I passed that background investigation also.

It has always been my understanding, and I would certainly like someone to correct me if I am wrong, that these background investigations occur for one primary reason – to ensure that the candidate being investigated is worthy of holding a position of public trust. There is no doubt that federal law enforcement officers hold positions of public trust. They have the authority to investigate, interrogate, arrest, and, when necessary, use deadly force against American citizens. I think any reasonable citizen would conclude that passing two background investigations, one conducted by the FBI, was a good indication that I possessed the integrity necessary to hold a position of public trust. I think any reasonable citizen would find it more than a little disturbing that top IRS officials, who spent so much time and effort assuring themselves of my integrity and worthiness to hold such a position of public trust, would all but ignore my request to review very compelling evidence of constitutional abuses.

The third reason for my confusion is that the reference to my oath to support and defend the Constitution of the United States from all enemies foreign and domestic, that I included in my February 8, 1999 letter, has been summarily ignored. I thought I made myself very clear in my letter. I do not take swearing an oath to God lightly. Apparently even a devout commitment to an oath sworn to God is not worthy of response from top IRS officials.

The fourth reason for my confusion is that my reference to both the old and new IRS Mission Statements was completely ignored. I'll repeat those Mission Statements again here:

Previous Mission Statement

The purpose of the IRS is to collect the *proper* amount of tax revenues at the least cost to the public, and in a manner that warrants the highest degree of public confidence in our integrity, efficiency and fairness. (Emphasis added)

Revised Mission Statement

Provide America's taxpayers top quality service by *helping them understand* and meet their tax responsibilities and by applying the tax law with integrity and fairness to all. (Emphasis added)

If an IRS Criminal Investigation Division Special Agent writes his superiors and in all sincerity questions whether or not the IRS Mission Statement is truly being adhered to, what are American taxpayers supposed to think when that agent's questions are rebuffed?

The fifth reason for my confusion is that on January 13, 1999, I joined hundreds of IRS Central California District employees in attending a mandatory training class on the IRS Restructuring and Reform Act (RRA '98) Of 1998 – 1203(b) Conduct Provisions. I took notes at that training and wrote down some exact quotes. For example, we were told that "the rights of the taxpayer have become paramount." You, yourself, as Commissioner of the Internal Revenue Service, emphasized in your videotaped message that IRS employees must always consider the taxpayer, "provide top quality service," and you also said that "we must scrupulously observe taxpayer rights." Bob Wenzel, Deputy Commissioner of the Internal Revenue Service, said in his videotaped message that IRS employees "must ensure that taxpayer rights are protected." The phrase "taxpayer rights come first" was repeated over and over and over again.

As you can see, I have numerous reasons for my confusion. Based on my experiences of the last week, I have come to the conclusion that the Internal Revenue Service, as an agency, demands total integrity from employees and taxpayers alike, but doesn't deliver integrity itself. The Internal Revenue Service, as an agency, demands total loyalty but delivers little. The Internal Revenue Service, as an agency, professes to have the utmost concern in "collecting the proper amount of tax" in a "manner that warrants the highest degree of public confidence in our integrity, efficiency and fairness" but, in reality, appears to care less.

You have undoubtedly noticed that I have made repeated references to the Internal Revenue Service as an agency. I make this distinction intentionally because, although I have lost all faith in the Internal Revenue Service as an agency, I still have tremendous faith in, and respect for, the employees of the Internal Revenue Service, especially the Special Agents and support personnel of the Criminal Investigation Division. Virtually every one of the hundreds of IRS employees I have come in contact with throughout the country have been professional, hard-working, fair-minded, and honorable. They are good and decent public servants and they deserve the praise of the American people. However, I believe they are misguided. I make such a bold statement only because I was misguided myself. I used to believe that the Internal Revenue Service, as an agency, "scrupulously observes taxpayer rights." I used to believe that the Internal Revenue Service administers the federal income tax fairly and legally. I used to believe that the Internal Revenue Service would not knowingly trample on the rights of innocent Americans just to preserve the income tax system. It is with great sadness that I say I no longer hold any of those beliefs.

My only hope is that those same professional, hard-working, fair-minded, and honorable IRS employees that I met throughout my short career in the IRS Criminal Investigation Division will take some time out of their busy schedules and learn more about the basis for the tax system they administer and the Constitution to which they swore a solemn oath. Only then can they truly deserve to hold a position of public trust.

Based on the obvious futility of continuing to work for an agency that has standards and practices so different from what it professes and standards and practices so contrary to my own, I am officially resigning from the position of IRS Criminal Investigation Division Special Agent, effective as of the date of this letter.

I hope and pray that, as the Commissioner of the Internal Revenue Service, you will see to it that the evidence contained in my report is given a fair and impartial evaluation. The evidence is well known by millions of Americans and they anxiously await a reply. Every day that you wait is another day that more Americans will come to mistrust you. Every day that you wait is another day that more professional, hard-working, fair-minded, and honorable IRS employees will be placed in harm's way because of that growing mistrust. I implore you to use your position of leadership to resolve these very serious threats to our freedom and our Constitution.

Sincerely,

Joseph R. Banister