

Monroe A. Miller, Jr.
19 Big Spruce Lane
Waynesville, NC 28786
August 21, 2012

Chip Killian
Haywood County Attorney
215 North Main Street
Waynesville, NC 28786

(a.k.a.)

Leon Killian
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Avenue
GlenLake One
Raleigh, NC 27612

Subject: Meeting with David Francis, Haywood County Tax Collector, re: Personal Property Listing.

Chip,

Perhaps you can assist me here, as I am in a quandary. Can you could prevail upon David Francis to set up a meeting date with me to discuss the letter his department sent to *****? David Francis has refused.

My last e-mail correspondence on to David Teague on this matter was as follows (you were copied):

----- Original Message -----

Subject: Fwd: RE: Request for Information - Personal Property Listing
Date: Fri, 29 Jun 2012 17:50:47 -0400
From: Monroe Miller
To: David Francis <dbfrancis@haywoodnc.net>, David Teague <DTeague@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, Chip Killian <CKillian@haywoodnc.net>
CC: Marty Stamey <mstamey@haywoodnc.net>, Julie Davis <jhdavis@haywoodnc.net>, Judy Ballard <JBallard@haywoodnc.net>, Roy Cooper <OpenGov@ncdoj.gov>

Mr. Teague,

Thank you for your letter dated June 29, 2012. Your last sentence said:

"Your other option is to contact Tax Administrator David Francis and schedule a time to review the documents".

I have already requested to schedule a time with Mr. Francis on June 21, 2012, and again on June 26, 2012. Mr. Francis has been stone cold silent. Can you do me a favor? Go down to his office and hand deliver your copy of this e-mail to him. Since his e-mail seems to be broken, can you please get the time(s) available from him and send them to me so we can settle in on a precise time?

Thank you,

Monroe Miller

There have been several interactions with Mr. Francis since then. The first was on July 2, 2012, when I dropped by David Francis' office. He was coming out of the back hallway from the tax office area. He asked what I wanted. I said that I need to make an appointment to talk to you. "You will have to come back later", he said as he started to rush by me, avoiding his office to go up the stairs to the third floor. "When can I make the appointment", I asked, and he yelled "I'll let you know". Francis seemed uptight.

The next interaction with Francis was an e-mail I received from him on a tangential matter. He said:

----- Original Message -----

Subject: RE: Did you see this?

Date: Thu, 5 Jul 2012 14:25:01 -0400

From: David Francis <DBFrancis@haywoodnc.net>

To: Monroe Miller, Marty Stamey <MStamey@haywoodnc.net>

CC: Dale Burris <DBurris@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, Becky Johnson <becky@smokymountainnews.com>, BOCC <BOCC@haywoodnc.net>

Mr. Miller:

I don't know why I was included in the email from you. It appears you need further clarification from what Mr. Stamey has outlined. The Haywood County Tax Office does not collect any road taxes or tolls for the state of NC nor the NCDOT. As the casual observer, one would think that the most causal of observers were able to discern the article is about NCDOT and had nothing to do with Haywood County Government.

Now, Mr. Stamey is on your bad side because he simply pointed out that an apology should come from you and not Vicki? You made the inaccurate and pejorative statement to undermine the reputation of a solid hard working public servant as Dale Burris. Your flippant responses to Mr. Stamey and no apology to Mr. Burris reveal the vanity of your character. You have held our feet to the fire and we've had to listen to your diatribes and read your incessant emails but apparently the standard you live by is a double standard.

I have been hesitant in meeting with you, as it has been my experience and just as the email from Tuesday shows that facts can be taken completely out of context and twisted to match your opinion. My dealings with you and your treatment of my other county employees have only reinforced such with continued skepticism (paraphrasing you in this instance is extremely accurate).

With that said, I can not for the life of me come close to contemplating why I would waste my time meeting with you. **I am under no compunction to meet with you personally, professionally or statutorily.**

David B Francis

Haywood County
Tax Collector/Administrator

FYI: No one wants to be on your Outstanding County Employee List.

Legend: If any name is in bold, it's not a good thing.

I have highlighted, in bold, the relevant portion of his e-mail with regard to setting up this meeting. Francis stated that he is under no compunction to me with me statutorily. That's were we stand right now, Francis is refusing set up a meeting date.

99 CVS 03497

As you are aware, I brought to your attention, and the county commissioners attention, a Buncombe County Superior Court Ruling rendered back in 1999, regarding access to public records. I retrieved the file from Buncombe County achieves, and posted it on my website, www.haywoodtp.net.

[UPDATE Dawes, Yelton and Morgan vs. Buncombe County Board of Commissioners and Wanda Green, County Manager. NC Public Records Law. Full & complete file. 8/03/2012...](#)

Further, I offered a public comment (attached) regarding this matter at the August 6, 2012, which I said:

"The last item, Case number 99 CVS 03497, an old Superior Court ruling from Buncombe County, was brought to my attention recently, and I made a trip over to the Buncombe County Courthouse to get it. Had to go to archives. It was a lawsuit filed by Buncombe County citizens against the Buncombe County Commissioners and the County Manager in 1999, and it basically said that the Buncombe County Manager cannot act as a "gatekeeper" for Public Records. Rather, citizens can go directly to the custodian of the public information for their requests. This was a Superior Court Ruling, and certainly trumps any Public Records Request Policy adopted by the Haywood County Commissioners, who are using David Teague and Marty Stamey as "gatekeepers". The next time I request public information from the county, for example, it will be directly to a custodian of that public record, not a "gatekeeper". Additionally, I have posted 99 CVS 03497 on my website, www.haywoodtp.net."

From this, it appears as though the county's current Public Records Request Policy has been rendered null and void. Curious that there was no mention of acknowledgment by you or the commissioners on this matter at yesterdays county commission meeting.

In any event, the letter I received from David Teague (attached) dated June 29, 2012, has likewise been rendered null and void, as he is simply a "gatekeeper".

99 CVS 03497 along with North Carolina General Statutes 132 **does** require David Francis to make available public records regarding the sheet of questions I have for him relating to the letter that his department sent to *********.

The tax man cometh to police you on health care

An article (myway) "The tax man cometh to police you on health care" by Stephen Ohlmacher posted on July 7, 2012 (attached) regards IRS questions whether the agency is capable of policing the health care decisions of millions of people in the United States while also collecting the taxes needed to run the federal government. He states and quotes:

The law, however, severely limits the ability of the IRS to collect the penalties. There are no civil or criminal penalties for refusing to pay it and the IRS cannot seize bank accounts or dock wages to collect it. No interest accumulates for unpaid penalties.

So how can the IRS enforce the mandate? Scary letters and threats to withhold tax refunds.

The law allows the IRS to withhold tax refunds to collect the penalty, and most filers get refunds. This year, 77 percent of the 135 million individual income tax returns processed by the IRS qualified for a refund. The average refund: \$2,707.

For those who don't qualify for a refund, a stern letter from the IRS can be effective, even if it doesn't come with the threat of civil or criminal penalties, said Elizabeth Maresca, a former IRS trial attorney who supervises the Tax & Consumer Litigation Clinic at the Fordham University law school.

"Most people pay because they're scared, and I don't think that's going to change," Maresca said.

"Most people pay because they're scared..."

It was brought to my attention that there had been another Haywood County Taxpayer who received another letter, similar in nature to the one received by *********, in which that taxpayers **wages were garnished**, and the amount of the taxable amount, roughly \$1,800, **was paid!** Francis told ********* that her letter was "not a bill". This other taxpayers letter presumably was "not a bill".

Do you see any similarities between Francis' behavior and that paralleled in the article "**The tax man cometh to police you on health care**"?

You can see why I am livid.

I want a meeting set up with David Francis, the custodian of this public information, on this matter. I want public access to the 2,000 letters that are similar in nature to that sent to *********. [re: e-mail from David Teague, 6/21/2012, "... The tax office generates more than **2,000 letters and abstracts each year similar in nature to the one received by Ms. *******. Copies of each letter and abstract are maintained in the tax office."]

Let him know that he can bring whoever he wants to the meeting, and I likewise will do the same. I will record this meeting.

It is analogous to the meeting I was supposed to have with Jeff Jones, Assistant District Attorney, Haywood County regarding some Grand Jury stuff - [re: www.haywoodtp.net]

[Transcript - Meeting with Haywood County DA Michael Bonfoey, ADA \(Assistant DA\) Jeff Jones, ADA Rachel Groffsky, Law Enforcement Officer Russ Conner and Terry Ramey regarding my submitting Criminal Complaints directly to the Haywood County Grand Jury. 5/14/2012...](#)

and

[Audio \(.mp3\) - Meeting with Haywood County DA Michael Bonfoey, ADA \(Assistant DA\) Jeff Jones, ADA Rachel Groffsky, Law Enforcement Officer Russ Conner and Terry Ramey regarding my submitting Criminal Complaints directly to the Haywood County Grand Jury. 5/15/2012...](#)

When I got there, not only was Jeff Jones present, but Michael Bonfoey, the District Attorney, Rachael Groffsky, the other Assistant District Attorney, and Russ Conner, a Law Enforcement Investigator. Normally, this would have been a meeting of four (4) people against one (1), but I decided to invite Terry Ramey, a Haywood County citizen, which I figured that changed the odds from 4 to 1, to 10 to 4. Listen to the audio or look at the transcript when you get a chance.

Please prevail upon David Francis to contact me with a meeting date, or, if he digs his heels in, let me know if I should take this to the North Carolina Attorney General. Would not hurt to have a Haywood County Sheriff's Deputy nearby outside the meeting room.

Regards,

Monroe A. Miller Jr.

cc: David Francis, Haywood County Tax Collector
Roy Cooper, North Carolina Attorney General
Terry Ramey

bcc:

enc:

3 Minute Public Comment

August 6, 2012

I'm going to paraphrase to you a letter I sent to Bob Morris, Chair of the HCC Board of Trustees over the weekend.

Dear Mr. Morris,

I see from the Board Of Trustees agenda for August 6, that you will be considering a Public Records Policy in both the Executive Committee, and again at the regular Board of Trustees Meeting, later in the afternoon. Perhaps I can be of assistance in providing background material for the boards consideration. I would like to offer four (4) items:

First, the North Carolina General Statues § 132 Public Records is the law and must be followed strictly.

Second, the North Carolina Guide to Open Government and Public Records, by Roy Cooper, the Attorney General, provides an easy to understand interpretation of General Statue § 132 on access to Public Records.

Third, the Public Records Request Policy adopted by the County Commissioners on September 7, 2010, was, I believe, primarily directed at me, for my benefit. You will notice that commissioners have inserted "gatekeepers", David Teague, the Public Information Officer, and Marty Stamey, the County Manager. Note the mailing address, who responds to requests, who can deny a request (David Teague), and whom an appeal can be made to (Marty Stamey).

The last item, Case number 99 CVS 03497, an old Superior Court ruling from Buncombe County, was brought to my attention recently, and I made a trip over to the Buncombe County Courthouse to get it. Had to go to archives. It was a lawsuit filed by Buncombe County citizens against the Buncombe County Commissioners and the County Manager in 1999, and it basically said that the Buncombe County Manager cannot act as a "gatekeeper" for Public Records. Rather, citizens can go directly to the custodian of the public information for their requests. This was a Superior Court Ruling, and certainly trumps any Public Records Request Policy adopted by the Haywood County Commissioners, who are using David Teague and Marty Stamey as "gatekeepers". The next time I request public information from the county, for example, it will be directly to a custodian of that public record, not a "gatekeeper". Additionally, I have posted 99 CVS 03497 on my website, www.haywoodtp.net.

Please keep these documents in mind when the Board of Trustees considers an official Public Records Policy for HCC, and don't get carried away like David Teague, [David Cotton, who was the current county manager at the time] and the Haywood County Commissioners did when they adopted their September 7, 2010 Public Records Request Policy. Keep it clean.

Sincerely,
Monroe Miller

It appears as though your current Public Records Request Policy has been rendered null and void.

I appreciate your allowing time for me to express my concerns.

Thank you.

The tax man cometh to police you on health care

Jul 7, 8:09 AM (ET)

By STEPHEN OHLEMACHER

WASHINGTON (AP) - The Supreme Court's decision to uphold most of President Barack Obama's health care law will come home to roost for most taxpayers in about 2 1/2 years, when they'll have to start providing proof on their tax returns that they have health insurance.

That scenario puts the Internal Revenue Service at the center of the debate, renewing questions about whether the agency is capable of policing the health care decisions of millions of people in the United States while also collecting the taxes needed to run the federal government.

Under the law, the IRS will provide tax breaks and incentives to help pay for health insurance and impose penalties on some people who don't buy coverage and on some businesses that don't offer it to employees.

The changes will require new regulations, forms and publications, new computer programs and a big new outreach program to explain it all to taxpayers and tax professionals. Businesses that don't claim an exemption will have to prove they offer health insurance to employees.

The health care law "includes the largest set of tax law changes in more than 20 years," according to the Treasury inspector general who oversees the IRS. The agency will have to hire thousands of workers to manage it, requiring significant budget increases that already are being targeted by congressional Republicans determined to dismantle the president's signature initiative.

"Knowing the complexity of the health law, there's no question that the IRS is going to struggle with this," said Rep. Charles Boustany Jr., R-La., chairman of the House Ways and Means oversight subcommittee. "The IRS wants more resources. Well, we need to start digging down into what are they doing with the resources and personnel."

Treasury spokeswoman Sabrina Siddiqui said, "The overwhelming majority of funds used by the agency to implement the Affordable Care Act go to administer the premium tax credits, which will be a tax cut averaging about \$4,000 for more than 20 million middle-class people and families."

The Supreme Court, in its 5-4 ruling, upheld the mandate that most Americans get health insurance. The majority said Congress has the power to enforce the mandate under its taxing authority. The decision labeled the penalties a tax, noting that they will be collected by the IRS.

Those who don't get qualified health insurance will be required to pay the penalty - or tax - starting for the 2014 tax year, unless they are exempt because of low income, religious beliefs, or because they are members of American Indian tribes.

The penalty will be fully phased in by 2016, when it will be \$695 for each uninsured adult or 2.5 percent of family income, whichever is greater, up to \$12,500. The nonpartisan Congressional Budget Office estimates that 4 million people will pay the penalty that year.

The law, however, severely limits the ability of the IRS to collect the penalties. There are no civil or criminal penalties for refusing to pay it and the IRS cannot seize bank accounts or dock wages to collect it. No interest accumulates for unpaid penalties.

So how can the IRS enforce the mandate? Scary letters and threats to withhold tax refunds.

The law allows the IRS to withhold tax refunds to collect the penalty, and most filers get refunds. This year, 77 percent of the 135 million individual income tax returns processed by the IRS qualified for a refund. The

average refund: \$2,707.

For those who don't qualify for a refund, a stern letter from the IRS can be effective, even if it doesn't come with the threat of civil or criminal penalties, said Elizabeth Maresca, a former IRS trial attorney who supervises the Tax & Consumer Litigation Clinic at the Fordham University law school.

"Most people pay because they're scared, and I don't think that's going to change," Maresca said.

The IRS has not yet issued procedures for taxpayers to prove they have insurance. But IRS Commissioner Douglas Shulman, in a 2010 speech, said he envisioned a process similar to the one used by taxpayers to report interest or investment income.

Under this scenario, an insurance company would send the taxpayer and the IRS forms each year verifying that the taxpayer has qualified insurance. Taxpayers would file the forms with the IRS along with their returns, and the IRS would check them to make sure they match the information supplied by the insurance companies.

The IRS says it is well on its way to gearing up for the new law but has offered little information about its long-term budget and staffing needs, generating complaints from Republican lawmakers and concern from government watchdogs.

The IRS is expected to spend \$881 million on the law from 2010 through 2013, hiring more than 2,700 new workers and upgrading its computer systems. But the IRS has not made public information about its spending plans in the following years, when the bulk of the health care law takes effect.

The lack of information makes it impossible to determine whether the IRS will have adequate workers to enforce the health care law, the Treasury inspector general for tax administration said in a report three weeks ago. The report, however, concluded that "appropriate plans had been developed to implement tax-related provisions" of the law.

In 2010, House Ways and Means Committee Republicans issued a report saying the IRS may need as many as 16,500 additional auditors, agents and other employees "to investigate and collect billions in new taxes from Americans."

That assessment has been widely cited by opponents of the law. The IRS disputes the jobs number but hasn't offered another one.

"That is a made-up number with no basis in fact," IRS spokesman Dean Patterson said in an email. "The 2012 budget calls for about 1,200 employees for the IRS to implement the (Affordable Care Act), and the vast majority of those employees are needed to build technology infrastructure to support payments like the new tax credits for individuals and small businesses."

Republicans on the House committee have accused the IRS of obscuring its cost of putting in place the health care law by absorbing it into in other parts of the agency's budget. They cite a June report by the Government Accountability Office that said the IRS has not always accurately identified spending related to the new health care law.

"The agency's repeated lack of transparency to Congress and its failure to provide accountability to the American taxpayers raises fundamental concerns about implementation authorities vested to the IRS," the top four Republicans on the Ways and Means Committee wrote in a June 27 letter to the IRS commissioner.

The committee chairman, Rep. Dave Camp, R-Mich., has scheduled a hearing on the tax implications of the Supreme Court's ruling for Tuesday.