

**GRIEVANCE NOTICE
AND
EXPUNGEMENT/REVOCATION DEMAND**

DATE: November 28, 2021

TO: Jeff Long, J.D., Commissioner [USPS Certified Mail# 7018 3090 0001 0008 4896]
Dept. of Safety & Homeland Security
312 Rosa L. Parks Avenue
23rd Floor
Nashville, TN 37243

FROM: Arthur Jay Hirsch
1029 W. Gaines Street
Lawrenceburg, TN 38464

CC: Terry Ashe, DHS Deputy Commissioner, Chief of Staff
Roger Hutto, DHS Deputy Commissioner, General Counsel
Paula Shaw, Assistant Commissioner
David Gerregano, Commissioner, Tennessee Dept. Of Revenue
Rep. Clay Doggett
Sen. Joey Hensley
Sen. Brian Kelsey
Peter Buttigieg, Sec U.S. Dept. of Transportation
Meera Joshi, Deputy Administrator, Federal Motor Carrier Safety Admin.
Steven Cliff, Deputy Administrator, National Highway Traffic Safety Admin.

RE.: FABRICATED, FRAUDULENT DRIVER LICENSE AND SUSPENSION SCHEME

Dear Commissioner Long,

Your resume' shows you have superior knowledge of the law, and broad experience in law enforcement. Therefore, with your background, you should readily understand the truth of the legal matter I am presenting to you in this letter, which is amply supported with cited facts and law, by affidavit (**ATTACHMENT A**), by Administrative Notice and Commentary ("Notice") (**ATTACHMENT B**), and with documentary evidence (**ATTACHMENT C**), all of which are herein incorporated by reference. As a public servant, sworn under oath with God as your witness, to support the state and federal constitutions, and as a "*minister of God*" (Romans 13:4, 6),¹ I trust you will act upon my lawful demand with integrity, accountability,² fairness and without delay,

¹ "*For he is the minister of God to thee for good.*"

² DHS: "Values – Integrity. Accountability. Respect. Professionalism. Partnership. Service. Innovation"

since time is of the essence.

GRIEVANCE NOTICE

1. **Fraudulent action.** Mr. Long, you, along with your predecessor, David Purkey (“you/your” collectively), have disobeyed the law and are responsible for an ongoing fraudulent and injurious action against me.
2. **Fictitious license fabrication.** In your individual capacity, without statutory authority and under the color of law, you wrongfully “assigned” to me a fabricated, fictitious driver license (#133629637) out of thin air, and then suspended it, making it an arrestable class B misdemeanor. Copies of correspondence from your department show you have pretended said fictitious license to be legally equivalent to a valid statutorily “issued” driver license – which it is not – and have based your adverse action on non-statutory, arbitrary grounds.
3. **No nexus with permissive privilege statutes.** I am in receipt of two pieces of documentary evidence from your department of safety and homeland security (“DSHS”) acknowledging that I never applied for, nor was I ever issued, a valid Tennessee driver license (see ATTACHMENT A - affidavit @ ¶¶11, 12). Therefore, I have no nexus with Tenn. Code Ann. (“TCA”) Title 55, and am not subject to the commercial activity permissive privilege statutes therein as you erroneously presume. (see ATTACHMENT A, affidavit @ ¶¶9, 10)
4. **No evidence of commerce activity.** Further, you knew or should have known that there is no evidence of record that I have ever been engaged in a state-granted privileged activity in commerce on the public highways which would require the payment of a privilege tax, obtaining a driver license, vehicle registration, or insurance³ (see ATTACHMENT A - affidavit @ ¶¶7, 8). Since there are no evidentiary facts of record of a “privilege activity” of interstate and/or intrastate commerce, then TCA Title 55 permissive privilege statutes cannot be factually or truthfully applied, meaning, a fraudulent, extortion conspiracy scheme is being carried out against me. You have knowingly and intentionally misapplied the statutes presumptuously in the absence of evidentiary facts. Your aforesaid fabrication is unlawful, based on fraud, and is outside your official authority.
5. **No statutory authority - rules violation.** Mr. Long you know, or should have known, that **A STATUTE CANNOT BE ENFORCED AGAINST A PARTY WHO WAS NOT AT THE TIME SUBJECT TO ITS CONSTRUCTION.** This adverse action taken against

³ “The use of public highways by private intrastate and interstate carriers of goods by motor vehicle may be conditioned by the state upon the carrier's **obtaining a license**, complying with reasonable regulations, **paying a reasonable license fee and a tax**, for expenses of highway administration and maintenance and reconstruction of the highways covered by the license, and upon the filing of an **insurance policy** as security against injuries from the carrier's negligent operations to persons and property other than the passengers and property he carries.” *Continental Baking Co. v. Woodring*, 286 U.S. 352, 365 (1932) (Emphasis added)

me by you and David Purkey in your personal capacities is clearly outside your legislative authority prescribed in TCA Titles 55 and 65. Moreover, it is in direct violation of federally mandated compliance by all States⁴ with respect to federal interstate and intrastate commerce rules and regulations contained in 49 United States Code (USC) – TRANSPORTATION, §§31101- 31317, and in 49 CFR §§ 383.1 - 383.155, and §§384.101 - 384.409.

6. **Injury causation.** Your continuing support and perpetuation of this fraudulent action has caused me injury-in-fact, physically, financially, emotionally and in my constitutionally secured liberty rights⁵ resulting from a number of arrests due to the bogus suspended license appearing on your driver history data base.
 - “Furthermore, **standing requires an injury in fact.**” *Cox v. Shell Oil Co.*, 196 S.W.3d 747 (Tenn.App. 10/31/2005) (emphasis added)
7. **Expungement demand.** I hereby demand by right that the fraudulent, fictitious suspended driver license in my name (#133629637) be expunged/removed/revoked from all state and federal data bases and record keeping systems immediately, and written proof thereof sent to me at my above address. Please note that your compliance with this demand is **non-discretionary** since you have no lawful authority to determine of your own will whether you will or will not perform the act of expungement demanded.⁶ Again, I repeat that time is of the essence. Should you refuse to promptly comply with this justified demand within ten (10) days from the date of this letter, I will initiate litigation in federal district court to seek remedy. Grounds for this demand with support showing your unlawful actions in this matter are set forth below in numbered counts.

COUNT 1.

Fabricated license is non-compliant with mandated federal and state record keeping requirements

- 1.1. **Incorporation.** I, Arthur Jay Hirsch (“Aggrieved”), incorporates herein by reference the allegations contained in paragraphs 1-7 as if fully set forth at this place.
- 1.2. **Record keeping rules violated.** Mr. Long, the documentary evidence referenced above

⁴49 CFR § 383.3 Applicability.

⁵ “It has long been established that the loss of constitutional freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion) (citing *New York Times Co. v. United States*, 403 U.S. 713 (1971)). *Caneisha Mills, et al., v. District of Columbia* No. 08-7127, U.S. Court of Appeals for the District of Columbia, July 10, 2009

⁶ *Bradley v. State ex rel. Haggard*, 222 Tenn. 535, 539–40, 438 S.W.2d 738, 740 (1969)

from your department and attached hereto shows that you and David Purkey have violated federal and state statutes by failing to have a requisite application and license on file for me (which, of course, is impossible since both are fictitious and do not exist in reality), and the statutory reason(s) for the suspension are to be noted. Here is the law you knowingly and willfully violated:

- Federal rule: 49 CFR § 384.231(d) **Record keeping requirements**. The State must conform to the record keeping requirements which include driver records and driver identification records, etc.
§ 384.231(e) The department shall maintain a copy of all licenses as issued.
- Compliant State statute: TCA Title 55-50-204. **Records to be kept by department — Fee for furnishing copies**.
 - (a) The department of safety **shall file every application for a license received by** it and shall maintain suitable indices containing in alphabetical order:
 - (3) The name of every licensee whose license has been suspended or revoked by the department, and after each name note the reasons for this action.
 - (c)(2)(B)(3) The department shall retain on the driver history record all convictions, disqualifications and other licensing actions for violations for at least three (3) years or longer as required under 49 CFR 384.231(d)⁷

COUNT 2

Non-compliance with federal and state license issuance requirements

- 2.1. **Incorporation**. Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1-1.2 as if fully set forth at this place.
- 2.2. **License issuance rules violated**. Mr. Long, you and David Purkey have unlawfully bypassed all the federal and state license issuance requirements by arbitrarily “assigning” instead of statutorily “issuing” said driver license making it fictitious and void/bogus. Where is your authority to fabricate false evidence? There is none! Here is what the law requires which you knowingly and willfully ignored:

Federal requirements:

- 49 USC CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS
- 49 USC § 31308. Commercial driver’s license. Requirements for the issuance of a

⁷ 49 CFR § 384.231 Satisfaction of State disqualification requirement.

(a) Applicability. The provisions of §§ 384.203, 384.206(b), 384.210, 384.213, 384.215 through 384.219, 384.221 through 384.224, and 384.231 of this part **apply to the State of licensure of the person affected** by the provision. The provisions of § 384.210 of this part also apply to any State to which a person makes application for a transfer CDL. (emphasis added)

driver's license (abbreviated):

- pass written and driving tests;
- the license to be tamperproof;
- the name and address of the individual issued the license;
- a physical description of the individual;
- the social security account number or other number or information the Secretary decides is appropriate to identify the individual;
- the class or type of commercial motor vehicle the individual is authorized to operate;
- the name of the State that issued the license;
- the dates between which the license is valid.

- 49 CFR § 384.201 Testing program.

(a) The State shall adopt and administer a program for testing and ensuring the fitness of persons to operate commercial motor vehicles (CMVs) in accordance with the minimum Federal standards contained in part 383 of this title.

- 49 CFR § 384.202 Test standards.

No State shall authorize a person to operate a CMV unless such person passes a knowledge and driving skills test for the operation of a CMV in accordance with part 383 of this title.

State requirements:

- TCA Title 55, Part 3 - Application, Examination, and Issuance

- TCA Title 55-50-321 Applications.

(a) must use designated application form, show birth certificate, \$2.00 fee payment, proof of Tennessee residency.

(b) proof of age and identification.

(c)(1)(A) Every application shall state the full name, date and place of birth, sex, county of residence, residence address, including the street address and number or route and box number, or post office box number if the applicant has no bona fide residential street address, of applicant, height, weight, hair and eye color, social security number, if the applicant has been issued a social security number, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation, or refusal, and other information as the department may require to determine the applicant's identity, competency, and eligibility

(C(i)(ii) applicant is U.S. citizens and a lawful resident.

COUNT 3

Conspiracy to defraud

3.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1- 2.2 as if fully set forth at this place.

3.2. **Fraudulent routine policy and practice conspiracy.** A certified deposition transcript

from a law suit in federal district court reveals that the unlawful fabrication and suspension of driver licenses is routine policy and practice by your DSHS, along with the approval of co-conspirator, attorney general, Herbert Slatery, III. Proof for this assertion is in the following sworn testimony of David Purkey by counsel in the case of *Thomas & Hixson v. Haslam, et al*, Case No. 3:17-cv-00005, United States District Court, Middle District of Tennessee, Nashville Division:

“MEMORANDUM”

Page 5. Docket No. 64 ¶ 31 "An individual may be treated as having a revoked license, even if he was not licensed to drive by the State of Tennessee as an initial matter; TDSHS simply assigns such a person a driver's license number and classifies the corresponding "license" as revoked." [Defendant Purkey by counsel, attorney general, Herbert Slatery, III, admits] "That an individual's "license" may be "revoked" under section 40-24-105(b) even if the individual has never had a driver's license [FALSE – SEE BELOW]: upon the Court Clerk's notification that the person has Court Debt that has been unpaid for one year, the Commissioner assigns a license number [NOT LEGALLY EQUIVALENT TO A VALID STATUTORY LICENSE-NO LEGISLATIVE AUTHORITY] to the individual and notes the license as "revoked." See Tenn. Code Ann. § 55-50-102(48)" that addresses revocation of a person's existing "license or privilege," NOT one fabricated/assigned]

- 3.3. **No authority to “assign” license.** The Title 40 statute cited in above deposition does NOT authorize the “assigning” of fabricated fictitious driver licenses and revocations as falsely alleged by attorney general Herbert Slatery, III! Here's what the statute says:

- **TCA 40-24-105.** Collection of fines, costs and litigation taxes -- Installment payment plan -- Suspended license -- Restricted license -- Conversion to civil judgment -- Settlement.
(b)
(1) Any person who is issued a license under title 55 [ONLY FOR AN EXISTING STATUTORY ISSUED LICENSE], and who has not paid all litigation taxes, court costs, and fines assessed as a result of disposition of any offense under the criminal laws of this state within one (1) year of the date of the completion of the sentence shall enter into an installment payment plan with the clerk of the court ordering disposition of the offense to make payments on the taxes, costs, and fines owed. [NOTHING SAID HERE ABOUT “ASSIGNING” A FICTITIOUS LICENSE AS FALSELY ALLEGED BY HERBERT SLATERY ABOVE] (emphasis added)
- **TCA 55-50-102(48)** "Revocation of driver license" means the termination by formal action of the department of a person's driver license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the department after the expiration of at least one (1) year after the date of revocation; [NO LEGISLATIVE AUTHORITY SHOWN FOR “ASSIGNING” A FICTITIOUS LICENSE OUTSIDE STATUTORY REQUIREMENTS]

COUNT 4
Alleged grounds for fictitious suspended license
fabrication are inapplicable and false

- 4.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1- 3.3 as if fully set forth at this place.
- 4.2. **Non-statutory grounds for fabrication.** Mr. Long, the reasons given in DSHS notices mailed to me regarding the suspension of said fictitious driver license are, (1) failure to show liability insurance, and (2) failure to satisfy fines/penalties re. citations 37957 (12/10/2013) and 37958 (12/10/2013). You knew or should have known that these grounds are non-statutory (false), i.e. they are not listed as causes/offenses for disqualification/suspension in either federal or state law as shown below.
- Federal regulations; 49 CFR §383.51 **Disqualification of drivers.**
 - § 383.51(a)(7)(b) Disqualification for **major offenses**, includes:
DUI, drug use, high blood alcohol level, refusing to take alcohol test, leaving scene of an accident, using vehicle to commit felony, driving on prior revoke/suspended license, manslaughter/homicide, using vehicle to transport drugs, using vehicle in human trafficking.
 - §383.51(a)(7)© **Disqualification for serious traffic offenses**, includes:
speeding, reckless driving, improper lane changes, following too closely, violating traffic control laws, driving a CMV without license, wrong class of license, texting while driving, phone holding while driving.
 - State statute: TCA Title 55-50-102(51) “**Serious traffic violation**” means:
 - (A) Excessive speeding, as defined by the secretary by regulation; (B) Reckless, careless or negligent driving, as defined under § 55-10-205;(C) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death or personal injury to any person, or property damage;(D) Driving a commercial motor vehicle without obtaining a commercial driver license; (E) Driving a commercial motor vehicle without a commercial driver license in the driver's possession;(F) Driving a commercial motor vehicle without the proper class of commercial driver license and endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported; or (G) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the secretary determines by regulation to be serious.

COUNT 5
Falsified privilege tax receipt

- 5.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1- 4.2 as if fully set forth at this place.
- 5.2. **Falsified tax receipt.** The high courts have stated that a license is merely a tax receipt. By fabricating a fictitious driver license you, Mr. Long, and David Purkey created a falsified tax receipt in my name which is fraud. Here is what the Supreme Court of the United States (“SCOTUS”) has declared:
- **“The granting of a license therefore must be regarded as nothing more than a mere form of imposing a tax. . . But as we have already said, these licenses give no authority. They are mere receipts for taxes...** (emphasis added)
License Tax Cases, 72 U.S. 5, Wall. 462, 471, 472 {1866}.
 - **“Not having a tax receipt [e.g. driver license] or other papers to engage in some business does not prove violation of a tax law when no business can be shown.”**
United States v. Resnick, 299 U.S. 207, 209, 81 L. Ed. 127, 57 S. Ct. 126 (1936) (emphasis added)

COUNT 6
**Fabrication of a license without proof
of commerce activity is fraud upon the state**

- 6.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1-5.2 as if fully set forth at this place.
- 6.2. **Fraud upon the state.** Despite having no evidence that I was engaged in an interstate and/or intrastate commerce activity/trade for profit on the public highways, you nevertheless arbitrarily created said fictitious license which is a fraud upon the State law, according to SCOTUS’s ruling in *Gibbons* and *Resnick*.
- *Gibbons v. Ogden*, 22 U.S 1, Wheat. 1 (1824)“But, when no trade is carried on, or intended to be carried on, under the license, it is clear that **the license is a fraud** upon the State law, if that law is in other respects valid.” (emphasis added)
 - **“Not having a tax receipt [e.g. driver license] or other papers to engage in some business does not prove violation of a tax law when no business can be shown.”**
United States v. Resnick, 299 U.S. 207, 209, 81 L. Ed. 127, 57 S. Ct. 126 (1936) (emphasis added)

COUNT 7
“Privilege” presumption rebutted

- 7.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1-6.2 as if fully set forth at this place.
- 7.2. **Permissive privilege status presumption rebutted.** Mr. Long, your DSHS notice letters stated that my so-called “privilege to drive” was suspended. “Privilege” in the context of commercial highway usage means a for-profit business, occupation or trade affecting the public interest transporting property or passengers for hire. There is no evidence of record that I was/am engaged in a regulated, taxable permissive privilege in commerce on the public highways of Tennessee when ticketed on three occasions.. Your presumption and frivolous assertion that I was/am subject to the commercial permissive privilege statutes of TCA title 55 is hereby rebutted, having no merit-in-fact. (see ATTACHMENT A - affidavit @ ¶¶9, 10) Please take notice of the following cite references re. “privilege” and “privilege tax,” the truth of which you know or should have known, but willfully ignored:
- TCA 55-4-101 (a)(1)(2)(2) The registration and the fees provided for registration shall constitute a **privilege tax** upon the operation of motor vehicles.
 - *Privilege tax.* A tax on the **privilege of carrying on a business or occupatin** for which a license or franchise is required. *Gulf & Ship Island R. Co., v. Hewes*, 183 U.S. 66. Black’s Law Dictionary, 6th Ed., p. 1198 (emphasis added)
 - **“When the privilege ends, the power of regulation ceases.”**
Munn v. Illinois, 94 U.S. 113, 147 (1876) (emphasis added)
 - Privileges are **special rights**, belonging to the individual or class, and not to the mass; properly, **an exemption** from some general burden, obligation or duty; **a right peculiar to some individual or body.**’ *Lonas v. State*, 50 Tenn. 287, 307. 06/06/60 *Jack Cole Company v. Alfedd T. MacFarland*, 337 S.W.2d 453, 206 Tenn. 694 (emphasis added)
 - “Any occupation, business, employment or the like, affecting the public, may be classed and **taxed as a privilege.**” *K. & O. Railroad v. Harris*, 99 Tennessee, 684 (emphasis added)
 - **“The essential elements of the definition of privilege is occupation and business, and not the ownership simply of property, or its possession or keeping it.”**
Phillips v. Lewis, 3 Shann. Cas. 231. Nashville, January Term, 1877 (emphasis added)
 - “. . . **every ingredient** of which the offence is composed must be accurately and clearly alleged.” *United States v. Cook*, 17 Wall. 174 (emphasis added)
 - **“The power to regulate commerce presupposes the existence of commercial activity to be regulated.** The language of the Constitution reflects the natural understanding that the power to regulate **assumes there is already something to be regulated**...As expansive as our cases construing the scope of the commerce power have been, they

all have one thing in common: **They uniformly describe the power as reaching "activity."** *National Federation of Independent Business, et al., Petitioners* (No. 11-393) v. *Kathleen Sebelius, Secretary of Health and Human Services*, 132 S. Ct. 2566. (emphasis added)

- A public highway is such a passageway as any and **all members of the public** have an **absolute right** to use as distinguished from a **permissive privilege** of using same. *Standard Life Ins. Co. v. Hughes*, 203 Tenn. 636, 315 S.W.2d 239, 243, 1958 Tenn. LEXIS 229 (1958). (emphasis added)
- “A **privilege tax cannot be imposed upon anything or any act, unless it constitutes a business, occupation, pursuit or vocation.** Such use for pleasure does not constitute a business, occupation, pursuit or vocation. **Pleasure taking does not constitute a business, occupation, pursuit or vocation, in the sense of the definition of a taxable privilege; and therefore is not subject to privilege taxation.**” *Shannon’s Compilation of Tennessee Statutes*, Vol. 1, 1917 (emphasis added)
- TCA 67-4-401. Generally. Engaging in the various businesses mentioned in this part is declared to be a **privilege** for state purposes and **taxable** by the state alone, and any person so engaged shall pay to the commissioner of revenue, unless otherwise provided, the tax stated in this part. No county or municipality may impose any **tax upon the privileges** mentioned in this part, except license fees upon motor vehicles that might be imposed in the absence of this part. (emphasis added)
- License. *Streets and Highways*. A permit to use street is a mere license revocable at pleasure. *Lanham v. Forney*, 196 Wash. 62, 81 P.2d. 777, 779. The **privilege** of using the streets and highways by the operation thereon of motor carriers for hire can be **acquired only by permission or license** from the state or its political subdivisions. *Black’s Law Dictionary*, 6th Ed., p. 920 (emphasis added)
- TCA §55-50- 301(a)(4) Any person licensed as a driver may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise the privilege by any county, municipal or local board, or body having authority to adopt local police regulations.
- “The tax is on the occupation, business, pursuits, vocation, or calling, it being one in which a profit is supposed to be derived by its exercise from the general public, and not a tax on the property itself or the mere ownership of it.”....“The legislature cannot, under our constitution, declare the simple enjoyment, possession, or ownership of property of any kind a privilege, and tax it as such. It may declare the business, occupation, vocation, calling, pursuit, or transaction, by which the property is put to a peculiar use for a profit to be derived from the general public, a privilege and tax it as such, but it cannot tax the ownership itself as a privilege. The ownership of the property can only be taxed according to value.” *Phillips v. Lewis*, 3 Shann. Cas. 231. Nashville, January Term, 1877 (emphasis added)
- “But we have never permitted Congress to anticipate that activity itself in order to regulate individuals **not currently engaged in commerce.** . . . , commerce. . . prosecution of those. . . **not currently engaged in any commercial activity.** . . . **is fatal to the**

Government's effort to "regulate..." *National Federation Of Independent Business, et al., Petitioners (No. 11-393) v. Kathleen Sebelius, Secretary Of Health And Human Services*, 132 S. Ct. 2566 (emphasis added)

- It is held that a tax upon a common carriers by motor vehicles is based upon a reasonable classification, and does not involve any unconstitutional discrimination, although it **does not apply to private vehicles, or those used by the owner in his own business, and not for hire.**” *Desser v. Wichita*, (1915) 96 Kan. 820; *Iowa Motor Vehicle Asso. v. Railroad Comrs.*, 75 A.L.R. 22. (emphasis added)

COUNT 8

Potential federal crimes

8.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1-7.2 as if fully set forth at this place.

8.2. **Possible federal crimes.** Mr. Long, be aware that fabricating said fictitious driver license without statutory authority under color of law, and entering false data on the federal driver data system, mailing notices to me in an attempt to extort money for “reinstatement” of a driver license that never existed, and other fees, etc., may constitute criminal offenses under the United States Code (“USC”) as follows:

- **Falsified data entry.** 18 U.S.C. § 1001(3) – FALSE STATEMENTS, CONCEALMENT (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

- **Mail fraud.** 18 U.S.C. § 1341 – FRAUDS AND SWINDLES

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is

directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act 42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

- 8.3. **Elements of mail fraud.** "There are two elements in mail fraud: (1) having devised or intending to devise a scheme to defraud (or to perform specified fraudulent acts), and (2) use of the mail for the purpose of executing, or attempting to execute, the scheme (or specified fraudulent acts)." *Schmuck v. United States*, 489 U.S. 705, 721 n. 10 (1989); *see also Pereira v. United States*, 347 U.S. 1, 8 (1954) ("The elements of the offense of mail fraud under . . . § 1341 are (1) a scheme to defraud, and (2) the mailing of a letter, etc., for the purpose of executing the scheme."); Laura A. Eilers & Harvey B. Silikovitz, *Mail and Wire Fraud*, 31 Am. Crim. L. Rev. 703, 704 (1994) (cases cited).

● **Conspiracy to defraud.** 18 U.S.C. § 371 – CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

- 8.4. **Tennessee's federal nexus.** Note – Mr. Long, you know that the State of Tennessee has compacts with federal Department of Transportation for federal grants/funds which establishes the nexus for federal regulatory control of TCA Titles 55 and 65.
- 8.5. **Conspiracy to defraud.** Mr. Long, you and Mr. Purkey conspired to enter false and defrauding data into the National Driver Registry ("NDR") data system regarding the fictitious suspended driver license. Consider the following potential criminal offense of conspiracy:

● 18 U.S.C. § 1349 – ATTEMPT AND CONSPIRACY

Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

COUNT 9

Fraud due to silence to previous request for proof of legislative authority

- 9.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1-8.5 as if fully set forth at this place.
- 9.2. **Fraud through silence.** Mr. Long, your ally and co-conspirator in this fabrication scheme is attorney general, Herbert Slatery, III, (see Count 3 above) to whom I sent a letter requesting proof of the legislative authority your department relied on to fabricate and suspend the fictitious license in my name. (see ATTACHMENT A - affidavit ¶16 and ATTACHMENT C) To date he has failed to reply and has remained silent. As a public servant he had a duty to respond to my inquiry. SCOTUS has ruled that “silence, can easily amount to “fraud” sufficient to warrant punitive damages.”
- *BMW OF NORTH AMERICA, INC. v. GORE*, 517 U.S. 559, 588-589 (1996) (Emphasis added.) “An intentional misrepresentation, made through a statement or **silence, can easily amount to "fraud" sufficient to warrant punitive damages**. See § 6-11-20(b)(1) ("Fraud" includes "intentional . . . concealment of a material fact the concealing party had a **duty to disclose**, which was gross, *oppressive, or malicious* and committed with the intention . . . of thereby depriving a person or entity of property") (emphasis added); § 6-11-20(b)(2) ("Malice" includes *any "wrongful act without just cause or excuse . . . [w]ith an intent to injure the . . . property of another"*) (emphasis added); § 6-11-20(b)(5) ("Oppression" includes "[s]ubjecting a person to . . . unjust hardship in conscious disregard of that person's rights").” (emphasis added)
 - *U.S. v. HOLZER*, 816 F.2d 304, 307-309 (7th Cir. 1987) (Emphasis added.) “[14] **Fraud** in its elementary common law sense of deceit — and this is one of the meanings that fraud bears in the statute, see *United States v. Dial*, 757 F.2d 163, 168 (7th Cir. 1985) — includes the **deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public . . .**” (emphasis added)
 - *McNALLY v. UNITED STATES*, 483 U.S. 350, 371-372 (1987) (cites *Holzer* and *Dial*, *supra*)
 - *GREENE v. GULF COAST BANK*, 593 So.2d 630, 632 (La. 1992) **"To find fraud from**

silence or suppression of the truth, there must exist a duty to speak or to disclose information." (emphasis added.)

COUNT 10

Official oppression. TCA § 39-16-403

- 10.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1-9.2 as if fully set forth at this place.
- 10.2. **Acts of official oppression.** Mr. Long, as a public servant with superior knowledge of the law, you knew or should have known that your action of fabricating a fictitious suspended driver license (i.e. false evidence) in my name was
- (1) unlawful – without statutory authority under color of law;
 - (2) without my knowledge and consent;
 - (3) without me voluntarily submitting an application as required by statute;
 - (4) an effort to coerce me into an inapplicable commercial driving privilege classification;
 - (5) criminalizing the exercise and enjoyment of my constitutionally secured liberty right to freely travel on the public highways in the ordinary course of life, business and pleasure in my private conveyance;⁸
 - (6) the cause of my numerous arrests and resultant mistreatment, injuries and economic damages;
 - (7) a non-statutory leveraging scheme to aid the court in debt collection contrary to TCA §40-24-105(b).

This meets the following statutory description of official oppression.

● **Official oppression. TCA § 39-16-403**

- (a) A public servant acting under color of office or employment commits an offense who:
- (1) Intentionally subjects another to mistreatment or to arrest, detention, stop, frisk, halt, search, seizure, dispossession, assessment or lien when the public servant knows the conduct is unlawful; or
 - (2) Intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity, when the public servant knows the conduct is

⁸ ● "The claim and exercise of a constitutional [protected] right cannot be converted into a crime." *Miller vs. US*, 230 F 486, 489

● "No state may convert a secured liberty into a privilege, and issue a license and fee for it." *MURDOCK v. PENNSYLVANIA*, 319 U.S. 105 (emphasis added)

unlawful.

(b) For purposes of this section, a public servant acts under color of office or employment if the public servant acts, or purports to act, in an official capacity or takes advantage of the actual or purported capacity.

(c) An offense under this section is a Class E felony.

(d) Charges for official oppression may be brought only by indictment, presentment or criminal information; provided, that nothing in this section shall deny a person from pursuing other criminal charges by affidavit of complaint.

COUNT 11

Public official misconduct, TCA § 39-16-402

- 11.1. **Incorporation.** Aggrieved incorporates herein by reference the allegations contained in paragraphs 1-7 and 1.1-10.2 as if fully set forth at this place.
- 11.2. **Unauthorized exercise of official power.** Mr. Long, by you and David Purkey, as public servants, suspending the fabricated fictitious driver license in my name (which made it a class B misdemeanor subject to arrest) and by entering this falsified information on a driver history data base, you knowingly and intentionally put me in jeopardy of an arrest if stopped by law enforcement, which occurred a number of times. This act violates the law relating to your public office, and constitutes an unauthorized exercise of official power, i.e. official misconduct.

● Official misconduct, TCA § 39-16-402

(a) A public servant commits an offense who, with intent to obtain a benefit or to harm another, intentionally or knowingly:

(1) Commits an act relating to the public servant's office or employment that constitutes an unauthorized exercise of official power;

(2) Commits an act under color of office or employment that exceeds the public servant's official power;

(3) Refrains from performing a duty that is imposed by law or that is clearly inherent in the nature of the public servant's office or employment;

(4) Violates a law relating to the public servant's office or employment; or

(5) Receives any benefit not otherwise authorized by law.

(b) For purposes of subdivision (a)(2), a public servant commits an act under color of office or employment who acts or purports to act in an official capacity or takes advantage of the actual or purported capacity.

(c)(3)(f) Charges for official misconduct may be brought only by indictment, presentment or criminal information; provided, that nothing in this section shall deny a person from pursuing other criminal charges by affidavit of complaint.

● **TCA § 39-16-401. Definitions for public misconduct offenses.**

As used in this part, unless the context otherwise requires:

(2) “Law” means the constitution or a statute of this state or of the United States, a written opinion of a court of record, a municipal ordinance, or a rule authorized by and lawfully adopted under a statute; and

(3) “Public servant” means a person elected, selected, appointed, employed, or otherwise designated as one (1) of the following even if the public servant has not yet qualified for office or assumed the duties:

EXPUNGEMENT/REVOCATION DEMAND

THEREFORE, Mr. Long, enough being said in the abovementioned grounds, it is clear that A STATUTE CANNOT BE ENFORCED AGAINST A PARTY WHO WAS NOT AT THE TIME SUBJECT TO ITS CONSTRUCTION. This maxim applies to my status in this instant matter, i.e. no evidence of record has shown I am subject to TCA Title 55's taxable, permissive privilege statutes. I, again, reiterate my demand by right that the unlawful, fictitious suspended driver license in my name be expunged/removed/revoked from all state and federal data bases, and from every record keeping system of any kind, whatsoever, immediately, and written confirmation proof thereof sent to me at my above address. Time is of the essence. Should you refuse to promptly comply with this justified demand within ten (10) days from the date of this grievance notice, I intend to initiate litigation in federal district court to seek remedy. I trust you will do what is right and just under the rule of law in obedience to Almighty God.

“He hath showed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?” Micah 6:8

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 28, 2021. Pursuant to 28 U.S.C. § 1746

By: _____
Arthur Jay Hirsch

ATTACHMENT A - affidavit
ATTACHMENT B - administrative notice
ATTACHMENT C - DSHS letter