

Legal Opinion: NORFED is 100 Percent Legitimate

By Staff
Media Bypass
November 1998

(Editor's note: The following is a letter providing a legal opinion relative to the issuance, negotiability and use of the proposed NORFED American Liberty Currency, which at that time was referred to as the "Patriot." — GAC)

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June 10, 1998

G. Edward Griffin
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Re: American Patriot Currency

Dear Mr. Griffin:

Bernard von NotHaus, of Honolulu, Hawaii, has requested that I provide you with a legal opinion relative to the issuance, negotiability and use of a paper instrument titled "American Patriot Currency" (Patriot) designed by NORFED (National Organization for the Repeal of the Federal Reserve Act) for sale to the general public.

The paper instrument entitled Patriot is a combination of several objectives. In the first place, it is a sales receipt evidencing that the initial Buyer paid \$10 in U.S. Federal Reserve Notes for the document of title to one (1) Troy ounce of .999 fine silver.

In the second place, it is a warehouse receipt evidencing the storage of the same one (1) ounce of silver by the warehouseman pursuant to the terms as set forth on the reverse side of the instrument.

Thirdly, the warehouse receipt is made negotiable thereby permitting free transferability without endorsement of the paper instrument payable to bearer.

Finally, the paper instrument is an expression of all U.S. citizens' First Amendment right to petition for the redress of grievances through the use and acceptance of the Patriot like-minded parties supporting the same grievance.

I find that the Patriot is a valid negotiable paper instrument under the provisions of the Uniform Commercial Code (UCC) and its intended use protected by the bearers' rights under the United States Constitution. Upon further review, I also find that the Patriot and its intended use is not in violation of any laws of the federal government of the United States or of the laws of any State in the United States.

Sales Receipt and Document of Title

On one side of the Patriot there is a sub-caption entitled "Silver Certificate" which evidences the Ten Dollar (\$10) receipt in exchange for title to one (1) Troy ounce of silver. This is a certification that the Seller has received \$10 and the Buyer ("bearer") has received a document of title to one (1) Troy ounce of silver.

A document of title is defined by the UCC as including bills of lading, dock receipts, warrants, warehouse receipts or orders for delivery of goods and also any other documents treated as adequately evidencing that the person in possession (Buyer/Bearer) of it is entitled to receive, hold and dispose of the document and the goods it covers. UCC 1-105(15).

Title passes to Buyer at the time and place at which Seller completes his performance with respect to the physical delivery of the goods. UCC 2-401(2). In this case involving the warehousing of the actual physical goods, title explicitly passes at the time and place the Seller delivers a document of title such as the Patriot. UCC 2-401(3)(a). The manner of Seller's tender of delivery requires that the Seller put and hold the conforming goods at Buyer's disposition and give the Buyer any notifications reasonably necessary to enable the Buyer to take delivery. UCC 2-503(c). In this case where the good (silver) is in possession of a bailee, such as a warehouseman, and are to be delivered without being moved, the Seller's tender of a negotiable document of title covering such good and/or the procurement of the warehouseman's acknowledgement of Buyer's right to possession of the silver is sufficient to complete the Seller's tender of delivery of the goods. UCC 2-503(4)(a). (Cont. after Sidebar)

SIDEBAR: Frequently Asked Questions About Liberty Certificates

Q. Why would I want to get involved with the American Liberty Currency?

A. Because it is the right patriotic thing to do. Because it answers the question: "What can I do?" It will instill personal satisfaction that you did something. Hopefully it will empower you to show a Liberty Certificate to a friend. And because you can profit from having some money with silver backing.

Q. Do I have to register or use my name when I buy a Liberty Certificate?

A. No. You can simply buy/trade \$10 Federal Reserve Note (FRN) with a friend. That person may be a coin dealer, a religious leader, could be a militia member or even a politician. You can get a Liberty Certificate from almost anyone. You can also buy direct from NORFED.

Q. Can the government get my name?

A. No. Not from NORFED, The First Amendment of the U.S. Constitution protects membership lists and NORFED has vowed never to release its members names.

Q. How will I know we are making progress?

A. Simple, NORFED will post the number of Liberty Certificates Sold on its website, <www.norfed.org> just like McDonald's does with its hamburgers. Every Liberty Certificate sold is a step towards success, a step for a better, freer country.

Q. Is the Liberty Certificate legal?

A. Absolutely. Our founding fathers enshrined our God-given right of free speech in the U.S. Constitution. It is also covered in the Uniform Commercial Code.

Q. How much is the Liberty Certificate worth?

A. The Liberty Certificate is worth \$10 and will be worth more if silver increases in value. Silver has been trading for \$5-7 an ounce during 1998.

Q. But It's worth silver too, right? How much?

A. Yes. The \$10 Liberty Certificate is backed by one Troy ounce of (.999 fine) silver stored in a warehouse.

Q. Is there really an ounce of silver for every \$10 Liberty Certificate?

A. Yes. There is one ounce of silver for every \$10 Liberty Certificate. That means it has 100 percent backing at all times.

Q. Where is the silver stored?

A. The silver is stored at Sunshine Minting in Coeur d'Alene, Idaho. Each and every \$10 Liberty Certificate is backed by an ounce of silver. Sunshine is not part of NORFED

Q. How do I know it is really there?

A. Your silver, the silver you own, with the \$10 Liberty Certificate is not controlled by NORFED. It is independently held by a third party, i.e. Sunshine Minting, which is subject to a monthly independent audit.

Q. How secure is Sunshine?

A. Completely secure. Your silver is 100 percent insured against fire and theft. Guaranteed.

Q. Are there any fees involved?

A. The insurance and storage fees are paid for five years. After that there is a one-percent storage fee. All the terms are clearly defined on each Liberty Certificate.

Q. How many Liberty Certificates can I redeem?

A. Any and all. Since there is an ounce of silver for each Liberty Certificate — which is technically a "warehouse receipt" — there is no problem in redeeming it.

Q. Who gets the difference between the price of silver and the \$10 Liberty Certificate?

A. NORFED gets the difference. It covers the cost of operation, storage, minting, and organizing the effort for the repeal of the Federal Reserve Act and the IRS. — MB Staff

(Cont. from above)

NORFED is empowered to engage in commerce and sell silver. When NORFED sells silver it can issue a document of title to the Buyer indicating that NORFED is in receipt of the \$10 in exchange for the document of title to one (1) Troy ounce of .999 fine silver sold to the Buyer.

First Amendment Rights

The second sentence under the Silver Certificate caption indicates that the acceptance and use of this negotiable document of title is an actual exercise of the bearer's First Amendment right to petition for the redress of grievances; in this case, grievances call for the repeal of the Federal Reserve Act and the Internal Revenue Code. This use of a paper instrument may be akin to an actual petition which is protected speech under the First Amendment of U.S. Constitution. While a negotiable instrument such as the Patriot may be used as a cash substitute, the additional expressed connection to a First Amendment right of protected speech strengthens the protection for the bearer and the issuer. This statement, in effect, encourages the acceptance and use of the Patriot in the manner of a First Amendment exercise of one's free speech.

There are several cases in the Tenth Circuit Appellate District which reaffirm the basic rights to free speech and the protection of such exercise in cases including financial instruments. These case are NCBA v. US 951 F2d 1172 (1991), Granbouche v. US 701 F2d 115 (1983) and Pleasant v. Lovell 876 F2d 787 (1989). While in these cases the Court was very protective of "internal workings" of an organization as the protected right of association and First Amendment expression, NORFED, by issuance of this paper certificate as a form of membership, encourages the bearer to exercise their First Amendment right in

the utilization and acceptance of the paper instruments as currency. Based on the reasoning found in the Tenth Circuit, I am confident that a Court would find that any interference by the government in the use of this paper instrument is too great an infringement on other protected First Amendment rights to prevent NORFED or any of its distributors from continuing to issue the Patriot.

The Patriot's full name of American Patriot Currency is consistent with its First Amendment speech. Further, the silver-backed Patriot is designed as an alternative to current Federal Reserve debt-backed notes. The use of the term currency is thus consistent with the Patriot's intended purpose and design to petition for the Repeal of the Federal Reserve Act and its currency connotes a medium of exchange by common acceptance, general use or prevalence. The Patriot's petition, backed by silver, sets forth its message and its proposed solution through the use of the Patriot as currency. The use of the term American Patriot Currency expresses this message and proposed solution, as such, they are protected speech.

The United States Treasury Department or Justice Department have not acted to halt local paper instruments called "community currencies" that have sprung up in over 40 locations all over the country. In 1991, a Federal Reserve senior research officer approved a local currency pegged to the dollar such as the Patriot and even concluded that it is "quite likely that they (local currencies) are making people better off." (Correspondence dates July 2, 1991 from Walter Weber, Federal Reserve Bank of Minnesota.)

Negotiable Instrument

Negotiable Instruments have their modern origins in the Law of the Merchant which was eventually absorbed into the common law. In 1882, the English enacted the Bills of Exchange Act. In the United States this act inspired the Uniform Negotiable Instruments Act (NIL) which was superseded by the Uniform Commercial Code Article III Commercial Paper, renamed Negotiable Instruments under 1990 Article III.

Of primary importance to a negotiable instrument is that the writing be made payable to bearer or to order. There is no requirement of the Patriot requiring an endorsement to become a bearer. Possession alone determines the bearer. Further, the Patriot is on demand so that the bearer can at any time negotiate it to redeem the one (1) Troy ounce of silver warehoused. Under the terms of the reverse side of the Patriot setting forth the warehouse receipt, a bearer can redeem the silver represented by the Patriot at any time through surrender of the warehouse receipt to the warehouseman.

The negotiable warehouse receipt is akin to a promissory note under UCC Article III. In Article III, negotiable paper involved an engagement to pay money "to order" or "to bearer," UCC 3104(a), 3-412. Similarly in Article VII, a negotiable document of title involves an engagement to deliver identified goods "to order" or

"to bearer," UCC 7-104, 7; 403(4). This analogy notes one important distinction. Article HI paper does not cover or represent any particular money. Nevertheless, this distinction does not impede the use of this warehouse receipt as a negotiable document of title similar to other cash substitutes for those in association willing to accept such documents as currency and those willing to utilize the Patriot as such.

Warehouse Receipt

The Warehouse Receipt identifies the goods as one (1) Troy ounce of 999 fine silver. As such, each ounce of equally fine silver would be then in a class considered fungible goods. In UCC 1201(17), fungible is referenced to "by nature and usage of trade" with respect to the equivalent of any other like unit. In this case the warehouseman is warehousing single ounces of silver in lots determined by the numbered warehouse receipts. It is customary for silver dealers and precious metals warehousemen to segregate like units such as the silver ounces warehoused in this case. As fungible goods, each ounce of silver need not be kept separate. UCC-7-207(1). NORFED has required the Patriot warehouseman to conduct a monthly independent audit of the silver. In this way, NORFED has taken an extra step toward limiting the liability of the warehouseman to receipt bearers. This process will reduce concerns of overissue of receipts as well as to limit liability exposure of the warehouseman to any challenge by any specific bearer or government authority.

The reverse side of the Patriot sets forth the terms of the Warehouse Receipt pursuant to the UCC 7-202(2). This section requires: (a) the location of the warehouse where goods are stored; (b) the date of issue; (c) consecutive number of receipts; (d) statement of negotiability to bearer; (e) rate for storage and insurance; (f) description of the goods; (g) signature of the warehouseman; and (h) a statement of any additional charges or warehouseman liens that may be incurred. The identity of the warehouseman, Sunshine Minting, satisfies the requirement that the receipt be issued by a warehouseman. Sunshine Minting has a long history in silver minting, sales and storage. Sunshine Minting is currently under contract with the United States government to provide silver planchets (blanks) for the minting of U.S. Silver Eagle coins. Further, all Patriots will be dated, numbered and signed upon issue.

The Patriot warehouse receipt has prepaid insurance and storage charges for five (5) years. Thereafter there is a charge based on the value of silver that will be added and paid upon surrender of the instrument. UCC 7-202(2)(e). A term of 20 years has been included with in the terms. This will provide the warehouseman with a certain time when his obligations as warehouseman will be terminated. Expired warehouse receipts will have no further value and the goods will no longer be obligated to be held for the bearers. The Patriot warehouse receipt provides Bearer with the ability to surrender the document of title and receive the actual silver or a replacement negotiable document of title for an additional term of years.

Counterfeiting, Similitude and other U.S. Laws

I find that the Patriot is not in violation of any Counterfeiting or Similitude statutes of the United States. In the first place, the design and shape of the Patriot distinguishes it from the similitude regulation issued by the Treasury Department. The Patriot is considerably wider and shorter than is minimally required to avoid a similitude violation as to the size. Further, the Patriot makes no claim of issuance by the United States Government or the Federal Reserve. Secondly, there can be no confusion relative to the terms of the paper instrument of its face and back with Federal Reserve Notes. Finally, statements concerning its use and acceptance as a petition to the U.S. Government to repeal the Federal Reserve Act and the Internal Revenue Code demonstrates that the paper instrument is also a petition or a statement of the bearer relative to their protected speech. This distinction in use and acceptance should convincingly remove the instrument from considerations of counterfeiting or similitude type of violation since the basis of its use is set forth as a petition of grievances and not as a copy of the existing Federal Reserve Notes as money in the United States.

Conclusion

In summary, it is my opinion that the Patriot is a valid, negotiable paper instrument pursuant to the Laws of the Merchant codified in the UCC Article II, III and VII. As negotiable warehouse receipt, a sales receipt and a document of title, this document is satisfactory in all respects. Relative to its intended use and proposed acceptance as a cash substitute, the exercise of the First Amendment rights by the bearer afford both the bearer and the issuer the protections of fundamental First Amendment rights. The Patriot is not purporting to replace or confuse the present legal tender in the United States. The Patriot is, in fact, an intentional distinction from Federal Reserve Notes used as money in the United States in its nature, design and message.

SIDEBAR: The Origin of Money

Money has become a routine part of our lives. Its origin is rarely considered or understood. So what is money? Money is a claim, clear and simple. Whereas money is often defined as a store of value, medium of exchange or a measure of value, these are only its uses, not what it is. Money is a claim for something of value.

The original groups of hunter-gatherers didn't need money as they provided only for themselves. Eventually they came to trade with other groups by direct barter, i.e. one to one, without money. Later, trading became more convenient with the use of indirect barter, i.e. trading into a common third party commodity which is then traded for the intended item. Practically every medium such as sea shells,

bananas, cattle, land and metal has been used for the third party commodity which become known as money.

With the advent of indirect barter, i.e. the use of money, trading was made easier and commerce was born. As man's wealth developed, gold and silver became the most accepted medium for indirect barter. Freed from a medium that did not rot or walk away, man began to accumulate wealth. As the goldsmiths had already built strong rooms, people stored their gold with the goldsmith and received a warehouse receipt.

After people learned to accept the warehouse receipt in lieu of the actual gold or silver, the depositors found it was easier to get several smaller warehouse receipts. As these small warehouse receipts became popular they were used exclusively as they still represented stored value. Then over time, the goldsmiths became bankers and the warehouse receipts became banknotes.

Unfortunately, the bankers soon realized that the people rarely redeemed the gold and they began to issue duplicate warehouse receipts. Eventually this fraud of fractional reserve banking was realized as the Federal Reserve System by the government for their own unconstitutional motives.

— MB