The Phyllis Schlafly Report

Nationwide Injunction against Deep State FinCEN

By John and Andy Schlafly

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A stunning setback to the Deep State from a federal district court in remote eastern Texas: Judge Amos Mazzant just issued a nationwide injunction against the new mandate that more than 30 million Americans report their personal information to the federal government by Jan. 1.

Merely 29 days from the deadline, Judge Amos Mazzant gave Americans the Christmas gift that many hoped for. The Financial Crimes Enforcement Network (FinCEN), which is a federal agency located near Washington, D.C., is suddenly blocked nationwide from requiring that Americans report their home addresses, birthdates, and driver's license numbers to it.

Many Americans were unaware of this new federal criminal law, which carries a penalty of two years in prison for non-compliance. Everyone involved in small local entities, other than those exempt, faced this reporting requirement for the purpose of law enforcement, including harassing federal investigations.

The two-year incarceration is particularly significant because that automatically strips Americans of their Second Amendment right to keep and bear arms, if found to be in violation of this Corporate Transparency Act (CTA). The actual punishment for a CTA violation may be light, but the mere possibility of being imprisoned for more than a year results in automatic deprivation of the right to possess a firearm due to another federal statute.

The federal government justified this new privacy-invading statute based on its overused monikers of supposedly combating money laundering and terrorism. The Deep State expands its federal police power by repeatedly pretending to fight such unlawful activity, when in fact the D.C. elite are really monitoring and intimidating law-abiding Americans.

House Democrats used that same excuse of supposedly eradicating money laundering and terrorism as a justification for seeking private banking records of Trump's family members with sweeping subpoenas. The Supreme Court halted those subpoenas back in July 2020, unpersuaded by the pretext.

But at the end of 2020, Dems inserted the CTA into a 1,500-page defense appropriations bill, such that no one noticed at the time. This was set to go into effect with its draconian penalties on Jan. 1, 2025, for 33 million Americans.

Some have received notices about this requirement from their accountants, but not even CPAs can understand exactly which entities and individuals are truly subject to this law. People are being told to get legal advice that will cost thousands of dollars.

Congress lacks the constitutional authority to become Big Brother to watch so many ordinary Americans, the federal court held on Tuesday in issuing its nationwide injunction against this horrible law. “For good reason, Plaintiffs fear this flanking, quasi-Orwellian statute and its implications on our dual system of government,” the court held while ruling against the Deep State.

The CTA would turn every law-abiding American into a suspected federal criminal, subject to investigations and prosecution by the federal government for purely local activities far afield from any legitimate national concern. The political persecution of national leaders like Trump was about to come to every mom-and-pop entity organized under state law without any expectation of federal monitoring.

The six plaintiffs in this case were led by Texas Top Cop Shop, Inc, a family-operated small business in Conroe, Texas, that sells firearms locally. It has only four employees, and yet FinCEN demanded that it file by New Year’s Day personal information about some of the participants in its business.

Another plaintiff is Mustardseed Livestock, LLC, which is a small dairy farm located entirely in Lingle, Wyoming. It produces dairy for its own use, while occasionally selling surplus raw milk there, not across state lines.

The federal government has no legitimate authority over these small, local entities created under state law. The Commerce Clause grants Congress the authority to regulate interstate and foreign commerce, but that is not what Congress is doing with the CTA.

The federal judge in this case was appointed to the bench by President Barack Obama and supported by Sen. Ted Cruz as part of a compromise with respect to confirming a batch of new judges.

“Great nations, like great men, should keep their word,” Judge Mazzant wrote in quotation of Justice Hugo Black. Judge Mazzant added, “Ours is a written Constitution.” He

held that the “CTA does not regulate channels of, or instrumentalities in, commerce” between states, and thus is beyond the authority of Congress under the Commerce Clause.

Other provisions of the Constitution, such as doing what is necessary and proper to regulate foreign affairs and protect national security, likewise fail to justify this intrusive snooping that FinCEN itself estimated would cost $22.7 billion in the first year and $5.6 billion in subsequent years. Selling raw milk to a neighbor does not justify this vast, costly expansion in federal police power, and Americans can breathe a sigh of relief.

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