claim is required is deemed to have waived it, and waiver may be found where the witness has answered some preliminary questions but desires to stop at a certain point.[189] However, an assertion of innocence in conjunction with a claim of the privilege does not obviate the right of a witness to invoke it, as her responses still may provide the government with evidence it may later seek to use against her.[190]

Though an individual must have reasonable cause to apprehend danger and cannot be the judge of the validity of his claim, a court that would deny a claim of the privilege must be "'*perfectly clear*, from a careful consideration of all the circumstances in the case, that the individual is mistaken, and that the answer[s] *cannot possibly* have such tendency to incriminate."[191] To reach a determination, furthermore, a trial judge may not require a witness to disclose so much of the danger as to render the privilege nugatory: "[I]f the witness, upon interposing his claim, were required to prove the hazard . . . he would be compelled to surrender the very protection which the privilege is designed to guarantee. To sustain the privilege, it need only be evident from the implications of the question, in the setting in which it is asked, that a responsive answer to the question or an explanation of why it cannot be answered might be dangerous because injurious disclosure could result."[192]

The privilege against self-incrimination is a personal one and cannot be used by or on behalf of any organization, such as a corpo-

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indicated guilt, and a majority of the Court endorsed these comments. The four dissenting Justices inferred from Salinas's silence and the surrounding circumstances that he had exercised his Fifth Amendment privilege, and they would have barred the prosecutor's remarks.

[189] Rogers v. United States, 340 U.S. 367 (1951); United States v. Monia, 317 U.S. 424 (1943). The "waiver" concept here has been pronounced "analytically [un-]sound," with the Court preferring to reserve the term "waiver" "for the process by which one affirmatively renounces the protection of the privilege." Garner v. United States, 424 U.S. 648, 654, n.9 (1976). Thus, the Court has settled upon the concept of "compulsion" as applied to "cases where disclosures are required in the face of claim of privilege." Id. "[I]n the ordinary case, if a witness under compulsion to testify makes disclosures instead of claiming the privilege, the government has not 'compelled' him to incriminate himself." Id. at 654. Similarly, the Court has enunciated the concept of "voluntariness" to be applied in situations where it is claimed that a particular factor denied the individual a "free choice to admit, to deny, or to refuse to answer." Id. at 654 n.9, 656–65.

[190] Ohio v. Reiner, 532 U.S. 17 (2001).

[191] Hoffman v. United States, 341 U.S. at 488 (quoting Temple v. Commonwealth, 75 Va. 892, 898 (1881)). For an application of these principles,*see* Malloy v. Hogan, 378 U.S. 1, 11–14 (1964), and id. at 33 (Justices White and Stewart dissenting). Where government is seeking to enforce an essentially noncriminal statutory scheme through compulsory disclosure, some Justices would apparently relax the *Hoffman* principles. *Cf.* California v. Byers, 402 U.S. 424 (1971) (plurality opinion).

[192] Hoffman v. United States, 341 U.S. at 486–87.