

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA,)	
)	
v.)	CIVIL ACTION NO.
)	
EXCEL HOME CARE, INC., and)	
DIANE E. PORTER,)	
Defendant.)	
_____)	

ORDER

May 26, 2009

Saris, U.S.D.J.

After two hearings, and notice, the Court enters a preliminary injunction against defendant Excel Home Care, Inc. ("Taxpayer") and Diane E. Porter on the ground that the government has demonstrated a reasonable likelihood of success, and will suffer irreparable harm if defendants do not file their tax forms. The public interest favors compliance. Defendants have not filed any opposition. The Court **ORDERS** that:

- (1) the defendants timely file all employment and unemployment tax returns of Taxpayer with the IRS;
- (2) the defendants deposit withheld income and FICA taxes, as well as the employer's share of FICA taxes of Taxpayer in an appropriate federal depository bank in accordance with federal deposit regulations;
- (3) the defendants deposit Taxpayer's FUTA taxes in an appropriate federal depository bank in accordance with federal

deposit regulations;

(4) the defendants sign and deliver affidavits to designated revenue officers, or such other location as the IRS may deem appropriate, on the first day of each month, stating that the requisite withheld income, FICA and FUTA tax deposits of the Taxpayer were timely made or explaining why they were not made;

(5) the defendants timely pay all required outstanding liabilities due with each tax return at the time it is filed;

(6) the defendants refrain from making any disbursements or assigning any property out of the ordinary course of business, from the date of payment of wages until the amounts which are required to be withheld from the payment of those wages are, in fact, paid to the IRS;

(7) and the defendants forthwith notify the revenue officer of any new company or business Diane E. Porter owns or manages.

Defendants are not required to make any payments required by this Order to the extent the government has already seized the funds. To the extent defendants are unable to comply with any aspects of this order in a timely fashion, they shall file an affidavit in Court.

S/PATTI B. SARIS
United States District Judge