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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PRESCOTT DIVISION

UNITED STATES OF AMERICA,)	
)	Case No.
Plaintiff,)	
)	
v.)	
)	
ELIZABETH A. GARDNER and)	COMPLAINT FOR PERMANENT
FREDERIC A. GARDNER, each)	INJUNCTION AND FOR OTHER
individually and d/b/a BETHEL)	EQUITABLE RELIEF
ARAM MINISTRIES,)	
)	
Defendants.)	

The United States of America, plaintiff, for its Complaint states as follows.

Nature of Action

1. The United States is bringing this complaint to enjoin Elizabeth A. Gardner and Frederic A. Gardner, each individually and doing business as Bethel Aram Ministries or through any other entity, and any other person in active concert or participation with them, from directly or indirectly:

- (a) Organizing, promoting, marketing, or selling any tax shelter, plan or arrangement, including their corporation sole program, that advises, assists or encourages customers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
- (b) Making false or fraudulent statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by the reason of participating in such tax shelters, plans or arrangements;
- (c) Encouraging, instructing, advising or assisting others to violate the tax laws, including to evade the payment of taxes;
- (d) Engaging in conduct subject to penalty under 26 U.S.C. § 6700, *i.e.*, by making or furnishing, in connection with the organization or sale of a shelter, plan, or arrangement, a statement the defendants know or have reason to know to be false or fraudulent as to any material matter under the federal tax laws;
- (e) Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws, and engaging in any activity subject to penalty under the Internal Revenue Code.

2. An injunction is warranted based on the defendants' continuing conduct as promoters of a tax-fraud scheme. If not enjoined, the defendants' continuing actions will result in the Internal Revenue Service having to devote scarce resources to attempt to locate and investigate the defendants' customers, who by participation in the defendants' scheme have illegally stopped filing accurate federal income tax returns and paying their federal income taxes. The defendants' actions, if not stopped, may result in penalties and other civil and criminal sanctions being imposed on those customers.

Jurisdiction and Venue

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and §§ 7402(a) and 7408 of the Internal Revenue Code of 1986 (26 U.S.C.; “Code”).

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

Authorization

5. This action has been requested by a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to the provisions of Code §§ 7402 and 7408.

Defendants

6. Elizabeth A. Gardner resides in Dewey, Arizona. She is defendant Frederic Gardner’s wife.

7. Frederic A. Gardner resides in Dewey, Arizona. He is defendant Elizabeth Gardner’s husband.

8. The Gardners conduct business as Bethel Aram Ministries.

Defendants’ Activities

9. The Gardners market a program or arrangement known as a “corporation sole” as a means to evade the reporting and payment of federal income taxes, as well as a means to conceal assets and evade IRS collection efforts.

10. Corporations sole are authorized under the laws of some states to enable religious leaders to hold property and conduct business for the benefit of the religious entity (as opposed to the benefit of the office holder, or entity creator, himself). Rev.

Rul. 2004-27, 2004-1 C.B. 625, 626. Title to property that vests in the office holder as a corporation sole passes to the successors to the office by operation of law (not to the office holder's heirs). The purpose of a corporation sole is to ensure continuity of ownership of property dedicated to the benefit of a religious organization.

11. Corporations sole do not bestow a special tax status on their creators. However, the Gardners falsely tell customers that their corporations sole provide significant tax advantages and can eliminate or reduce customers' federal tax liabilities. The Gardners market their corporation sole program as a tax dodge.

12. In order to receive special tax status, an entity must independently qualify as a religious or charitable organization under Code § 501(c)(3). The Gardners falsely tell customers that the corporations sole they promote do not have to qualify under that statute in order to enjoy tax-exempt status.

13. The Gardners also falsely state that the alleged tax-exempt status of their corporations sole cannot be challenged by the IRS.

14. The Gardners falsely state that customers can make donations to their corporations sole and then deduct the donations on the customers' federal income tax returns, if any returns are filed. This results in the customers falsely reducing their reported tax liability while retaining complete control of their donated funds.

15. The Gardners falsely advertise that a customer who has a corporation sole can assign his income to the entity and thereby transform taxable individual income into nontaxable income of the corporation sole.

16. If a customer owns his own business, the Gardners advise him to form a limited liability company (“LLC”) and operate the company through that entity. The Gardners advise the customer to then create a trust to serve as the “majority member” of the LLC. The Gardners falsely state that the LLC’s income (i.e., the business income earned by the customer) can be passed through to the trust and then on to the customer’s corporation sole tax free. This results in the customer channeling 100% of the business income into a purportedly tax-exempt corporation sole, thereby evading all tax liability.

17. The customers conduct their business in the same manner as before joining the program. The Gardners’ corporation sole program results in self-employed customers fraudulently reducing their tax liability, while again retaining complete control of their assets.

18. The Gardners’ promotional literature falsely lists the following purported benefits of the corporation sole program:

- No tax return filing requirements of any kind.
- The government is unable to interfere in any way and the corporation sole is not subject to any government agency, including the IRS.
- The corporation sole is only subject to the “private government” of those who create it.
- There are no withholding or self-employment taxes; and all workers are no longer considered employees, but instead as ministers of the corporation sole.
- The corporations sole can do and operate as any individual can and still enjoy tax benefits.

19. The Gardners' statements about the tax benefits associated with the corporation sole program are false and fraudulent.

20. The Gardners' corporation sole program harms the government by helping customers evade their federal income tax liabilities.

21. The Gardners market the program through seminars, booklets and on the internet, including at their website www.corpsale.org.

22. The defendants' promotional material states that Elizabeth Gardner is a certified paralegal specializing in contracts, business organizations, litigation and trial practice.

23. According to promotional literature, Frederic Gardner is a certified estate planner, financial planner and accountant.

24. The Gardners charge customers \$1,200 - \$1,600 to purchase their corporation sole program.

25. The IRS has identified more than 80 persons who may have purchased the defendants' corporation sole program. These persons are located in at least 25 states.

26. The corporation sole program is identified in the IRS's annual consumer alert of fraudulent tax programs that taxpayers are urged to avoid. (*See* <http://www.irs.gov/newsroom/article/0,,id=136337,00.html>.)

Count I: Injunction under Code § 7408 for violations of Code § 6700

27. The United States incorporates by reference the allegations contained in paragraphs 1 through 26.

28. Code § 7408 authorizes a court to enjoin persons who have engaged in conduct subject to penalty under Code § 6700 from engaging in further such conduct or any other conduct subject to penalty under the Code if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct.

29. Code § 6700 imposes a penalty on any person who organizes or participates in the sale of a plan or arrangement and in connection therewith makes a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by participating in the plan or arrangement that the person knows or has reason to know is false or fraudulent as to any material matter.

30. The Gardners organize, promote, and market a tax-fraud scheme. In organizing and selling their abusive program, the Gardners make statements regarding the tax benefits associated with participation in the program that they know or have reason to know are false or fraudulent as to material matters within the meaning of Code § 6700.

31. Unless enjoined by this Court, the defendants are likely to continue to organize and sell their abusive tax program.

Count II: Injunction Under Code § 7402

32. The United States incorporates by reference the allegations contained in paragraphs 1 through 31.

33. Code § 7402(a) authorizes a court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws.

34. The Gardners, through the actions described above, have engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws. If the Gardners are not enjoined, they likely will continue to engage in conduct that obstructs and interferes with the enforcement of the internal revenue laws.

35. The Gardners' conduct results in irreparable harm to the United States for which the United States has no adequate remedy at law. The Gardners' conduct is causing and will continue to cause substantial revenue loss to the United States Treasury, much of which may be unrecoverable.

36. Unless the Gardners are enjoined by this Court, the United States will have to devote substantial time and resources to identify and locate their customers, and then construct and examine those persons' tax returns and liabilities. The burden of pursuing individual customers may be an insurmountable obstacle, given the IRS's limited resources.

Relief Sought

WHEREFORE, the United States prays for the following relief:

A. That the Court find that the defendants have engaged in conduct subject to penalty under Code § 6700, and that injunctive relief is appropriate under Code § 7408 to prevent the defendants, and any business or entity through which they operate, and anyone acting in concert with them, from engaging in further such conduct;

B. That the Court find that the defendants have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief

against the defendants, and any business or entity through which they operate, and anyone acting in concert with them, is appropriate to prevent the recurrence of that conduct pursuant to the Court's powers under Code § 7402(a);

C. That the Court, pursuant to Code §§ 7402 and 7408, enter a permanent injunction prohibiting the defendants, individually and doing business through Bethel Aram Ministries or any other entity, and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from directly or indirectly:

- (1) Organizing, promoting, marketing, or selling any tax shelter, plan or arrangement, including their corporation sole program, that advises, assists, or encourages taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
- (2) Making false or fraudulent statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by the reason of participating in such tax shelters, plans or arrangements;
- (3) Encouraging, instructing, advising or assisting others to violate the tax laws, including to evade the payment of taxes;
- (4) Engaging in conduct subject to penalty under Code § 6700, *i.e.*, by making or furnishing, in connection with the organization or sale of a shelter, plan, or arrangement, a statement the defendants know or have reason to know to be false or fraudulent as to any material matter under the federal tax laws; and
- (5) Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws, and engaging in any conduct subject to penalty under any other section of the Internal Revenue Code.

D. That the Court, pursuant to Code § 7402, enter an injunction requiring the defendants to contact by mail at their own expense all individuals who have purchased their corporation sole materials or other plans, arrangements or programs, and inform those individuals of the Court's findings concerning the falsity of the defendants' prior representations and attach a copy of the permanent injunction against the defendants, and to file with the Court, within 20 days of the date the permanent injunction is entered, a certification that they have done so;

E. That the Court, pursuant to Code § 7402, enter an injunction requiring defendants to produce to the United States a list identifying (with names, mailing and e-mail addresses, phone numbers and social security and any other tax-identification numbers) all persons who have purchased their tax plans, arrangements, or programs, and to file with the Court, within 20 days of the date the permanent injunction is entered, a certification that they have done so;

F. That the Court, pursuant to Code § 7402, enter an injunction requiring defendants to remove from their websites, including www.corpssole.org, all abusive tax scheme promotional materials, false commercial speech, and materials designed to incite others imminently to violate the law (including the tax laws), to display prominently on the first page of those websites a complete copy of the Court's permanent injunction, and to maintain the websites for one year with a complete copy of the Court's permanent injunction so displayed throughout that time, and to file with the Court, within 20 days of the date the permanent injunction is entered, a certification that they have done so;

G. That the Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction;

H. That the Court retain jurisdiction over this action for purposes of implementing and enforcing the final judgment; and

I. For such other and further relief as the Court may deem proper and just.

Dated: September 30, 2005.

PAUL CHARLTON
United States Attorney

/s/ Martin M. Shoemaker
MARTIN M. SHOEMAKER
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Washington, D.C.