

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA

DEC 9 2004

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.)
)
 JONATHAN D. LUMAN)
)
 Defendant.)

LUTHER D. THOMAS, Clerk 1473
By: *Patsy L Springs*
Deputy Clerk

Civil No. 1:04 CV 2624-CC

PRELIMINARY INJUNCTION

Upon motion by Plaintiff, the United States of America, the Court makes the following findings of fact and conclusions of law and enters this preliminary injunction.

Standards for Preliminary Injunction

To obtain a preliminary injunction pursuant to Internal Revenue Code (26 U.S.C.) (I.R.C.) § 7408, the United States must show that (1) defendant engaged in conduct subject to penalty under §§ 6700 or 6701; and (2) injunctive relief is appropriate to prevent recurrence of such conduct.

To obtain a preliminary injunction pursuant to I.R.C. § 7402, the United States must show that the following four factors weigh in favor of granting a preliminary injunction against defendant: (1) there is a likelihood of irreparable injury to the United States as a result of the conduct complained of; (2) there is a likelihood of little or no harm to defendant if the temporary injunctive relief is granted; (3) there is a likelihood that the United States will prevail on the merits; and (4) an injunction will serve the public interest.

Findings of Fact

Based on the evidence and the parties' arguments, the Court finds as follows:

- Defendant Jonathan D. Luman, promotes abusive tax schemes and makes false and fraudulent representations regarding tax law. He promotes his schemes through a self-published manual and a website, and he charges customers for

products and services related to his abusive tax schemes.

- Luman falsely advises customers on Internet websites www.taxbusterguide.com and www.taxbusterguide.com, to cease filing federal income tax returns (IRS Forms 1040), paying federal income tax, and paying federal payroll taxes.
- Luman sells the "TaxBuster Guide" through his websites and falsely advises his customers that by submitting the documents in the TaxBuster Guide to the Internal Revenue Service the customers can avoid federal income tax.
- Luman has continued to promote his abusive tax schemes even after learning that he is under IRS investigation and after IRS representatives contacted him by telephone.
- Absent this preliminary injunction, Luman will continue to promote the abusive tax scheme.
- If this injunction is not granted, the United States will suffer irreparable harm because Luman advises his customers to not file returns and to have their employers cease withholding payroll taxes from their wages. Further, considerable government resources are spent determining whether non-filing taxpayers are associated with Luman.
- The documents provided by Luman in the TaxBuster Guide are shams and do not shield his customers' income from federal income taxation. Claiming status as a "sovereign citizen" and renouncing use of Social Security Numbers are designed to hide income from the Internal Revenue Service and is nothing more than a tax-evasion tool. Federal law does not recognize any legal distinction between "sovereign citizens" and "federal citizens" and one may not remove oneself from the jurisdiction of the federal tax laws by filing a "Notice of Revocation" with the Internal Revenue Service and challenging the validity of the

federal tax laws. These behaviors do not shield income from taxation, despite defendant's statements to the contrary.

- Luman has substantially interfered with the administration of the tax laws by instructing his customers not to file returns, and by telling their employers to cease withholding payroll taxes from their wages. The United States, therefore, will likely prevail on the merits.
- This injunction is tailored to prevent Luman from causing further injury and from further violating the law. Thus, the threatened injury to the United States outweighs any injury an injunction might cause to defendant.
- The public is served by granting this injunction. This preliminary injunction will help stem the spread of and protect the public from defendant's frivolous arguments and fraudulent tax schemes.

Conclusions of Law

Based on the evidence presented by the United States and defendants, the Court finds that Jonathan D. Luman is in violation of I.R.C. § 6700. Accordingly, the court finds that Luman should be preliminarily enjoined under I.R.C. § 7408.

The Court finds the United States has presented persuasive evidence that it and the public will suffer irreparable harm in the absence of this preliminary injunction and that Luman will suffer little, if any, harm if the preliminary injunction is granted. The United States also has presented evidence and argument sufficient to convince the Court that the United States has a high likelihood of success on the merits and that Luman's position is frivolous. Further, the United States has presented credible evidence and argument that shows the public interest will be served through granting this preliminary injunction. Finally, the evidence presented shows that absent this injunction, Luman will continue to violate I.R.C. § 6700. Accordingly, the Court finds that Luman should also be preliminarily enjoined under I.R.C. § 7402.

Order

Based on the foregoing factual findings and for good cause shown, the Court ORDERS that defendant Jonathan D. Luman and his agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this Order are enjoined from:

- a. Engaging in activity subject to penalty under Internal Revenue Code (26 U.S.C.) ("I.R.C.") § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludibility of income that he knows or has reason to know is false or fraudulent as to any material matter;
- b. Selling any scheme or document which advocates noncompliance with the income tax laws or tax evasion, misrepresents the tax savings realized by using the arrangement, or conceals the receipt of income;
- c. Engaging in any other activity subject to penalty under I.R.C. § 6700; and
- d. Engaging in other similar conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Further, the Court ORDERS that defendant Jonathan D. Luman and his agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of this Order are enjoined from engaging in activity subject to penalty under I.R.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludibility of income that they know or have reason to know is false or fraudulent as to any material matter.

Further, the Court ORDERS Luman to provide his complete customer list from January 1, 1999 through the present, including names, addresses, phone numbers, e-mail addresses, and social security numbers or employer identification numbers, to the United States within ten days of the date of this Order. Luman must file a sworn certificate of compliance, swearing that he has complied with this portion of the Order, within ten days of the date of this Order.


Further, the Court ORDERS that Luman provide a copy of this preliminary injunction to all of his customers, by First Class Mail within ten days of the date of this Order. Luman will

bear the costs of providing the copy of the preliminary injunction to his customers. Luman must file a certificate of compliance, swearing that he has complied with this portion of the Order, within ten days of the date of this Order.

Finally, the Court ORDERS Luman and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him: (1) to remove from his website all abusive-tax-scheme promotional materials, false commercial speech, and materials designed to incite others imminently to violate the law; (2) to display prominently on the first page of those websites a complete copy of this Preliminary Injunction Order (in at least a 12-point font size) within 10 days of the date of this Order; and (3) to maintain the website, with this Preliminary Injunction prominently displayed, until such time as this Court orders otherwise. Luman shall bear all expenses associated with posting the Order and maintaining the website during this period. Luman must file a certificate of compliance, swearing that he has complied with this requirement, within ten days of the date of this Order.

The United States may conduct discovery to monitor compliance with this Order.

SO ORDERED this 8th day of December, 2004.

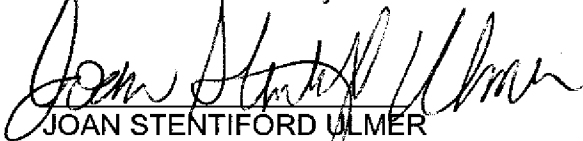

Judge, United States District Court for the
Northern District of Georgia, Atlanta
Division

Prepared by:

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~~SALLY QUILLIAN YATES~~

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