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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, v. NATIONAL AUDIT DEFENSE NETWORK, et al., Defendants.	))))))))))	Civil No. CVS-04-0455-LDG (LRL) STIPULATED FINAL JUDGMENT OF PERMANENT INJUNCTION

STIPULATED FINAL JUDGMENT OF PERMANENT INJUNCTION AGAINST DEFENDANTS ALR, INC. d/b/a SUCCESS MATRIX GROUP, LEE PANELLI, JEFFREY KLINGENBERG, AND RICH KLINGENBERG

Plaintiff United States of America has filed a Complaint for Permanent Injunction against, among others, defendants ALR, Inc. d/b/a Success Matrix Group, Lee Panelli, Jeffrey Klingenberg, and Rich Klingenberg ("the ALR defendants"). The ALR defendants neither admit nor deny the allegations of the Complaint, except they admit that the Court has jurisdiction over them and over the subject matter of this action.

The ALR defendants waive the entry of findings of fact and conclusions of law and consent to the entry of this permanent injunction without admitting or denying that grounds exist for imposition of an injunction.

NOW, THEREFORE, it is accordingly ORDERED, ADJUDGED AND DECREED that:

1. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. §§ 7402(a), 7407, and 7408.

2. The Court finds that the ALR defendants have neither admitted nor denied the United States' allegations that they have engaged in conduct that is subject to penalty under 26 U.S.C.

§§ 6694, 6695, 6700, and 6701 and that interferes with the enforcement of the internal revenue laws.

3. The Court finds that the ALR defendants have consented to the entry of a permanent injunction pursuant to 26 U.S.C. §§ 7407, 7408 and 7402(a) to prohibit them from: (1) acting as federal-income-tax-return preparers (as defined in 26 U.S. C. § 7701(a)(36)); (2) organizing or selling abusive tax shelters, plans or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of their correct federal tax; (3) engaging in conduct subject to penalty under 26 U.S.C. §§ 6700, 6701, 6694, or 6695; (4) engaging in conduct that substantially interferes with the enforcement of the internal revenue laws; and (5) promoting any false or fraudulent tax scheme.

4. It is furthered ORDERED, ADJUDGED AND DECREED that the ALR defendants, individually and doing business under any other name or using any other entity, and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, are permanently enjoined, directly or indirectly, by the use of any means or instrumentalities from:

a. Preparing or assisting in the preparation of federal-income-tax returns for others;

b. Organizing, promoting, or selling the Mallforall, Shopn2000, or TaxBreak2000 programs, home-based businesses, incorporation services, or any other arrangements that facilitate or advocate noncompliance with the income tax laws or tax evasion or misrepresent the tax benefits realized by using the arrangements;

c. Making false or fraudulent representations, in conjunction with organizing or selling a plan or arrangement, that:

(i) prospective customers may take business tax deductions or credits without regard to whether the individuals have a *bona fide* business and business purpose;

(ii) prospective customers may claim the 26 U.S.C. § 44 disabled-access tax credit for any website modification;

(iii) prospective customers may claim the 26 U.S.C. § 44 disabled-access tax credit and § 162 trade or business expense on their federal-income-tax returns, even if they have no *bona fide* business, the expense is not reasonable and necessary, or the business modification is sold along with the business itself;

(iv) prospective customers who purchase any product or service or start, own, or operate home-based businesses may automatically (or through simply handing out a business card or through mentioning—without making a demonstrated and sincere effort to conduct business—the business to someone) claim meal expenses, automobile expenses, travel (including vacation) expenses, and residence-related expenses (including mortgage, electricity, and insurance);

(v) prospective customers who start, own, or operate home-based businesses can demonstrate that they are trying to make a profit merely by printing up and/or handing out business cards;

(vi) prospective customers who start, own, or operate home-based businesses can employ their children between 7 and 17 years old, pay the children a wage, and then take the money back from the children;

(vii) prospective customers who start, own, or operate home-based businesses can "write off" or depreciate their home;

(viii) prospective customers can claim tax deductions and credits for hobby expenses or turn a hobby into a home-based business merely by printing business cards, handing out business cards, and/or keeping records;

(ix) tax credits and deductions that are available to all businesses, regardless of their form (*e.g.*, partnership, sole proprietorship, or corporation), are exclusively available to corporations;

(x) prospective customers will automatically reduce their federal-

income-tax liability by forming a corporation;

(xi) prospective customers are guaranteed or promised a tax refund, additional tax deductions, or tax credits, merely by purchasing or signing up for any services or products, including purchasing a business or signing up for audit defense, tax-return review, and/or tax-return preparation;

(xii) prospective customers who purchase any products that include purported tax benefits and that are paid for with purported promissory notes can ignore the promissory note or pay off the promissory note merely by clicking on a website link or by some other artifice;

(xiii) prospective customers who purchase any services or products that include purported tax benefits and that are paid for with promissory notes can rely on a third party to pay off the promissory note on their behalf, unless there is a binding contract with a legitimate, viable third party who has agreed to pay off promissory notes as described in the representation to the customers;

(xiv) prospective customers can "wait until the end of the year" to reconstruct their business records (purportedly to see "what you want [to be] in those records" in case the IRS wants to verify claimed business deductions);

(xv) prospective customers can or should create and/or use multiple corporations to "roll over" profits from one corporation to another, thereby creating the impression that a corporation that earned a profit didn't actually earn it;

(xvi) prospective customers can claim business-related expenses, even though the defendant or person working in association with the defendant, also states that "I don't care if you make a profit, as long as you are doing something that you can claim as a business" or any similar statement; or

(xvii) prospective customers can purchase "prepaid legal," "travel agency" or "NADN referral" businesses or any other business, membership, or any arrangement, and then automatically claim business-related tax deductions and credits, without making a demonstrated and sincere effort to earn a profit from the business, membership, or arrangement;

d. Engaging in activity subject to penalty under 26 U.S.C. § 6700, *i.e.*,

organizing, promoting, or selling a plan or arrangement and in connection therewith making gross valuation overstatements or making statements regarding the excludibility of income or the securing of any other tax benefit that they know or have reason to know are false or fraudulent as to any material matter;

e. Engaging in activity subject to penalty under 26 U.S.C. § 6701, *i.e.*, preparing and/or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that they know will, if used, result in an understatement of tax liability; and

f. Engaging in other similar conduct that interferes with the administration or enforcement of the internal revenue laws.

5. It is furthered ORDERED, ADJUDGED AND DECREED that the ALR defendants, and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, are permanently enjoined from preparing or assisting in the preparation of federal income tax returns for others, and from directly or indirectly:

(1) Engaging in any conduct subject to penalty under I.R.C. § 6694, *i.e.*, preparing any part of a return that includes an unrealistic position; and

(2) Engaging in any other activity subject to injunction or penalty under I.R.C. §§ 7407 or 6694 including acting as an income-tax-return preparer while also guaranteeing the payment of any refund or the allowance of any credit and including fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws;

6. It is furthered ORDERED, ADJUDGED AND DECREED that the ALR defendants are enjoined from interfering with the enforcement of the internal revenue laws.

7. It is furthered ORDERED, ADJUDGED AND DECREED that within 15 days of the date of this ORDER, the ALR defendants shall send a copy of this injunction order, along with a court-approved cover letter, to all persons for whom they have, since 2001, prepared or helped to prepare federal tax returns, and, within 21 days of the date of this Order, the ALR defendants

shall file with this Court a sworn certificate of compliance.

8. Further, the Court shall retain jurisdiction over this action to implement and enforce this permanent injunction and all other decrees and orders necessary or appropriate to the public interest.

9. The United States shall be entitled to conduct post-judgment discovery to monitor the ALR defendants' compliance with the terms of this Final Judgment of Permanent Injunction, including discovery relating to customer lists. Nothing in this order shall be construed to limit or prevent the United States from conducting discovery of the ALR defendants otherwise permitted under the Federal Rules of Civil Procedure.

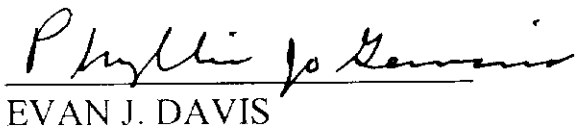
10. Each party to this stipulation shall bear its own costs.

IT IS SO ORDERED this 13 day of April, 2005

LLOYD D. GEORGE
United States District Judge

Stipulation approved as to form and content:

DANIEL G. BOGDEN
United States Attorney



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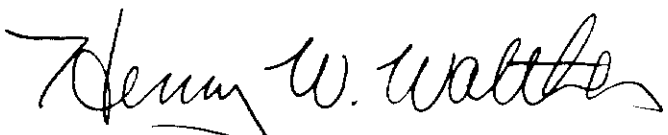

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