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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

No. CIV S-09-0600 FCD EFB PS

12 vs.

13 TERESA MARTY, dba ADVANCED
14 FINANCIAL SERVICES, LLC,

15 Defendant.

ORDER

16 On July 29, 2009, the magistrate judge filed findings and recommendations herein
17 which were served on the parties and which contained notice that any objections to the findings
18 and recommendations were to be filed within ten court days. On August 6, 2009, defendant filed
19 a "Specific Affidavit of Negative Averment, Opportunity to Cure, and Counterclaim," Dckt. No.
20 36, and on August 11, 2009, defendant filed a "Request for Mandatory Judicial Notice," Dckt.
21 No. 38, and "Objections to Magistrate Judge Edmund F. Brennan's Findings and
22 Recommendations in the Form of a Writ of Quo Warranto as a Demand for an Interlocutory
23 Declaratory Judgment," Dckt. No. 39. Each of these matters are construed as objections to the
24 magistrate judge's findings and recommendations, and have been duly considered by the
25 undersigned.

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1 This court reviews de novo those portions of the proposed findings of fact to
2 which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v.
3 Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920
4 (1982). As to any portion of the proposed findings of fact to which no objection has been made,
5 the court assumes its correctness and decides the motions on the applicable law. See Orand v.
6 United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
7 reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir.
8 1983).

9 The court has reviewed the applicable legal standards and, good cause appearing,
10 concludes that it is appropriate to adopt the proposed Findings and Recommendations in full.
11 Accordingly, IT IS ORDERED that:

12 1. The proposed Findings and Recommendations filed July 29, 2009, are
13 ADOPTED;

14 2. Pursuant to the construction of defendant's filings, Docket Nos. 36, 38, and 39,
15 as objections to the Magistrate Judge's Findings and Recommendations, plaintiff's Motion to
16 Dismiss Counterclaim, Dckt. No. 42, is DENIED as moot, and the hearing on that matter is
17 VACATED;

18 3. The government's motion for a preliminary injunction is GRANTED and
19 defendant Teresa Marty, individually, and doing business as Advanced Financial Services, LLC,
20 and any person or entity acting directly or indirectly in concert with defendant and/or her
21 business, are enjoined pending the litigation of this action from engaging in any of the following
22 conduct:

23 a. Acting as a federal tax return preparer; preparing or filing for other
24 persons or entities any federal tax returns, amended returns, or other tax forms; providing any
25 federal tax forms to other persons or entities, and notarizing or signing any federal tax forms,
26 certificates of service or similar documents, on behalf of, or submitted by, other persons or

1 entities; advising any other person or entity concerning federal tax matters; and representing any
2 other person or entity before the IRS.

3 b. Organizing, promoting or selling any abusive tax shelter, plan or
4 arrangement that advises or assists taxpayers to understate or evade the assessment or collection
5 of their correct federal tax, or is otherwise premised on any deceptive, fraudulent or false
6 representation.

7 c. Making any deceptive, fraudulent or false claim, including any
8 understatement of liability or reliance on an abusive tax shelter, in her own federal income tax
9 return, amended return or upon any other federal tax form.

10 4. Defendant Teresa Marty is further required to:


11 a. Within 45 days of the filing date of this order, provide to counsel for
12 the United States a complete list of all persons and entities who have purchased any tax product,
13 service or advice from defendant within the past three years.

14 b. Within 45 days of the filing date of this order, send to all persons who
15 have purchased any tax product, service or advice from defendant within the past three years, an
16 executed copy of the court's order with a cover letter agreed to by counsel for the United States;
17 and within 10 days thereafter, defendant shall file with the court a sworn certificate stating that
18 she has complied with this requirement.

19 c. Within 30 days of the filing date of this order, remove all current
20 content from her websites and replace it with a copy of the Court's preliminary injunction order;
21 and within 10 days thereafter, defendant shall file with the court a sworn certificate stating that
22 she has complied with this requirement.

23 5. Defendant's request for a stay of these proceedings is denied.

24 DATED: August 28, 2009.

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FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE