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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)	
)	Civil No.
Plaintiff,)	
)	
v.)	
)	
FRANK EUGENE ELLENA, individually)	COMPLAINT FOR PERMANENT
d/b/a Celtic International Paralegal and)	INJUNCTION AND OTHER
Financial Services,)	EQUITABLE RELIEF
)	
Defendant.)	
_____)	

The United States, plaintiff, for its complaint states as follows.

1. The United States is bringing this complaint to enjoin Frank Eugene Ellena, individually and doing business as Celtic International Paralegal and Financial Services, and any other person or entity in active concert or participation with him, from directly or indirectly:
 - (a) Organizing, promoting, marketing, or selling any plan or arrangement, including his trust and corporation sole program, that advises or assists customers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
 - (b) 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 plan or arrangement, a

statement about the securing of a tax benefit that the defendant knows or has reason to know to be false or fraudulent as to any material matter under the federal tax laws;

- (c) Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws; and
- (d) Engaging in any activity subject to penalty under the Internal Revenue Code.

2. An injunction is warranted based on the defendant's continuing conduct as a promoter of an abusive tax plan. If not enjoined, the defendant's continuing actions will result in the Internal Revenue Service having to devote scarce resources to attempt to locate and investigate the defendant's customers, who by participation in the defendant's scheme have erroneously stopped filing accurate federal income tax returns and paying their federal income taxes. The defendant's 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.) ("IRC").

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 IRC §§ 7402 and 7408.

Defendant

6. Frank Eugene Ellena resides and operates his businesses in Kamiah, Idaho.

7. Ellena conducts business through the entity or under the name of Celtic International

Paralegal and Financial Services.

Defendant's Activities

8. Ellena promotes scams that involve the sale and use of sham corporations sole, sham trusts and other sham business entities. Ellena organizes and markets the program as a fraudulent means for customers to evade the reporting and payment of income and employment taxes, as well as a means for customers to conceal assets and evade IRS collection efforts.

9. Ellena markets his program nationwide on the Internet, including on his website, www.celtic-international.org. In addition to advertising on the web, Ellena promotes his program through word of mouth, personal meetings, and the mail.

10. Ellena's promotional materials falsely state that participants can reduce or totally eliminate their income, property and estate taxes by using his program.

11. An aspect of Ellena's program is a "corporation sole." 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.

12. Ellena markets corporations sole as a tax dodge. In promotional materials, he falsely states that his corporations sole can protect real estate, personal property, wages and salary from the IRS, and that his corporations sole "can provide for all of your personal needs."

13. Corporations sole do not bestow a special tax status on their creators. In order to receive special tax status, an entity must independently qualify as a religious or charitable

organization under IRC § 501(c)(3).

14. Ellena falsely tells customers that the corporations sole he promotes and organizes are automatically tax exempt and do not have to qualify under IRC § 501(c)(3) in order to enjoy tax-exempt status. Furthermore, Ellena falsely tells customers that the corporations sole he sells them can be engaged in any business, not necessarily a religious or charitable one, and maintain tax-exempt status.

15. Ellena falsely tells customers that their corporations sole provide significant tax advantages and can eliminate or reduce customers' federal tax liabilities, and need not file tax returns.

16. Ellena also falsely states that the alleged tax-exempt status of their corporations sole cannot be challenged by the IRS.

17. Ellena falsely states that customers can make donations to their corporations sole (even though the customers own and control them) 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.

18. In marketing his program, Ellena tells customers that he can open bank accounts for their corporations sole, domestic and offshore, and that the customers' funds can be brought in or taken out of the country with no tax liability.

19. Ellena advises against customers obtaining a tax identification number for the corporations sole because doing so will only draw the attention of the IRS.

20. Along with corporations sole, Ellena's program uses trusts as a tax-evasion vehicle.

21. Ellena falsely states that the "pure trusts" or "unincorporated business trusts" he sells

are outside the venue and jurisdiction of the IRS, and are not subject to federal tax liability.

22. If a participant owns his own business, Ellena assists and advises him to form a trust or corporation sole, transfer the business to the trust or corporation sole, and operate the company through that entity. Then, according to Ellena, the participant can “donate” his wages to the newly-formed entity. Ellena tells participants that thereafter there is no tax liability for either the entity or the customer with respect to the wages earned by the participant.

23. In a slightly different version of the scheme, Ellena advises participants to set up their businesses under a trust, and then donate their wages to their own corporation sole. If the business has more than one worker, Ellena sets up a corporation sole for each worker. Ellena states that under this program no income taxes accrue to either the trust, the individual or the corporation sole.

24. Ellena’s program results in the customers channeling 100% of the business income into a purportedly tax-exempt corporation sole or trust, thereby evading all tax liability.

25. Participation in Ellena’s program results in customers fraudulently reducing their reported tax liability, while conducting their business and controlling their assets in the same manner as before joining the program.

26. Ellena’s statements about the tax benefits associated with his program are false and fraudulent.

27. Ellena is aware that the IRS does not accept his scheme and will examine his customers’ tax liabilities. In response to the IRS inquiries into his customers’ taxes, Ellena provides his customers a “Public Servant Questionnaire,” which contains instructions and forms for impeding or obstructing IRS investigations. Ellena instructs customers to submit the questionnaires to IRS agents who contact them. He falsely tells customers that if the IRS fails to

provide the information requested in the questionnaire the IRS is prohibited from acting against them.

28. Ellena charges \$2,500 for a basic corporation-sole package. For around an additional \$750 Ellena assists customers in obtaining an offshore bank account and provides eight hours of instruction.

29. Ellena claims he has a college bachelor's degree and two master's degrees. According to his website, Ellena has spent 20 years as a "professional educator" and 15 years as a "para-legal specializing in Constitutional Law issues."

30. Ellena states on his website that he attended the "School of Hard Knocks Law School" and is an "experienced in-court litigator." He falsely presents himself as his customers' "private legal counsel."

31. Records obtained by the Internal Revenue Service indicate that more than 400 persons have purchased Ellena's program.

32. Ellena has promoted his fraudulent program for at least the past five years and has continued to promote it despite being notified by the IRS that he is subject to a IRC §§ 6700 and 7408 investigation. He has refused to cooperate in the investigation.

33. Due to his education, background and dealings with the IRS, Ellena knows or has reason to know that the statements he makes to customers regarding the tax benefits of his program are false or fraudulent.

34. Ellena's conduct harms the government in multiple ways, including (a) lost revenue due to the failure of customers to file proper income tax returns and pay taxes on income earned, and (b) the expense incurred by the IRS in conducting investigations and audits of Ellena's customers. Moreover, given the IRS's limited resources, identifying and recovering all revenues

lost from Ellena's abusive program may be impossible, resulting in a permanent loss to the United States Treasury.

35. Ellena's customers have been harmed by his promotions because the customers have paid Ellena significant sums to establish worthless legal entities and give them erroneous tax advice that has led to the understatement of their income tax liabilities.

36. The public is harmed because the IRS is forced to devote its limited resources to identifying and attempting to recover revenue lost as a result of Ellena's program, thereby reducing the level of service that the IRS can give to other taxpayers.

37. In addition to the harm caused by Ellena's advice and products, Ellena's activities undermine public confidence in the fairness of the federal tax system and incite noncompliance with the internal revenue laws.

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

38. The United States incorporates by reference the allegations contained in paragraphs 1 through 37.

39. IRC § 7408 authorizes a court to enjoin persons who have engaged in conduct subject to penalty under IRC § 6700 from engaging in further such conduct.

40. IRC § 6700 imposes a penalty on any person who organizes or sells a plan or arrangement and in so doing 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.

41. The corporation-sole and trust program that Ellena organizes and sells constitutes a plan or arrangement. In organizing and selling his program, Ellena makes statements regarding
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the tax benefits associated with participation in the program that he knows or has reason to know are false or fraudulent as to material matters within the meaning of IRC § 6700. Ellena has thus engaged in conduct subject to penalty under IRC § 6700.

42. Unless enjoined by this Court, Ellena is likely to continue to engage in this conduct and continue to organize and sell his abusive tax program. Injunctive relief is appropriate under IRC § 7408.

Count II: Injunction under IRC § 7402

43. The United States incorporates by reference the allegations contained in paragraphs 1 through 42.

44. IRC § 7402 authorizes courts to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws.

45. Ellena, through the actions described above, has engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

46. Unless Ellena is enjoined, the IRS will have to devote substantial time and resources to identify and locate his 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.

47. If Ellena is not enjoined, he likely will continue to engage in conduct that obstructs and interferes with the enforcement of the internal revenue laws. The United States is entitled to injunctive relief under IRC § 7402(a) to prevent such conduct.

Relief Sought

WHEREFORE, the United States prays for the following relief:

A. That the Court find that the defendant has engaged in conduct subject to penalty

under IRC § 6700, and that injunctive relief is appropriate under IRC § 7408 to prevent the defendant, and any business or entity through which he operates, and anyone acting in concert with him from engaging in further such conduct;

B. That the Court find that the defendant has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against the defendant, and any business or entity through which he operates, and anyone acting in concert with him, is appropriate to prevent the recurrence of that conduct pursuant to the Court's powers under IRC § 7402(a);

C. That the Court, pursuant to IRC §§ 7402 and 7408, enter a permanent injunction prohibiting the defendant and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

- (1) Organizing, promoting, marketing, or selling any plan or arrangement, including his trust and corporation-sole program, that assists or advises customers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
- (2) Engaging in conduct subject to penalty under IRC § 6700, *i.e.*, by making or furnishing, in connection with the organization or sale of a plan or arrangement, a statement about the securing of any tax benefit that the defendant knows or has reason to know to be false or fraudulent as to any material matter under the federal tax laws;
- (3) Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws; and
- (4) Engaging in any activity subject to penalty under the Internal Revenue Code.

D. That the Court, pursuant to IRC § 7402, enter an injunction requiring defendant 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 his tax programs, including his corporation sole and trust program, and to file with the

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Court, within 20 days of the date the permanent injunction is entered, a certification that he has done so;

E. That the Court, pursuant to IRC § 7402, enter an injunction requiring defendant to contact by mail (or by e-mail, if an address is unknown) all individuals who have previously purchased his tax plans, arrangements or programs, including his corporation sole and trust program, or any other plan or program in which defendant has been involved either individually or through any business entity, and inform those individuals of the Court's findings concerning the falsity of the defendant's prior representations and attach a copy of the permanent injunction against the defendant, and to file with the Court, within 20 days of the date the permanent injunction is entered, a certification that he has done so;

F. That the Court, pursuant to IRC § 7402, enter an injunction requiring defendant to remove from his websites, including www.celtic-international.org, all false commercial speech and materials designed to incite others to imminently violate the law, to display prominently at the top of 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 he has done so;

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

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

I. That the Court grant the United States such other and further relief as the Court may deem proper and just.

Dated: March 16, 2006.

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