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

10 UNITED STATES OF AMERICA,)
11)
Plaintiff,) Temporary Civil No. 05-582
12)
v.) **Complaint for Permanent Injunction**
13)
STEVE HEMPFLING, d/b/a)
14 FREE ENTERPRISE SOCIETY,)
15)
Defendant.)

16 Plaintiff, the United States of America, states as follows for its complaint against
17 defendant Steve Hempfling, doing business as Free Enterprise Society:
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19 **Jurisdiction**

20 1. This Court has jurisdiction over this action to enjoin Hempfling from violating and
21 interfering with the administration of the internal revenue laws pursuant to 28 U.S.C. §§ 1340
22 and 1345 and Internal Revenue Code (I.R.C.) (26 U.S.C.) § 7402(a).
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24 **Venue**

25 2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396 because
26 Hempfling resides and has his principal place of business in this judicial district.
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1 **Nature of Action**

2 3. This action has been requested by the Chief Counsel of the IRS, a delegate of the
3 Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General,
4 pursuant to I.R.C. §§ 7402 and 7408.
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6 4. The United States brings this action to enjoin Hempfling permanently from:

- 7 a. Engaging in conduct subject to penalties under I.R.C. § 6700, *i.e.*, by (1) organizing
8 or selling, or participating in the organization or sale of, an entity, plan, or
9 arrangement; (2) making or causing to be made, false or fraudulent statements
10 concerning the tax benefits to be derived from the entity, plan, or arrangement; while
11 (3) knowing or having reason to know that the statements were false or fraudulent;
12 and where (4) the false or fraudulent statements pertained to a material matter.
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14 b. Engaging in conduct subject to penalties under I.R.C. § 6701, *i.e.*, by preparing or
15 assisting others in the preparation of any tax forms or other documents to be used in
16 connection with any material matter arising under the internal revenue laws and
17 which the defendant knows will (if so used) result in understatement of tax liability;
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19 c. Engaging in any conduct subject to penalties under any penalty section of the I.R.C.
20 (26 U.S.C.); and
21
22 d. Engaging in any conduct that interferes with the administration and enforcement of
23 the internal revenue laws.

24 5. An injunction is warranted based on Hempfling's continuing violation of the internal
25 revenue laws, including I.R.C. §§ 6700 and 6701.
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27 **Defendant**

28 6. Hempfling's principal place of business lies within this judicial district. On
information and belief, Hempfling resides within this judicial district.

7. Hempfling has during the periods discussed below conducted business under the name
Free Enterprise Society, located at 2037 West Bullard #353, Fresno, California 93711.

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8. Hempfling, using the name Free Enterprise Society, conducts tax-related seminars.

9. At these seminars, Hempfling promotes his commercial tax products—including Hempfling’s previously-recorded seminars, W4 package, and the “Reliance 2000” package—that falsely purport to demonstrate that: (1) there is no law requiring individuals to file federal income tax returns or pay income taxes; and (2) if Hempfling’s customers choose to stop filing tax returns, then Hempfling’s “Reliance 2000” package would defeat any charge of willful failure to file a tax return. Hempfling and Free Enterprise Society also offer a “civil support service,” which entitles members to obtain—for additional fees—customized tax-related legal briefs and correspondence, and a “legal defense fund” for non-filers that provides those charged with willful failure to file, with behind-the-scenes assistance directly from Free Enterprise Society and, if necessary, independent legal representation.

10. Hempfling charges \$45 per year for an annual membership in the Free Enterprise Society, which entitles members to attend seminars at no additional charge and to receive free newsletters. The optional “civil support service” costs \$20 per year, in addition to (presently undetermined) fees charged for letter-writing, brief-writing, and other one-on-one services. Hempfling also charges \$950 for the first year (\$300 for subsequent years) for membership in the “legal defense fund” for non-filers. At his seminars, Hempfling offers “one night only” discounts on some products and services, including the legal defense fund.

11. The legal defense fund is used to facilitate, encourage, and assist Hempfling’s customers to commit a tax crime: willful failure to file an income tax return (I.R.C. § 7203). Hempfling describes the legal defense fund as protection for those who have chosen to take the

1 “political stand” that they are not required to file federal income tax returns. Hempfling and his
2 associates also counsel customers in seminars and elsewhere that there is no legal obligation to
3 pay income taxes. Therefore, the legal defense fund also facilitates, encourages, and assists
4 Hempfling’s customers to evade the payment of federal income taxes.
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6 12. Hempfling also offers a “Reliance 2000” program that is used to facilitate,
7 encourage, and assist Hempfling’s customers to commit willful failure to file and tax evasion.
8 The program has four steps: (1) buy (for \$80) and read a two-volume book by William “Bill”
9 Benson entitled *The Law That Never Was*, which falsely concludes that the Sixteenth
10 Amendment was never ratified; (2) buy (for \$250) *The 16th Amendment Reliance Package* from
11 Hempfling, which contains the “initial research” for Benson’s book; (3) buy (for \$50-75) and
12 send Hempfling’s *Redress of Grievance Letter Package* to the president, congressmen, and
13 senators, which asks the recipients to answer questions about the ratification of the Sixteenth
14 Amendment; and (4) buy (for \$150 and up) and file Hempfling’s federal lawsuit package “asking
15 for an answer to the 16th Amendment question.”
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18 13. Hempfling offers the Reliance 2000 program as a way for clients who knowingly
19 violate the law (§ 7203) to successfully defend against a conviction by invoking the so-called
20 *Cheek* defense. The *Cheek* defense is based on the Supreme Court case *United States v. Cheek*,
21 498 U.S. 192 (1991), in which the Court held that an honest, good-faith belief—no matter how
22 unreasonable—that one was not required to pay taxes or to file a tax return defeated a
23 “willfulness” finding. Hempfling tells customers that Benson—who was convicted of tax
24 evasion after raising a *Cheek* defense¹—has determined that the Sixteenth Amendment was never
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27 ¹ *United States v. Benson*, 67 F.3d 641, 649 (7th Cir. 1995).
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1 ratified, but that courts and congress refuse to address the issue. Hempfling admits that he does
2 not expect the courts or congress ever to determine that the Sixteenth Amendment was ever
3 ratified. Given that admission, undertaking the Reliance 2000's four steps would seem to be a
4 waste of time and money. Hempfling, however, advises customers to purchase his Reliance
5 2000 program, take these fruitless steps, stop filing tax returns, and then assert their Reliance
6 2000 steps as evidence of their good-faith misunderstanding of the law: in essence, Hempfling's
7 Reliance 2000 program is a ready-made—and entirely fraudulent—*Cheek* defense.
8

9 14. Hempfling's legal defense fund offers Hempfling's customers a false sense of
10 security: even assuming that Hempfling will make good his promise to pay for fund members'
11 legal representation, members' chances of defeating a willful failure to file prosecution based on
12 Hempfling's fraudulent *Cheek*-defense advice and products are slim. Given that the sole
13 articulated reason for customers to purchase the Reliance 2000 package and the legal defense
14 fund is to avoid a conviction for willful failure to file (instead of legitimately trying to determine
15 the legality of the income tax laws), it is unlikely that a customer could mount a successful good-
16 faith defense to a willful failure to file charge.
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19 15. Through advertising and on his website, www.freeenterprisesociety.com, Hempfling
20 sells the same commercial tax products and services described above, in addition to books and
21 other materials. This complaint is not seeking to prohibit Hempfling from advertising or
22 distributing *all* books and other products listed on the website. Instead, this complaint seeks to
23 bar advertising and distribution exclusively of those products and types of products identified
24 herein as being subject to penalties under §§ 6700 or 6701, or to injunction under §§ 7408 or
25 7402.
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1 16. Examples of false or fraudulent statements made in connection with Hempfling's
2 commercial tax products (including the Reliance 2000 package, W4 package, and seminar
3 materials) include:

4 a. "There is **No Law** that Requires an Individual to file income tax returns."
5
6 (2005 seminar flyer, emphasis supplied);

7 b. "The income tax has never been anything but voluntary." (website description
8 of Seminar 1);

9 c. "Over 1500 Reasons Why It May No Be A Good Idea To File INCOME Tax
10 Returns. The Choice Is Yours." (website description of Seminar 8901);

11 d. "IRS Liens and Levies Are Unenforceable." (website description of Seminar
12 9201);

13 e. "[The Reliance 2000 package] will help stop Failure to File charges, and if
14 charged, will make a very formidable defense." (website description of Reliance 2000);

15 f. "[The procedure set out in the W4 Alternative Withholding Package] can mean
16 more take home pay as this procedure stops the federal withholding from your paycheck."
17 (description of W-4 package); and

18 g. "The above programs are designed for income tax filers or non-filers alike.
19 For non-filers these programs are **essential to respond legally to the taxing agencies.**"
20 (membership information, emphasis supplied).
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24 **Count 1: Injunction under I.R.C. § 7408**

25 17. The United States incorporates by reference the allegations made in paragraphs 1
26 through 16.
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1 18. In relevant part, I.R.C. § 7408 authorizes a court to enjoin persons who have engaged
2 in conduct subject to penalties under I.R.C. §§ 6700 and/or 6701 from engaging in further such
3 conduct.
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5 19. I.R.C. § 6700 imposes a penalty on any person who (1) organizes or sells, or
6 participates in the organization or sale of, an entity, plan, or arrangement; (2) makes or causes to
7 be made, false or fraudulent statements concerning the tax benefits to be derived from the entity,
8 plan, or arrangement; while (3) knowing or having reason to know that the statements were false
9 or fraudulent; and where (4) the false or fraudulent statements pertain to a material matter.
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11 20. I.R.C. § 6701 imposes a penalty on any person who aids in the preparation of any
12 portion of a return, who knows the portion will be used to assert a position under the internal
13 revenue laws, and who knows the portion would result in an understatement in tax liability.
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15 21. The Reliance 2000 package, W4 package, prior-seminar packages, civil support
16 service, and legal defense fund are plans or arrangements organized and sold by Hempfling,
17 about which Hempfling makes and causes others to make material, false and fraudulent
18 statements regarding the tax benefits of participating therein. Hempfling knew or had reason to
19 know that these statements were false and fraudulent.
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21 22. On information and belief, Hempfling also prepares or assists others in the
22 preparation of documents (including W4 forms and correspondence) consistent with the
23 frivolous positions identified herein. Hempfling also knows or has reason to know the
24 documents will be used to assert a position under the internal revenue laws, and knows the
25 document would result in an understatement in tax liability if used.
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1 23. Therefore, Hempfling has engaged in conduct subject to penalties under I.R.C.
2 §§ 6700 and 6701 and should be enjoined under § 7408 from engaging in conduct subject to
3 penalties under any penalty section contained in the I.R.C. (Title 26, U.S.C.), including §§ 6700
4 and 6701, in the future.
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6 **Count 2: Injunction under I.R.C. § 7402**

7 24. The United States incorporates by reference the allegations made in paragraphs 1
8 through 23.
9

10 25. I.R.C. § 7402 authorizes an injunction against anyone who has engaged in conduct
11 that substantially interferes with the administration of the internal revenue laws.

12 26. Hempfling, through the actions described above, has engaged in conduct that
13 interferes substantially with the administration and enforcement of the internal revenue laws.

14 27. If he is not enjoined, Hempfling likely will continue to engage in conduct that
15 interferes with the enforcement of the internal revenue laws. He should therefore be enjoined
16 from interfering with the administration of the internal revenue laws.
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19 WHEREFORE, plaintiff, the United States of America, respectfully prays for the
20 following:
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22 A. That the Court find that Hempfling, individually and doing business as Free
23 Enterprise Society, has engaged in conduct subject to penalties under I.R.C. §§ 6700 and 6701,
24 and that injunctive relief is appropriate under I.R.C. § 7408 to prevent him and anyone acting in
25 concert with him from engaging in any further such conduct;
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1 B. That the Court find that Hempfling, individually and doing business as Free
2 Enterprise Society, has engaged in conduct that interferes with the enforcement of the internal
3 revenue laws, and that injunctive relief against him and his representatives, agents, servants,
4 employees, attorneys, and those persons in active concert or participation with him is appropriate
5 to prevent the recurrence of that conduct under the Court's inherent equity powers and I.R.C. §
6 7402(a);
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8 C. That the Court, under I.R.C. §§ 7402 and 7408, enter a permanent injunction
9 prohibiting Hempfling, and his representatives, agents, servants, employees, attorneys, and those
10 persons in active concert or participation with him, from directly or indirectly:
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- 12 (1) Engaging in conduct subject to penalties under I.R.C. § 6700, *i.e.*, by (1)
13 organizing or selling, or participating in the organization or sale of, an entity,
14 plan, or arrangement; (2) making or causing to be made, false or fraudulent
15 statements concerning the tax benefits to be derived from the entity, plan, or
16 arrangement; while (3) knowing or having reason to know that the statements
17 were false or fraudulent; and where (4) the false or fraudulent statements
18 pertained to a material matter.
- 19 (2) Engaging in conduct subject to penalties under I.R.C. § 6701, *i.e.*, by preparing or
20 assisting others in the preparation of any tax forms or other documents to be used
21 in connection with any material matter arising under the internal revenue laws and
22 which the defendant knows will (if so used) result in understatement of tax
23 liability;
- 24 (3) Engaging in any conduct subject to penalties under any penalty section of the
25 I.R.C. (26 U.S.C.); and
- 26 (4) Engaging in any conduct that interferes with the administration and enforcement
27 of the internal revenue laws.

28 D. That this Court, under I.R.C. §§ 7402 and 7408, enter an injunction requiring
Hempfling and his representatives, agents, servants, employees, attorneys, and those persons in
active concert or participation with him, to turn over to the United States any records in their

1 possession or to which they have access, that identify any individuals or entities who purchased
2 or used any other tax shelter, plan, or arrangement in which Hempfling, individually or doing
3 business as Free Enterprise Society, has been involved;
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5 E. That this Court, under I.R.C. §§ 7402 and 7408, enter an injunction requiring
6 Hempfling and his representatives, agents, servants, employees, attorneys, and those persons in
7 active concert or participation with them, to post a copy of the permanent injunction, in full and
8 prominently displayed on the “Home” page of all websites in Hempfling’s control, including the
9 www.freeenterprisesociety.com website, and provide a copy of the permanent injunction to all
10 individuals or entities who purchased or used any other tax shelter, plan, or arrangement in
11 which Hempfling, individually or doing business as Free Enterprise Society, has been involved;
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13 F. That this Court allow the government full post-judgment discovery to monitor
14 compliance with the injunction;
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16 G. That this Court retain jurisdiction over this action for purposes of implementing and
17 enforcing the final judgment and any additional orders necessary and appropriate to the public
18 interest; and
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1 H. That the Court grant the United States such other and further relief as the Court
2 deems appropriate.
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5 Dated: May 2, 2005

Respectfully submitted,

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7 McGREGOR W. SCOTT
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9 s/ Evan J. Davis

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