

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 10-1048
	)	
GERALD A. POYNTER, II,	)	Judge Howard F. Sachs
a/k/a Brother Jerry Love, Jerry Love,	)	
d/b/a Heartland Investment Group, LLC;	)	
Sharper Solutions, LLC; Sharper Solutions	)	
Family Foundation; Sharper Solutions	)	
Foundation; Blackbelt Tax Services;	)	
Sharper Solutions Tax Services; Etree;	)	
Luckytown; AKKA; Jerry Love Ministries;	)	
and/or The Dojo,	)	
	)	
Defendant.	)	
	)	

**UNITED STATES' MOTION FOR DEFAULT JUDGMENT**

Pursuant to Fed. R. Civ. P. 55(b)(2), the United States respectfully moves this court for entry of default judgment and permanent injunction against Defendant Gerald A. Poynter, also known as also known as Brother Jerry Love and Jerry Love, individually and doing business as Heartland Investment Group, LLC, Sharper Solutions, LLC, Sharper Solutions Family Foundation, Blackbelt Tax Services, Sharper Solutions Tax Services, Etree, Luckytown, AKKA, Jerry Love Ministries, and The Dojo. Poynter was properly served with a summons and the Complaint, but has failed to adequately answer or otherwise respond in the time permitted by law and this Court. The Court entered default against Poynter on February 11, 2011. (Doc. 11.) On entry of default, “the factual allegations of a complaint . . . are taken as true.” *Murray v. Lene*, 595 F.3d 868, 871 (8th Cir. 2010).

In support of its motion, the United States relies upon the attached Suggestion and documents previously filed with the Court in support of the United States's motion for entry of default (Docs. 5-5.2).

Accordingly, the United States requests that the Court enter judgment and a permanent injunction under 26 U.S.C. ("I.R.C.") §§ 7402, 7407, and 7408 of the Internal Revenue Code to:

- A. Under I.R.C. §§ 7402 and 7407, enjoin Poynter from acting as federal tax return preparer and from preparing or filing federal tax returns or other tax forms for others, from representing others before the IRS, and from advising anyone concerning federal tax matters;
- B. Under I.R.C. §§ 7402 and 7407, enjoin Poynter and his representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with him, from directly or indirectly;
  - 1. Preparing or filing, or assisting in, or directing the preparation or filing of, any federal income tax return or amended return or other related documents or forms for any other person or entity;
  - 2. Filing, providing forms for, or otherwise aiding and abetting the filing of frivolous Forms 1040 or Forms 1099 for himself or others;
  - 3. Engaging in activity subject to penalty under I.R.C. §§ 6694 or 6695;
  - 4. Engaging in any other activity subject to penalty under the Internal Revenue Code; and
  - 5. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;

- C. Under I.R.C. §§ 7402 and 7408, enjoin Poynter and his representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with him from, directly or indirectly, by means of false, deceptive, or misleading commercial speech:
1. Organizing or selling tax shelters, plans or arrangements that advise or assist taxpayers to attempt to evade the assessment or collection of such taxpayers' correct federal tax;
  2. Engaging in any other activity subject to penalty under I.R.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludability of income or securing of any other tax benefit by participating in the plan that he knows or has reason to know is false or fraudulent as to any material matter;
  3. Engaging in any activity subject to penalty under I.R.C. § 6701; and
  4. Directly or indirectly organizing, promoting, marketing, or selling any plan or arrangement that assists or incites taxpayers to attempt to violate internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities, including promoting, selling, or advocating the use of false Forms 1099 based on the false claims that:
    - a. Taxpayers can name the Secretary of the Treasury as their fiduciary and/or can draw on the Treasury of the United States to pay their tax debt or other debt using or relying upon Forms 1099-OID, bonded promissory notes, sight drafts or other documents;

- b. Taxpayers can issue false Forms 1099-OID to a creditor and report the amount on the false Form 1099 as income taxes withheld on their behalf; and
  - c. Taxpayers have a secret account with the Treasury Department which they can use to pay their debts or which they can draw on for refunds through a process that is often called “redemption” or “commercial redemption.”
- D. Under I.R.C. § 7402, enjoin Poynter from preparing and/or filing his own individual or joint federal income tax returns claiming false income tax withholding and refunds based on amounts shown in false Forms 1099, and from having another person or entity prepare and/or file such false federal income tax returns on his behalf;
- E. Under I.R.C. § 7402, require Poynter to send by mail (and also by e-mail, if an address is known) a copy of the executed injunction to all persons who have purchased any products, services, or advice associated with the false or abusive tax scheme described in the Complaint, including his “affiliates” or “branch managers,” as also described in the Complaint.
  - 1. The mailings shall include a cover letter in a form either agreed to by counsel for the United States or approved by the Court, and shall not include any other documents or enclosures;
  - 2. The mailings shall be made no later than 30 days after the injunction is issued; and
  - 3. No later than 30 days after the injunction is issued, Poynter shall file with

this Court a sworn certificate that he has complied with the requirements of this paragraph.

- F. Under I.R.C. § 7402, no less than 30 days from the date of the injunction and for a continuous period of three years, require Poynter and his representatives, agents, servants, employees, attorneys, independent contractors and any other persons in active concert or participation with him, to remove all content regarding the tax scheme described in the Complaint from his website(s) and replace that content with a copy of the Court's injunction for a period of three years. No later than 30 days from the date of the injunction, Poynter shall file a sworn certification that he has complied with the requirements of this paragraph.
- G. Under I.R.C. § 7402, require Poynter to provide to the United States a list of all persons who have purchased any products, services, or advice from him in the past three years, no later than 30 days after the injunction is issued. No later than 30 days from the date of the injunction, Poynter shall file a sworn certification that he has complied with the requirements of this paragraph; and
- H. Retain jurisdiction in this Court to allow the United States full post-judgment discovery and to monitor Poynter's compliance with the injunction.

A proposed order granting the relief requested will be submitted to the Court pursuant to the CM/ECF Civil and Criminal Administrative Procedures Manual and Users Guide for the Western District of Missouri.

Dated: March 1, 2011

Respectfully submitted,

BETH PHILLIPS  
United States Attorney

Lucinda S. Woolery, MO #36625  
Assistant United States Attorney

/s/ Erin Healy Gallagher  
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*Attorneys for Plaintiff United States of America*

**CERTIFICATE OF SERVICE**

I hereby certify that, on March 1, 2011, I served the foregoing *Motion for Default Judgment*, the *Suggestion in Support of the Motion for Default Judgment*, and the proposed order granting the relief requested, by first-class mail upon the following:

Gerald A. Poynter, II  
5013 Pebble Avenue  
Kansas City, MO 64133

*Defendant*

/s/ Erin Healy Gallagher  
ERIN HEALY GALLAGHER