

1 on August 3, 2015. (Dkt. Nos. 8, 9.) Subsequently, on September 2, 2015, Plaintiff
2 filed a motion for default judgment. (Dkt. No. 12.) Defendant has not filed a response.

3 **Factual Background**

4 According to the Complaint, in 2008, Siegel purchased the tax practice of Peter
5 A. Rice and Associates, including the practice's client list. (Dkt. No. 1, Comp. ¶ 15.)
6 The practice was located in San Diego and has operated the tax practice under multiple
7 d/b/a names such as "Rice and Associates", "Rice and Lave", "Pete Rice and Larry
8 Lave", "Larry Lave, J.D., CPA Tax and Accounting", and "Lave Dash and Clark."
9 (Id.) Since 2008 to the present, Siegel has promoted tax fraud schemes and prepared
10 fraudulent tax returns for his customers. (Id. ¶ 16.) Siegel promotes his tax fraud
11 schemes to self-employed individuals and high earners in California who own
12 profitable businesses, as well as customers in locations throughout the United States.
13 (Id. ¶ 17.) Siegel primarily communicates with his customers remotely and/or
14 electronically, which allows him to more easily operate his tax practice from any
15 location he chooses. (Id. ¶ 18.)

16 In 1980, Siegel obtained a C.P.A. license in California and, in 1982, and
17 admitted to the State Bar of California to practice law. (Id. ¶ 7.) In 1994, 1995, 1998,
18 and 1999, Siegel was convicted of federal crimes for: (a) tax evasion; (b) subscribing
19 false tax returns; (c) making false statements to obtain furlough passes while serving
20 his sentence for his 1994 conviction; (d) bail jumping; (e) fraudulent use of social
21 security numbers in order to open bank accounts and with intent to deceive multiple
22 financial institutions; (f) causing a financial institution to file false Currency
23 Transaction Reports with the IRS in connection with a payment or transfer of currency;
24 (g) making a false statement in an application for a U.S. passport with the intent to
25 induce and secure the issuance of the passport; and (h) fraudulent use of an instrument
26 purporting to be a passport. (Id. ¶¶ 9, 10.)

27 On June 23, 1994, Siegel resigned from the State Bar of California with charges
28 pending against him, and has been ineligible to practice law in any state. (Id. ¶ 11.) In

1 1997, the Board of Accountancy for the California Department of Consumer Affairs
2 revoked Siegel's C.P.A. license for committing crimes "related to the qualifications,
3 functions and duties of a certified public accountant." (Id. ¶ 12.)

4 Siegel's illegal conduct subject to injunction in this action includes promotion
5 and implementation of an out-of-state "C" corporation scheme, (id. ¶¶ 19-36),
6 preparation of fraudulent tax returns, (id. ¶¶ 37-44), assisting customers to evade
7 payment of employment taxes, (id. ¶¶ 45-55), delaying and obstructing IRS
8 examinations of his customers, (id. ¶ 69), filing customer tax returns without his
9 customers' authorization, (id. ¶¶ 70-71), as well as misrepresenting his credentials,
10 using false identities, and the unauthorized practice of law, (id. ¶¶ 56-68).

11 **A. Out of State "C" Corporation Scheme**

12 Siegel advises his customers to form and personally assists them to establish
13 their businesses as "C" corporations, typically under Nevada law, where the customers
14 have no contacts. (Id. ¶¶ 19, 22.) These "C" corporations are used as instruments by
15 Siegel to illegally reduce or eliminate his customers' reported tax liabilities. (Id. ¶ 19.)
16 In some instances, Siegel improperly treats multiple, unrelated businesses, each owned
17 by different Siegel customers, as a single "community" "C" corporation for tax
18 purposes. (Id. ¶ 20) Siegel has prepared tax returns for these "community
19 corporations" that improperly assign customer income to the "community corporation"
20 and co-mingle reportable financials among the unrelated businesses. (Id.) Siegel does
21 this to illegally reduce the reported tax liabilities of his customers, including claiming
22 improper business expense deductions. (Id.) Siegel also establishes out-of-state "C"
23 corporations for use by a single customer. (Id. ¶ 21.) He prepares and files documents
24 used to establish these out-of-state "C" corporations, oversees recurring filings with
25 state entities to maintain the corporate status of the companies, assists customers to
26 establish bank accounts for the "C" corporations, and in most instances names himself
27 as an officer of these entities. (Id. ¶¶ 23-24.) In some instances, Siegel purports to
28 maintain corporate records of the companies and oversees or assists his customers with

1 financial record-keeping for the companies. (Id. ¶ 24.)

2 Siegel advises his customers that the “C” corporations he establishes have no
3 business purpose. (Id. ¶ 26.) He falsely advises customers that by establishing an
4 out-of-state “C” corporation, their entire home becomes an out-of state business office
5 with living quarters, which can then pay for the customer’s personal expenses incurred
6 while living in the purported out-of-state business office. (Id. ¶¶ 27, 29.) Siegel
7 contends, falsely, that unlike a salary paid by the corporation to its employees, these
8 payments by the corporation for customer personal expenses do not need to be reported
9 as compensation on the customer’s individual tax returns and can be deducted as
10 compensation on the customer’s individual tax returns and can be deducted as business
11 expenses on “C” corporation tax returns. (Id. ¶¶ 27, 37-38.)

12 Siegel further falsely advises customers that they can characterize their home as
13 an out-of state business office by creating a fictitious employment obligation between
14 the individual customer and their “C” corporation. (Id. ¶ 28.) For example, Siegel
15 falsely advises his customers that to treat their home as an out-of-state corporate office
16 for federal tax purposes, the customer’s Nevada “C” corporation (i.e., an entity entirely
17 controlled by Siegel and the customer) must require as a condition of employment that
18 its corporate officers (i.e., the same Siegel customer) live in the customer’s California
19 home while working away from the corporation's purported home state of Nevada (i.e.,
20 a state where the Siegel customer typically has no actual contact). (Id.) Siegel has
21 falsely advised customers by e-mail that this scheme is valid because: (a) the
22 customers, as business owners, are necessarily “on call 24/7” while living or working
23 from their out-of-state “business office;” (b) the customers can deduct [their] rent and
24 other expenses through [their] corporation when [they] are on call for that corporation”;
25 and (c) while “the internet was just getting hot for being on call” in 2002, “[w]ithout
26 a question in 2013 when we are truly on call 24/7 working at home is a deduction for
27 the corporation.” (Id. ¶ 31.) Siegel even provided his customers with a “memo” he
28 sent to his customers where he falsely advised, leaving blanks for the applicable

1 customer names and missing legal authority, that:

2 As noted by _____ himself, “working at [a] business office in which he
3 also stays” is the only way his corporation can efficiently operate it’s
4 [sic] business which is on Internet time 24/7/365. Thus requiring the
5 Corporation’s key employee(s) to live on the Corporation’s business
6 premises makes good business sense.

7 (Id. ¶ 32.) Siegel also informed his customers that he “will be coaching [them] before
8 [IRS] interview[s]” to “help [customers] to answer the questions porperly,” should the
9 IRS question the “C” corporation. (Id. ¶ 30.)

10 Siegel falsely told a colleague that this tax benefit can be substantial because
11 “[t]he housing can [b]e luxurious and cost thousands a [] month. There is an
12 assumption that corporations don’t waste money.” (Id. ¶ 34.) When Siegel’s customers
13 ask for details and an explanation about what he is doing on their behalf, Siegel avoids
14 providing them with information. (Id. ¶ 36.) Instead, Siegel falsely assures his
15 customers that, among other things: (i) he is a qualified C.P.A., licensed tax attorney,
16 and tax expert with years of experience; (ii) he cannot fully educate these customers
17 who lack tax expertise; and (iii) they should simply trust him. (Id.)

18 **B. Fraudulent Tax Returns**

19 Siegel uses the out-of-state “C” corporations he establishes for customers to
20 improperly reduce their reported tax liabilities and to claim fraudulent tax refunds on
21 returns he either prepares or directs his employees to prepare. (Id. ¶ 37.) Specifically,
22 Siegel falsely assures customers that by characterizing their homes as offices, this
23 fiction allows them to deduct personal expenses, such as meal costs, utility bills,
24 payments for their home, and vehicles driven at least in part for personal use, as
25 business expenses on the “C” corporation tax returns that Siegel prepares or directs his
26 employees to prepare. (Id.) Similarly, Siegel falsely advises that these personal
27 expenses paid by the customers’ “C” corporations do not need to be reported as
28 compensation on individual income tax returns that Siegel or his employees prepare.
(Id.) Siegel claims improper business expense deductions on Schedule C of customer
individual tax returns. (Id. ¶¶ 38-43.) Siegel fraudulently attempts to conceal the

1 improper deduction of personal expenses of his customers on “C” corporation tax
2 returns by lumping the bogus deductions into a single, large deduction and categorizing
3 them as supplies or office expenses on corporate tax returns he prepares. (Id. ¶ 41.)
4 For example, on the “C” corporation tax return for one customer, Siegel claimed
5 deductible business expenses for a nonexistent insurance warranty and a fictitious
6 employee benefit plan. (Id. ¶ 42.)

7 **C. Evading Payment of Employment Taxes**

8 Siegel advises and assists customers to use their out-of-state “C” corporations
9 to mischaracterize income paid from the “C” corporation to individual customers as
10 royalties, consulting fees, or rental payments. (Id. ¶ 45.) Siegel falsely claims that by
11 mischaracterizing income from “C” corporations to individual customers, customers
12 can transfer funds collected by the “C” corporation from business operations to the
13 individual customer, while exempting those payments to the customers from federal
14 employment taxes. (Id.) To mischaracterize income as royalties, Siegel falsely advises
15 his customers that their out-of-state “C” corporations can acquire customers’
16 “intellectual property,” which according to Siegel includes the customers’ professional
17 skills and expertise. (Id. ¶ 47.) For the “C” corporation to purportedly accomplish
18 this, Siegel improperly advises his customers to enter into “License Agreements” with
19 their “C” corporation, which Siegel has drafted, for the corporation to purportedly
20 acquire a “lease” for control over the customers’ professional skills and knowledge.
21 (Id. ¶¶ 47-48.) Under this sham arrangement, Siegel falsely contends that customers
22 can receive payments from their “C” corporation and classify these sums on “C”
23 corporation returns as “royalties,” which Siegel erroneously contends makes the
24 payments exempt from employment taxes. (Id. ¶ 47.) Siegel knows that characterizing
25 income as royalties under sham “License Agreements” is improper. (Id. ¶ 53.) In
26 2014, when asked by a colleague about this practice, Siegel asserted that
27 mischaracterizing income as royalties is “not a problem unless the IRS finds it.” (Id.)
28 Moreover, he also has customers evade payment employment taxes by characterizing

1 the compensation they obtain from their “C” corporation as purported rental payments
2 by the “C” corporation for use of the customer’s home as a corporate “office.” (Id. ¶
3 54.) Siegel also prepares or direct his employees to prepare tax returns that falsely
4 mischaracterize his customers’ income, which is subject to employment tax, as
5 “consulting” fees from the “C” corporation. (Id. ¶ 55.) To reduce or eliminate the
6 customers’ individual tax liability, Siegel then claims bogus deductions, such as
7 supplies, office, and contract labor expenses on Schedule C of the customers’
8 individual tax returns. (Id.)

9 **D. Delay and Obstruction of IRS Examinations**

10 During IRS audits of Siegel’s customers, when the IRS requested documents to
11 substantiate positions Siegel claimed on customers’ tax returns, Siegel failed to provide
12 the necessary documentation and attempted to delay and obstruct the IRS examinations.
13 (Id. ¶ 69.) For example, Siegel: (a) told a customer that he would “inundate the IRS”
14 with documentation in order to obstruct their audit; (b) knowingly provided false
15 corporate documents and bogus contracts to the IRS in order to deceive auditors; and
16 (c) lied to IRS officials during U.S. Tax Court litigation when asked to confirm
17 information on behalf of his customers. (Id.)

18 **E. Filing Tax Returns Without Customer Authorization**

19 On at least two occasions, Siegel filed tax returns for customers without
20 authorization. (Id. ¶ 70.) In 2013, he filed a tax return for a “C” corporation without
21 reviewing the return with the customer or requesting permission to file it. (Id.)
22 Similarly, Siegel filed an individual 2009 tax return for another customer without her
23 authorization. (Id. ¶ 71.) Prior to filing that return, Siegel recommended to that
24 customer that she fail to report over \$80,000 of alimony income in order to evade
25 paying federal income tax. (Id.) Siegel advised the customer that if the IRS found out
26 about the unreported alimony payments, they could address the matter at that time. (Id.)
27 The customer informed Siegel that she wanted to report these alimony payments on her
28 tax return and did not want Siegel to file her 2009 tax return. (Id.) Siegel ignored her

1 and filed the return without her permission and without reporting her alimony payments.
2 (Id.)

3 **F. Misrepresentation of Credentials, Use of False Identities, and Unauthorized**
4 **Practice of Law**

5 Siegel has repeatedly and falsely represented to customers, government agents,
6 and the public-at-large that he is a licensed attorney and/or C.P.A. even though he is
7 no longer licensed as a CPA or as an attorney. (Id. ¶ 56.) Siegel has also concealed his
8 legal name from customers and assumed false identities in order to make it difficult to
9 discover his true professional and criminal background. (Id.) Siegel illegally practices
10 as a C.P.A. and lawyer without any licenses. (Id.) To solicit business, Siegel falsely
11 represents to the public that he is licensed to practice law, has a C.P.A. license, and has
12 falsely claimed to customers that he is a former IRS employee. (Id. ¶¶ 57, 58, 61.)
13 Siegel also improperly encourages his customers to hire him to perform legal services.
14 (Id. ¶ 62) To conceal his background and deceive customers, Siegel has fabricated
15 professional certificates in his business office, including a purported C.P.A. license and
16 certificate from the Supreme Court of the State of California for admission as an
17 “Attorney and Counselor at Law.” (Id. ¶ 59.) Both certificates conceal his actual legal
18 name, Lawrence Preston Siegel, and display the alias “Lawrence Preston Lave.” (Id.)
19 Even after his customers learned of Siegel’s multiple aliases during IRS audits of tax
20 returns that Siegel prepared, Siegel continued to lie to his customers about his true
21 identity. (Id. ¶ 66.) In 2013, when two customers asked Siegel about his multiple
22 aliases, Siegel falsely responded that the IRS was “just making stuff up.” (Id.)
23 Similarly, in 2013, when another customer asked Siegel why the IRS was asking
24 questions about their understanding of Siegel’s qualifications as a lawyer, Siegel
25 falsely told them that he simply owed membership dues to the California bar, when in
26 fact, he resigned in 1994 with charges pending against him. (Id.) Siegel also falsely
27 represented his qualifications and identity to the IRS. (Id. ¶¶ 63, 64, 67.) In 2010 and
28 2011, Siegel submitted forms to the IRS to represent his customers under IRS audit,

1 signed by him under penalty of perjury, which falsely claimed he was a licensed C.P.A.
2 in California. (Id. ¶ 63.) Siegel also routinely lists false identifiers on tax returns he
3 prepares and files with the IRS by using the preparer tax identification numbers
4 (“PTINs”) and electronic filing identification numbers (“EFINs”) of others in order to
5 evade detection. (Id. ¶ 67.) In addition, Siegel has forged the signatures of other
6 licensed attorneys on correspondence he sent to the IRS on behalf of his customers and
7 impersonated these attorneys on telephone calls with the IRS. (Id. ¶ 64.) Siegel is not
8 eligible to appear as counsel for his customers in federal court, but nonetheless drafted
9 and filed documents in U.S. Tax Court by impersonating licensed attorneys on behalf
10 of at least one customer. (Id. ¶ 65.) Siegel repeatedly deceived this customer, the IRS,
11 and the Tax Court during a proceeding Siegel initiated on the customer’s behalf and,
12 on at least one occasion, forged the customer’s signature on a document Siegel filed
13 in U.S. Tax Court. (Id.) Siegel understood that concealing his true identity and felony
14 convictions, as well as the loss of his law and C.P.A. licenses, was important to
15 maintaining his tax practice and convincing customers that his tax fraud schemes were
16 actually legal. (Id. ¶ 68.) As Siegel wrote in an April 16, 2014 e-mail to a colleague
17 regarding their professional dealings: “Look . . . I guess it is hard to believe I am telling
18 the truth, since I was forced to skirt the truth the last 20 years because of what they did
19 to me the first time 20 years ago.” (Id.)

20 Discussion

21 A. Motion for Default Judgment

22 Federal Rule of Civil Procedure 55 provides that “[w]hen a party against whom
23 a judgment for affirmative relief is sought has failed to plead or otherwise defend . . .
24 . the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). Here, Plaintiff filed
25 a request for entry of default and default was entered on August 3, 2015. (Dkt. Nos.
26 8, 9.) After default is properly entered, a party seeking relief other than a sum certain
27 must apply to the Court for a default judgment. Fed. R. Civ. P. 55(b).

28 The Ninth Circuit looks to seven factors to assist the court in determining

1 whether default judgment is appropriate. The seven factors are:

- 2 (1) the possibility of prejudice to the plaintiff;
- 3 (2) the merits of the plaintiff's substantive claim;
- 4 (3) the sufficiency of the complaint;
- 5 (4) the sum of money at stake in the action;
- 6 (5) the possibility of a dispute concerning material facts;
- 7 (6) whether the default was due to excusable neglect; and;
- 8 (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

9 Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986). Upon default, the factual
10 allegations in the complaint are taken as true, except those related to the amount of
11 damages. Geddes v. United Fin. Grp., 559 F.2d 557, 560 (9th Cir. 1977); see Fed. R.
12 Civ. P. 8(b)(6). Allegations of damages must be proven. Id. The decision to grant or
13 deny default judgment is within the discretion of the district court. Eitel, 782 F.2d at
14 1471.

15 **B. Eitel Factors**

16 **1. Prejudice to the Plaintiff**

17 Under the first factor, the Court must examine whether Plaintiff will be
18 prejudiced if the Court denies default judgment. See Eitel, 782 F.2d at 1471. Since
19 default judgment is the only means to compensate Plaintiff, denial of Plaintiff's request
20 for default judgment will effectively immunize Defendant from liability and leave
21 Plaintiff without redress. See Amini Innovation Corp. v. KITTY Int'l Mktg., 768 F.
22 Supp. 2d 1049, 1054 (C.D. Cal. 2011) (finding prejudice to plaintiff where "a default
23 judgment is the only means available for compensating [p]laintiff for [d]efendants'
24 violations"); Wecosign, Inc. v. IFG Holdings, Inc., 845 F. Supp. 2d 1072, 1081 (C.D.
25 Cal. 2012) (same); Craigslist, Inc. v. Naturemarket, Inc., 694 F. Supp. 2d 1039,
26 1054-55 (N.D. Cal. 2010) (same). Plaintiff contends it will suffer prejudice because
27 denial of a judgment by default would leave it without a remedy and would harm the
28 Government, Siegel's customers, and the public. Because failure to enter default
judgment for Plaintiff would be prejudicial, this factor weighs strongly in favor of
default judgment.

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1 **2. Merits of the Case and Sufficiency of the Complaint**

2 Under the second and third factors, the Court must examine whether Plaintiff has
3 pled facts sufficient to establish and succeed on its claims. See Eitel, 782 F.2d at 1471.

4 **i. I.R.C. § 7408**

5 Plaintiff’s first cause of action seeks an injunction pursuant to I.R.C. § 7408
6 based on violations of I.R.C. §§ 6700 and 6701.

7 I.R.C. § 7408 authorizes the Court to enjoin individuals from engaging in
8 conduct who are subject to penalty under I.R.C. §§ 6700 and 6701, and where
9 injunctive relief is appropriate to prevent recurrence of such conduct. I.R.C. § 7408.

10 The government has the burden of proving five elements to obtain an injunction
11 under § 7408 for a violation under § 6700. The five elements are:

12 (1) the defendants organized or sold, or participated in the organization
13 or sale of, an entity, plan, or arrangement; (2) they made or caused to
14 be made, false or fraudulent statements concerning the tax benefits to
15 be derived from the entity, plan, or arrangement; (3) they knew or had
 reason to know that the statements were false or fraudulent; (4) the
 false or fraudulent statements pertained to a material matter; and (5) an
 injunction is necessary to prevent recurrence of this conduct.

16 U.S. v. Estate Pres. Servs., 202 F.3d 1093, 1098 (2000). The “traditional requirements
17 for equitable relief need not be satisfied since Section 7408 expressly authorizes the
18 issuance of an injunction.” Id.

19 The complaint alleges that Plaintiff created “C” corporations for his customers
20 in Nevada, where customers have no contacts, to illegally reduce or eliminate his
21 customer’s reported tax liabilities. (Dkt. No. 1, Compl. ¶¶ 19-36.) This “out-of-state”
22 “C” corporation scheme is a “plan or arrangement” pursuant to 6700. See U.S. v.
23 Raymond, 228 F.3d 804, 811 (7th Cir. 2000), overruled on other grounds by Hill v.
24 Tangherlini, 724 F.3d 965 (7th Cir. 2013) (a “plan or arrangement” that has some
25 connection to taxes can fall under § 6700). Siegel filed documents establishing and
26 maintaining the corporation, served as an officer in them, maintained corporate records
27 for some, guided customers about what expenses to track to improperly claim as
28 business expense deductions on tax returns he prepared, and drafted sham employment

1 contracts between the “C” corporation and the customers in order to avoid employment
2 taxes. (Dkt. No. 1, Compl. ¶¶ 19-36.) Second, Siegel made or caused to be made, false
3 or fraudulent statements concerning the tax benefits of establishing a “C” corporation
4 in Nevada. (Id.) Third, Plaintiff knew or had reason to know that statements he made
5 were false as he tried to conceal the deductions he falsely claimed on tax returns for his
6 customers. For example, he lumped bogus business deductions on “C” corporation tax
7 returns into single, large deductions categorized as supplies and office expenses to
8 conceal them from the IRS. (Dkt. No. 1, Compl. ¶ 42.) Also, Siegel knew that
9 characterizing income as royalty under sham “License Agreements” is improper
10 because he admitted that it was “not a problem unless the IRS finds it.” (Id. ¶ 53.)
11 Fourth, the fraudulent statements concerning the availability of tax deductions, credits
12 or other mechanisms to reduce tax liability related to a material matter. See U.S. v.
13 Estate Pres.Servs., 38 F. Supp. 2d 846, 855 (E.D. Cal. 1998) (a matter is “material” if
14 a “particular statement has a substantial impact on the decision-making process or
15 produces a substantial tax benefit to a taxpayer”).

16 Plaintiff also argues that Siegel violated I.R.C. § 6701 which provides that

17 Any person--

18 (1) who aids or assists in, procures, or advises with respect to, the
19 preparation or presentation of any portion of a return, affidavit, claim,
20 or other document,

21 (2) who knows (or has reason to believe) that such portion will be used
22 in connection with any material matter arising under the internal
23 revenue laws, and

24 (3) who knows that such portion (if so used) would result in an
25 understatement of the liability for tax of another person, shall pay a
26 penalty with respect to each such document in the amount determined
27 under subsection (b).

28 I.R.C. § 6701. The Court may enjoin persons who have engaged in conduct under §
6701 if the Court also finds that injunctive relief is appropriate to prevent recurrence
of such conduct. I.R.C. § 7408(b).

Here, Plaintiff advised his customers to participate in the out-of-state “C”
corporation scheme and prepared fraudulent tax returns for them, and aided his
customers in preparing documents used to implement the scheme. Next, Siegel knew

1 or had reason to believe that these documents will be used in connection with a
2 material matter arising under the internal revenue laws. The purpose of preparing these
3 documents was to illegally deduct personal expenses as business expenses and evade
4 the payment of employment taxes. Siegel should have been aware such conduct was
5 illegal. Third, Siegel knew that his customers' income tax returns will result in an
6 understatement of tax liability. In sum, Plaintiff has sufficiently alleged violations of
7 both I.R.C. §§ 6700 and 6701.

8 Lastly, under both § 6700 and § 6701, the Court needs to consider the likelihood
9 of future violations for purposes of an injunction. See I.R.C. § 7408(b). Courts may
10 consider

11 (1) the gravity of the harm caused by the offense; (2) the extent of the
12 defendant's participation; (3) the defendant's degree of scienter; (4) the
13 isolated or recurrent nature of the infraction; (5) the defendant's
14 recognition (or non-recognition) of his own culpability; and (6) the
likelihood that defendant's occupation would place him in a position
where future violations could be anticipated.

15 Estate Preserv. Servs., 202 F.3d at 1105.

16 First, the harm to the government is severe since the Siegel's fraud impedes the
17 government's ability to assess and collect the true tax liabilities of Siegel's customers.
18 There is also harm to Siegel's customers who are liable for taxes owed and potential
19 penalties caused by Siegel. Lastly, there is harm to the public. Next, Siegel's
20 involvement in organizing and implementing his tax fraud scheme is extensive as
21 discussed above. Third, based on comments made to his customers, Siegel knew or had
22 reason to know his conduct was unlawful. Fourth, the violations are part of a
23 systematic and recurring practice since at least 2008. Fifth, Siegel has not recognized
24 his own culpability. Sixth, Siegel is likely to commit future tax violations as he has not
25 answered the complaint, and his multiple convictions of federal crimes in the 1990s,
26 including tax evasion, has not deterred him from committing fraudulent tax returns or
27 promoting abusive tax plans. Based on these factors, the Court finds that an injunction
28 is necessary to prevent recurrence of his conduct.

1 **ii. I.R.C. § 7407**

2 The second count seeks an injunction pursuant to I.R.C. § 7407. The court may
3 enjoin tax return preparers if the court finds

- 4 (1) that a tax return preparer has--
5 (A) engaged in any conduct subject to penalty under section 6694 or
6 6695, or subject to any criminal penalty provided by this title,
7 (B) misrepresented his eligibility to practice before the Internal
8 Revenue Service, or otherwise misrepresented his experience or
9 education as a tax return preparer,
10 (C) guaranteed the payment of any tax refund or the allowance of any
11 tax credit, or
12 (D) engaged in any other fraudulent or deceptive conduct which
13 substantially interferes with the proper administration of the Internal
14 Revenue laws, and
15 (2) that injunctive relief is appropriate to prevent the recurrence of such
16 conduct . . .

17 I.R.C. § 7407(b).

18 Here, the complaint alleges that Siegel has engaged in conduct subject to penalty
19 under § 6694(a)(2)¹ by preparing federal tax returns for customers that contain
20 unreasonable positions that he knows or reasonably should have known are
21 unreasonable, and under 6694(b)(2)(A)² by willfully attempting to understate his
22 customers' tax liabilities and recklessly disregarding IRS rules and regulations. Siegel
23 prepared fraudulent returns that claimed personal expenses as business deductions and
24 entirely bogus deductions, understated customer income, and evaded payment of
25 employment taxes. In addition, Plaintiff engaged in conduct subject to penalty under
26 I.R.C. § 6695(c)³ by failing to accurately sign returns and by falsely furnishing preparer
27 identification numbers ("PTIN") of other preparers on tax returns he prepared.

28 Second, he repeatedly misrepresented his education and experience as a tax
preparer by falsely claiming to customers, the Government and the U.S. Tax Court that
he is a C.P.A. and a lawyer. He also engaged in fraudulent or deceptive conduct which

¹I.R.C. § 6694(a)(2) addresses unreasonable positions for a tax preparer to take.

²I.R.C. § 6694(b)(2)(A) & (B) concerns "a willful attempt in any manner to understate the liability for tax on the return or claim," or "a reckless or intentional disregard of rules or regulations."

³I.R.C. § 6695(c) concerns the failure to furnish identifying number.

1 substantially interfered with the proper administration of the Internal Revenue laws.
2 Siegel attempted to interfere with IRS examinations, provided false corporate records
3 and bogus contracts to the IRS to support the positions he took on tax returns, filed
4 customer tax returns without authorization, forged a customer signature on a U.S. Tax
5 Court filing, forged the signatures of licensed attorneys on correspondence to the IRS,
6 impersonated licensed attorneys on telephone calls with the IRS, and lied to IRS
7 officials during U.S. Tax Court litigation when asked to confirm customer information.
8 (Dkt. No. 1, Compl. ¶¶ 63, 64, 65, 67, 69, 70, 71.) Lastly, as discussed above,
9 injunctive relief is appropriate in order to prevent recurrence of Siegel's continued
10 interference with the proper administration of the internal revenue laws. The Court
11 concludes that Plaintiff has sufficiently alleged facts to support an injunction pursuant
12 to I.R.C. § 7407.

13 **iii. I.R.C. § 7402**

14 Finally, Plaintiff seeks an injunction pursuant to I.R.C. § 7402. I.R.C. § 7402
15 allows the district court to issue injunctions "as may be necessary or appropriate for the
16 enforcement of the internal revenue laws." *Id.* § 7402(a). The remedies . . .are in
17 addition to and not exclusive of any and all other remedies of the United States in such
18 courts or otherwise to enforce such laws." *Id.* IRC § 7402(a) confers upon district
19 courts "a broad range of powers to compel compliance with the tax laws," even "when
20 such interference does not violate any particular tax statute." *U.S. v. Ernst & Whinney*,
21 735 F.2d 1296, 1300 (11th Cir.1984), cert. denied, 470 U.S. 1050 (1985).

22 Here, Plaintiff alleges that Siegel has engaged in conduct that substantially
23 interferes with the administration and enforcement of the internal revenue laws, as
24 detailed above, since at least 2008 and will highly likely continue to engage in such
25 conduct unless enjoined. Accordingly, injunctive relief under § 7402 is appropriate.

26 The Court concludes that Plaintiff has satisfied the second and third factors
27 under *Eitel* and has pled sufficient facts to establish and success on its claims.

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1 **3. Sum of Money at Stake**

2 The Court next looks at the sum of money at stake. See Eitel, 782 F.2d at 1471.
3 The United States only seeks a permanent injunction. Where there is no money at stake
4 and only permanent injunction relief is sought, this factor weighs in favor of default
5 judgment. U.S. v. Barnes, No. CV 14-5621 SJF(PLAx), 2015 WL 2386190, at 6 (C.D.
6 Cal. Apr. 3, 2015) (granting default judgment to permanently enjoin a tax return
7 preparer). Thus, this factor weighs in favor of default judgment.

8 **4. Possibility of a Dispute Concerning Material Facts**

9 The fifth Eitel factor examines the likelihood of dispute between the parties
10 regarding the material facts of the case. Eitel, 782 F.2d at 1471-72. “Where a plaintiff
11 has filed a well-pleaded complaint, the possibility of dispute concerning material facts
12 is remote.” Wecosign, Inc. v. IFG Holdings, Inc., 845 F. Supp. 2d 1072, 1082 (C.D.
13 Cal. 2012). Here, Plaintiff has set forth adequate allegations to support an injunction
14 pursuant to I.R.C. §§ 7402, 7407, 7408. Defendant has not responded to the complaint
15 or any of Plaintiff’s filings. The Court finds that Defendant is unlikely to appear now
16 to contest this matter, and therefore, this factor favors entry of default judgment.

17 **5. Whether the Default was Due to Excusable Neglect**

18 The sixth Eitel factor examines whether Defendant’s failure to respond can be
19 attributed to excusable neglect. See Eitel, 782 F.2d at 1472. This factor weighs in
20 favor of entry of default judgment where the defendant was properly served. Landstar
21 Ranger, Inc. v. Parth Enters., Inc., 725 F. Supp. 2d 916, 922 (C.D. Cal. 2010). Plaintiff
22 served Defendant based on an alternative service of process. In its ex parte application
23 for alternative service, Plaintiff discovered that Siegel is currently living and working
24 in Israel and has no knowledge of his address in Israel. (Dkt. No. 3-2, Patel Decl. ¶¶
25 6, 9.) Moreover, he is currently a fugitive from California authorities as the State of
26 California filed a twenty count criminal complaint against Siegel in April 2014 for
27 Med-Cal fraud, grand theft, forgery, identity theft, financial dependent adult abuse and
28 tax evasion. (Dkt. No. 3-10, Edelstein Decl., Ex. 1.) There is an outstanding arrest

1 warrant for Siegel. (Dkt. No. 3-11, Edelstein Decl., Ex. 2.) Defendant’s failure to
2 appear and litigate this matter is not likely based on excusable neglect. This factor
3 weighs in favor of default judgment.

4 **6. Strong Policy Underlying the Federal Rules of Civil Procedure**
5 **Favoring Decisions on the Merits**

6 The final Eitel factor examines whether the strong policy favoring deciding cases
7 on the merits prevents a court from entering default judgment. Eitel, 782 F.2d at 1472.
8 Generally, default judgments are disfavored, and a case should be decided on the merits
9 when possible. Pena v. Seguros La Comercial, S.A., 770 F.2d 811, 814 (9th Cir. 1985).
10 However, where a defendant’s failure to appear “makes a decision on the merits
11 impracticable, if not impossible,” entry of default judgment is warranted. Pepsico, Inc.
12 v. Cal. Sec. Cans, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002). As Defendant has
13 failed to appear or respond in this matter, a decision on the merits is impossible.
14 Accordingly, the Court is not precluded from entering default judgment against
15 Defendant.

16 In sum, the Eitel factors weigh in favor of default judgment.

17 **C. Permanent Injunction**

18 Having determined that default judgment should be granted, the Court must next
19 evaluate Plaintiff’s request for relief. See Craigslis, Inc. v. Naturemarket, Inc., 694 F.
20 Supp. 2d 1039, 1061 (N.D. Cal. 2010). Here, as discussed above, Plaintiff has
21 demonstrated that a permanent injunction is warranted under I.R.C. §§ 7408, 7407,
22 7402 as to Siegel. Accordingly, the Court GRANTS Plaintiff’s request for a permanent
23 injunction.

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Conclusion

Based on the above, the Court GRANTS Plaintiff's motion for default judgment. A separate order and judgment of permanent injunction shall be issued. The hearing set for November 13, 2015 shall be vacated.

IT IS SO ORDERED.

DATED: November 9, 2015


HON. GONZALO P. CURIEL
United States District Judge