

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

| | | |
|-----------------------------------|---|-----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | Case No. 2:16-CV-0070 |
| |) | |
| v. |) | |
| |) | |
| SHELTERING ARMS PERSONAL CARE |) | |
| HOME, INC., COUNTRY COVE ASSISTED |) | |
| LIVING, LLC; WILLOW BAY, LLC; and |) | |
| RANDY PRINCE |) | |
| |) | |
| Defendants. |) | |
| |) | |

CONSENT JUDGMENT

I. Count I: Judgment Against Sheltering Arms Personal Care Home, Inc., for Tax Liabilities and Civil Penalty

Employment Tax Liabilities

Based upon the stipulation of the parties, judgment is hereby entered in favor of the United States, and against the defendant Sheltering Arms Personal Care Home, Inc., in the amount of \$183,021.60 as of August 10, 2015, plus interest according to law until paid, in connection with the assessments made against it for unpaid federal employment taxes (Form 941), statutory interest, and penalties for the following tax periods:

| Tax Period Ending | Outstanding Balance as of 08/10/2015 |
|--------------------------|---|
| 09/30/2007 | \$5,507.44 |
| 12/31/2007 | \$3353.72 |
| 03/31/2008 | \$604.91 |
| 09/30/2008 | \$5801.95 |
| 12/31/2008 | \$3762.05 |
| 03/31/2009 | \$2563.12 |
| 06/30/2009 | \$2723.90 |
| 09/30/2009 | \$5103.14 |

| | |
|------------|------------|
| 12/31/2009 | \$3784.88 |
| 09/30/2010 | \$10847.83 |
| 12/31/2010 | \$16291.42 |
| 03/31/2011 | \$7321.82 |
| 06/30/2011 | \$19169.33 |
| 09/30/2011 | \$2339.06 |
| 12/31/2011 | \$12577.64 |
| 03/31/2012 | \$8199.86 |
| 06/30/2012 | \$2995.36 |
| 09/30/2012 | \$3846.37 |
| 12/31/2012 | \$5247.15 |
| 03/31/2013 | \$5611.84 |
| 06/30/2013 | \$4717.48 |
| 09/30/2013 | \$16043.88 |
| 12/31/2013 | \$15063.63 |
| 03/31/2014 | \$9335.52 |
| 06/30/2014 | \$10208.30 |

Unemployment Tax Liabilities

Based upon the further stipulation of the parties, judgment is hereby entered in favor of the United States, and against the defendant Sheltering Arms Personal Care Home, Inc., in the amount of \$16,767.74 as of August 10, 2015, plus interest according to law until paid, in connection with the assessments made against it for unpaid federal unemployment taxes (Form 940), statutory interest, and penalties for the years ending December 31, 2007, through December 31, 2010, and for the year ending December 31, 2013.

Corporate Income Tax Liabilities

Based upon the further stipulation of the parties, judgment is hereby entered in favor of the United States, and against the defendant Sheltering Arms Personal Care Home, Inc., in the amount of \$17,359.80 as of August 10, 2015, plus interest according to law until paid, in connection with the assessments made against it for unpaid federal corporate income taxes (Form 1120), statutory interest, and penalties for the years ending December 31, 2005, through December 31, 2007, and for the year ending December 31, 2014.

Civil Penalty Assessed on May 9, 2011

Based upon the further stipulation of the parties, judgment is hereby entered in favor of the United States, and against the defendant Sheltering Arms Personal Care Home, Inc., in the amount of \$1,163.43 as of August 10, 2015, plus interest according to law until paid, in connection with the assessment made against it on May 9, 2011, for a civil penalty for failing to timely file Wage and Tax Statements (Form W-2) for the tax period ending on December 31, 2008.

II. Count II: Injunction Against All Defendants

It is hereby ORDERED that, for a period of two years from the date of this order, the defendants shall:

- A. As required by law, withhold federal income, Social Security, and Medicare taxes from the wages of their employees at the time those wages are paid, and timely remit such taxes, along with the employer's portion of Social Security and Medicare taxes, over to the IRS;
- B. As required by law, make timely deposits of all taxes imposed by the Federal Unemployment Tax Act (FUTA taxes) as they become due;
- C. If they have not already done so, and as required by 26 U.S.C. § 7512(b), establish a bank account for holding and remitting the taxes described above;
- D. As required by law, timely file Forms 941, 940, and 1120 tax returns, and pay all outstanding federal tax liabilities reported such returns;
- E. Within 90 days of the order for injunction, unless an extension is mutually agreed by the parties, file all delinquent returns with the IRS at 11 Chenoweth Drive, Bridgeport, West Virginia 26330, or such other location as notified in writing by

the IRS or Department of Justice. If no return is due for the periods listed below, defendants shall file a declaration stating the reasons why no return is due. Such returns shall include:

| Party | Type of return | Tax period(s) ending |
|--|---------------------------------|--|
| Willow Bay, LLC | Unemployment Form 940 | 12/31/2015 |
| Sheltering Arms Personal Care Home, Inc. and/or Willow Bay, LLC | Employment (Form 941) | 9/30/2014 12/31/2014 |
| Sheltering Arms Personal Care Home, Inc. | Unemployment (Form 940) | 12/31/2013 12/31/2014 |
| Sheltering Arms Personal Care Home, Inc. | Corporate Income (Form 1120) | 12/31/2013 12/31/2014 12/31/2015 |

- F. Going forward, provide copies of all employment and unemployment tax returns to Nelson Wagner, or such other designee as stated in writing by the United States, at nelson.wagner@usdoj.gov or P.O. Box 227, Washington, D.C. 20044.

The parties shall bear their respective attorneys' fees and other costs of litigation.


IT IS SO ORDERED.

This 14th day of September, 2017.



UNITED STATES DISTRICT JUDGE

SEEN AND AGREED TO:

DAVID A. HUBBERT
Acting Assistant Attorney General


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