

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY

UNITED STATES OF AMERICA,)	
)	Case No. 3:16-cv-631
Plaintiff,)	
)	
v.)	
)	
LAW OFFICES OF FORBUSH-MOSS, P.S.C.,)	
and BETHANNI FORBUSH-MOSS,)	
)	
Defendants.)	
_____)	

JUDGMENT AND ORDER OF PERMANENT INJUNCTION

THIS MATTER is before the Court upon the United States’ Motion for Summary Judgment. Through this action, the United States seeks a permanent injunction under Section 7402(a) of the Internal Revenue Code prohibiting Bethanni Forbush-Moss and the Law Offices of Forbush-Moss PSC from violating their employment tax obligations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has jurisdiction over this case and each defendant pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1340 and 1345.
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).
3. The Law Offices of Forbush-Moss PSC, as an employer, is required to withhold federal income and Federal Insurance Contributions Act (FICA) taxes from its employee’s wages, and to pay over those withholdings, along with the employer’s share of its FICA and Federal Unemployment Tax Act (FUTA) taxes and federal corporation income taxes, to the Internal Revenue Service. 26 U.S.C. §§ 3102, 3111, 3301, and 3402.

4. The Law Offices of Forbush-Moss PSC, as an employer, is also required to timely file Employer's Quarterly Federal Tax Returns (IRS Forms 941) within thirty days of the end of each taxable quarter, and to file Employer's Annual Federal Unemployment (FUTA) Tax Returns (IRS Forms 940) and Federal Corporation Income Tax Returns (IRS Forms 1120), with the Internal Revenue Service before January 31st following the end of each taxable year. 26 U.S.C. § 6011; Treas. Reg. § 31.6701(a)-1.
5. A delegate of the Secretary of the Treasury properly and timely made assessments against the Law Offices of Forbush-Moss PSC for the federal self-employment taxes assessed for the tax periods ending on 03/31/2011, 06/30/2011, 09/30/2011, 12/31/2011, 03/31/2012, 06/30/2012, 09/30/2012, 12/31/2012, 03/31/2013, 06/30/2013, 09/30/2013, 12/31/2013, 03/31/2014, 06/30/2014, 09/30/2014, 12/31/2014, 03/31/2015, 06/30/2015, and 09/30/2015. Despite notices and demand for payment by the Internal Revenue Service of the foregoing federal tax liabilities, the defendants failed to pay these liabilities and the Court has determined that defendants Bethanni Forbush-Moss and the Law Offices of Forbush-Moss PSC are indebted to the United States for unpaid federal self-employment taxes in the total amount of \$100,210.80 as of January 9, 2018, plus statutory additions, including interest, accruing after that date.
6. A delegate of the Secretary of the Treasury properly and timely made assessments against defendant Law Offices of Forbush-Moss PSC for the unpaid federal unemployment taxes assessed for the taxable years ending on 12/31/2011, 12/31/2012, 12/31/2013, and 12/31/2014. Despite notices and demand for payment by the Internal Revenue Service of the foregoing federal tax liabilities, the Law Offices of Forbush-Moss PSC failed to pay the foregoing federal tax liabilities, the Law Offices of Forbush-Moss PSC is indebted to

the United States for unpaid unemployment taxes in the amount of \$3,740.63, as of January 9, 2018, plus interest and other statutory additions to tax that have accrued and continue to accrue as provided by law.

7. A delegate of the Secretary of the Treasury properly and timely made assessments against defendant the Law Offices of Forbush-Moss PSC for the unpaid federal corporation income (Form 1120) tax for the tax periods ending on 12/31/2009, 12/31/2010, 12/31/2011, and 12/31/2012. Despite notices and demand for payment by the Internal Revenue Service of the foregoing federal tax liabilities, the Law Offices of Forbush-Moss PSC failed to pay the foregoing federal tax liabilities and the Law Offices of Forbush-Moss PSC is indebted to the United States in the amount of \$23,674.86, as of January 9, 2018, plus interest that has accrued and continue to accrue as provided by law.
8. Under 26 U.S.C. § 7402(a), this Court may issue any injunction necessary or appropriate for enforcement of the internal revenue laws.
9. A permanent injunction against Bethanni Forbush-Moss and the Law Offices of Forbush-Moss PSC is necessary and appropriate for the enforcement of the internal revenue laws because Bethanni Forbush-Moss and the Law Offices of Forbush-Moss PSC are substantially interfering with the internal revenue laws in the following ways:
 - a. Failing to fully pay their federal employment tax liabilities over to the IRS that accrued for the taxable periods between March 31, 2011 through September 30, 2015;
 - b. Failing to pay over their Federal Unemployment Tax Act (FUTA) liabilities for tax years 2011 through 2014;

- c. Failing to pay over their Federal Corporation Income Tax liabilities for tax years 2009 through 2012;
 - d. Failing to timely file their quarterly employment tax returns since September 30, 2015;
 - e. Failing to timely file their federal unemployment tax returns for the 2015 and 2016 tax years;
 - f. Failing to timely file their federal corporation income tax returns since 2013.
10. The IRS has expended significant resources attempting to bring Bethanni Forbush-Moss and the Law Offices of Forbush-Moss, PSC into compliance with the internal revenue laws. The IRS recorded multiple Notices of Federal Tax Liens against the Law Offices of Forbush-Moss PSC for the unpaid federal taxes at issue in this case. *See* Declaration of Revenue Officer Gregory Kamenish, ¶ 31.
11. Demands for payment and notices of intent to levy upon assets of Law Offices of Forbush-Moss, PSC were made upon the corporations, only to be met with further non-compliance. Declaration of Revenue Officer Gregory Kamenish, ¶¶ 33-35.
12. Furthermore, Revenue Officer Latrina Brunson personally served a copy of IRS Form Letter 903 (“You Haven’t Deposited Federal Employment Taxes”) on Bethanni Forbush-Moss as owner and operator the Law Offices of Forbush-Moss PSC, on May 6, 2015. The letter states “our records show that you haven’t deposited federal employment taxes as required by deposit rules set forth in Treasury Regulation Section 31.6302. If you do not comply with these rules in the future, we must consider stricter enforcement...” and “[i]f there is continued non-compliance, we may consider pursuing a suit for civil injunction under Internal Revenue Code Section 7402(a)...”. (Kamenish Decl. ¶ 33.)

13. In this case, enjoining the conduct of Bethanni Forbush-Moss and the Law Offices of Forbush-Moss PSC is appropriate under section 7402(a) even when the traditional equitable factors are considered. The Law Offices of Forbush-Moss, PSC, under the direction of Bethanni Forbush-Moss, have violated and continue to violate the affirmative obligations imposed by the internal revenue laws to timely withhold, collect, and make deposits of the federal employment, unemployment, and federal corporation income taxes owed by the Law Offices of Forbush-Moss PSC. Moreover, the Law Offices of Forbush-Moss PSC also continues to violate its obligations to timely file its federal employment and unemployment tax returns. A permanent injunction is necessary to prevent future violations of the law, as the Internal Revenue Service's attempts to bring the Law Offices of Forbush-Moss PSC into compliance have been unsuccessful.
14. The United States lacks an adequate remedy at law to compel the Law Offices of Forbush-Moss PSC and Bethanni Forbush-Moss's compliance with the tax laws. The Internal Revenue Service has exhausted all of its available administrative collection remedies. The repeated failure of the defendants to comply with the federal tax laws despite the administrative actions undertaken by the IRS necessitates the issuance of a permanent injunction to stop the further accrual of the Law Offices of Forbush-Moss's delinquent tax liabilities.
15. "[T]axes are the lifeblood of government, and their prompt and certain availability an imperious need." *Bull v. United States*, 295 U.S. 247, 259 (1935). The United States has been deprived of significant tax revenues, including withheld employment taxes that the Law Offices of Forbush-Moss PSC's employees have already been credited with paying. The total amount of federal taxes which the Law Offices of Forbush-Moss PSC (as of

January 9, 2018) and the failure of the Law Offices of Forbush-Moss PSC to comply with their federal employment, unemployment, and federal corporate income tax obligations continues to this day.

16. Additional harms have resulted from the expenditure of significant IRS resources as a result of the administrative collection actions undertaken by the IRS to bring the Law Offices of Forbush-Moss PSC into compliance with federal tax laws.
17. The Law Offices of Forbush-Moss PSC's continued nonpayment of tax liabilities also gives them an unfair advantage over companies that meet their federal employment and unemployment tax obligations. This allows the Law Offices of Forbush-Moss PSC to use the lawful tax revenues of the United States to pay other, non-tax debts and liabilities, and gives it a competitive advantage over its rivals.
18. The Law Offices of Forbush-Moss PSC's non-compliance also causes irreparable harm to the efficacy of the federal taxation system through their persistent flouting of the federal tax laws.
19. The only potential hardship for the Law Offices of Forbush-Moss PSC that could result from the issuance of a permanent injunction would be their forced compliance with federal law. Complying with the law is not a hardship in this instance.
20. The balance of the hardships weigh overwhelmingly in favor of the issuance of an injunction. Any potential injuries to The Law Offices of Forbush-Moss PSC are vastly outweighed by the injury that would result to the United States from failure to issue a permanent injunction in this case. The irreparable harms mentioned present in this case weighs in favor of granting a permanent injunction compelling the Law Offices of Forbush-Moss PSC, by and through its principal, Bethanni Forbush-Moss, to comply

with its obligations to timely file its tax returns and pay over its federal employment and unemployment tax liabilities to the Internal Revenue Service.

21. Enjoining the Law Offices of Forbush-Moss PSC's illegal conduct would serve the public interest. Forbush-Moss and the Law Offices of Forbush-Moss PSC's failure to collect and remit its federal employment, unemployment taxes, and federal corporation income taxes, including the social security and Medicare taxes withheld from the wages of its employees, undermines the federal system of taxation by reducing federal tax revenues, and provides the Law Offices of Forbush-Moss PSC with an unfair economic advantage over its competitors.

22. Absent an injunction, Bethanni Forbush-Moss and the Law Offices of Forbush-Moss PSC are likely to continue their pattern of interference with the internal revenue laws that have already led to their nonpayment of \$127,626.30 in outstanding tax liabilities, as of January 9, 2018. The Law Offices of Forbush-Moss PSC has failed to meet its filing obligations for the fourth quarter of 2015, all four quarters of 2016, and all four quarters of 2017, and is currently not complying with its duty to properly withhold, account for, and pay over its employment tax liabilities. An injunction compelling compliance with federal tax withholding laws is necessary in this case.

**PERMANENT INJUNCTION AGAINST THE LAW OFFICES OF FORBUSH-MOSS
PSC AND BETHANNI FORBUSH-MOSS**

IT IS ORDERED that a permanent injunction is hereby entered against the Law Offices of Forbush-Moss PSC and Bethanni Forbush-Moss pursuant to 26 U.S.C. § 7402(a) and Federal Rules of Civil Procedure 56 and 65, and in favor of the United States of America, to prevent the defendants from accruing, or "pyramiding," the defendants' unpaid employment, unemployment, and federal corporation income tax liabilities.

IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. The Law Offices of Forbush-Moss PSC, under the ownership of Bethanni Forbush-Moss, has engaged, and is engaging in conduct that interferes with the enforcement of the internal revenue laws and injunctive relief under 26 U.S.C. § 7402(a) is appropriate to stop this conduct;

2. A permanent injunction is hereby entered prohibiting the Law Offices of Forbush-Moss PSC, and its agents, representatives, employees, accountants, attorneys, successors in interest and assigns, and all other people in active concert or participation with it, from failing to withhold and pay over to the Internal Revenue Service all employment and unemployment taxes as required by law;

3. The Law Offices of Bethanni Forbush-Moss PSC and Bethanni Forbush-Moss are commanded to segregate, and hold separate and apart from all other funds, all monies withheld from employees or collected from others for taxes under any internal revenue laws of the United States, and to deposit the monies so withheld and collected, as well as the employer's share of employment taxes, in an appropriate federal depository bank in accordance with federal deposit regulations;

4. The Law Offices of Forbush-Moss PSC and Bethanni Forbush-Moss are further commanded to segregate, and hold separate and apart from all other funds, all unemployment tax monies for deposit in an appropriate federal depository bank every two weeks in accordance with the federal deposit regulations;

5. The Law Offices of Forbush-Moss PSC shall, for a period of ten years, provide an affidavit signed by Bethanni Forbush-Moss to Supervisory Revenue Officer Gregory Kamenish, or his designee, or to any other such person or location as the IRS directs, stating that the

required withheld employment and unemployment tax deposits were made, no later than the twentieth day of each month that all required federal tax deposits have been made;

6. The Law Offices of Forbush-Moss PSC and Bethanni Forbush-Moss are further commanded to timely file with the Internal Revenue Service, in care of Revenue Officer Gregory Kamenish, or his designee, or to any other such person or location as the IRS directs, all required future employment and unemployment tax returns, including but not limited to IRS Forms 940, 941, and 944, and pay any balance due on those returns upon filing;

7. The Law Offices of Bethanni Forbush-Moss PSC and Bethanni Forbush-Moss are further commanded to file any unfiled and past-due federal employment, unemployment, and federal corporation income tax returns with the Internal Revenue Service, in care of Supervisory Revenue Officer Gregory Kamenish, or his designee, or to any other such person or location as the IRS directs, within 60 days of the entry of this order of permanent injunction;

8. The Law Offices of Forbush-Moss PSC and Bethanni Forbush-Moss, and their representatives, agents, employees, accountants, attorneys, and anyone in active concert or participation with them, for a period of five years, shall notify Supervisory Revenue Officer Gregory Kamenish, or his designee, or any other such person as the IRS directs, within 10 business days upon beginning, operating, owning, managing, or working for any new business enterprise;

9. The Law Offices of Forbush-Moss PSC and its representatives, agents, servants, employees, accountants, attorneys, successors in interest and assigns, and anyone in active concert or participation with it, shall be enjoined from assigning or transferring any property, or rights to property, or making any disbursements after the date of entry of the injunction unless all

federal employment and unemployment taxes due for every pay period after entry of injunction have been paid in full;

10. The United States may obtain post-judgment discovery from the Law Offices of Forbush-Moss PSC and Bethanni Forbush-Moss to monitor and ensure their compliance with the permanent injunction;

11. The United States may give the defendants, the Law Offices of Forbush-Moss PSC and Bethanni Forbush-Moss, notice of the permanent injunction in this civil action by mailing a true and correct copy thereof to Bethanni Forbush-Moss via Federal Express; and

12. The Court retains jurisdiction over this case to ensure collection of the judgment and compliance with this injunction, including authority to punish its violation as contempt of court.

April 13, 2018

A handwritten signature in black ink, appearing to read "Charles R. Simpson III", is written over a circular seal. The seal is partially obscured by the signature but contains the text "United States District Court" and "District of Columbia".

**Charles R. Simpson III, Senior Judge
United States District Court**