

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No: 8:17-cv-91-T-36TGW

RESPIRATORY MEDICAL SERVICES,
LLLP, WHIT T. BANKS and PHYLLIS C.
BANKS,

Defendants.

PERMANENT INJUNCTION

This matter comes before the Court upon the Joint Motion for Entry of Stipulated Order of Permanent Injunction by Plaintiff, United States of America, and Defendants, Whit T. Banks (“Mr. Banks”), and Phyllis C. Banks (“Mrs. Banks” or collectively “Defendants”). Doc. 17. Defendants enter into this Stipulated Order of Permanent Injunction voluntarily and waive any right they may have to appeal from it or from the Court’s order approving this motion and entering the injunction. Defendants agree that the Stipulated Order of Permanent Injunction submitted to the Court comports with the content, scope, and specificity requirements of Federal Rule of Civil Procedure 65(d) and that this injunction authorizes enforceable injunctive relief. Accordingly, it is hereby

ORDERED that the Joint Motion for Entry of Stipulated Order of Permanent Injunction (Doc. 17) is **GRANTED**. It is further **ORDERED** that:

1. A permanent injunction is entered against Whit T. Banks ("Mr. Banks") and Phyllis C. Banks ("Mrs. Banks") as follows:

A. Parties Covered by Injunction: This injunction binds Mr. Banks and Mrs. Banks as well as their representatives, agents, employees, and persons in concert or participation with them.

B. Scope of Injunction: Mr. Banks and Mrs. Banks are enjoined from violating the Internal Revenue Code and, in accordance with applicable federal statutes, regulations, and rules, they must comply with each of the following terms:

i. Requirement Regarding Respiratory Medical Services, LLLP: Mr. and Mrs. Banks have represented that Defendant Respiratory Medical Services, LLLP (“RMS”) stopped operating as of November 30, 2016. The Banks shall provide written notification to IRS Revenue Officer Denver Skaggs, or such other IRS employee who is designated by the IRS, if RMS: (1) resumes operations; (2) merges with another company; (3) assumes a new name; (4) transfers substantially all of its physical assets to another entity or individual; or (5) transfers any of its intangible assets (including, but not limited to, customer lists or goodwill) to another individual or entity. Written notice must be sent within five (5) days after any of the above-described events to Revenue Officer Skaggs by electronic mail (denver.w.skaggs@irs.gov) and by facsimile (941-378-6457).

ii. Requirements for any New Business: If at any point within five years after entry of this Order Mr. Banks or Mrs. Banks come to control, manage, or own a new business, or resume operations of RMS (“New Business”), they must comply with the following terms:

a. Notice Requirement: Mr. Banks and Mrs. Banks shall provide written notification to Revenue Officer Skaggs, or such other IRS employee designated by the IRS, of any New Business within five (5) days of the date they take control or ownership

of, or begin managing, the New Business. Written notice must be sent to Revenue Officer Skaggs by electronic mail (denver.w.skaggs@irs.gov) and by facsimile (941-378-6457).

b. Withholding Requirement: Mr. Banks and Mrs. Banks shall withhold federal income taxes and Federal Insurance Contribution Act ("FICA") taxes (which include Social Security and Medicare taxes) from the wages of the New Business' employees when wages are paid.

c. Deposit Requirement: In accordance with federal deposit regulations, Mr. Banks and Mrs. Banks shall timely make deposits to the Internal Revenue Service using the Department of Treasury's Electronic Federal Tax Payment System ("EFTPS") of withheld income and FICA taxes, as well as the New Business' share of FICA taxes and Federal Unemployment Tax Act ("FUTA") taxes.

d. Reporting Requirement: Within two (2) days after the New Business makes a federal tax deposit as required by paragraph 1.B.ii.c above, Mr. Banks and Mrs. Banks shall send to Revenue Officer Skaggs by electronic mail (denver.w.skaggs@irs.gov) and by facsimile (941-378-6457), or to such other IRS employee designated by the IRS, the receipt, deposit slip, or other proof that the tax deposit has been made and a copy of the payroll report showing the amount that should be deposited. Mr. Banks and Mrs. Banks shall also sign and deliver an affidavit to Revenue Officer Skaggs, or to such other person or location as the IRS designates in writing, on the first day of each month, stating that Mr. Banks and Mrs. Banks have personally ensured that for each pay period during the prior month, the required federal income taxes, FICA taxes, and FUTA taxes were fully and timely deposited with the IRS.

e. Return Requirement: Mr. Banks and Mrs. Banks shall ensure that the New Business timely files with the IRS all of its Form 941, Employer's Quarterly

Federal Tax Returns, and Form 940, Employer's Annual Federal Unemployment Tax Returns, tax returns at the address and in the manner identified in the Instructions for Form 941 and Instructions for Form 940, both of which are available at www.irs.gov. Within two (2) days after filing the Forms 940 and 941 with the IRS, Mr. Banks and Mrs. Banks shall send copies of the filed forms to Revenue Officer Skaggs by electronic mail (denver.w.skaggs@irs.gov) and by facsimile (941-378-6457), or to such other IRS employee designated by the IRS.

2. The United States is permitted to engage in post-judgment discovery to ensure compliance with this permanent injunction.

3. The Court shall retain jurisdiction of this action for the purpose of implementing and enforcing this injunction.

DONE AND ORDERED in Tampa, Florida on November 27, 2017.


Charlene Edwards Honeywell
United States District Judge

Copies to:
Counsel of Record and Unrepresented Parties, if any