

ENTERED

April 18, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
VS.	§	CIVIL ACTION NO. 7:17-CV-8
	§	
JORGE GALLEGOS, <i>et al</i> ,	§	
	§	
Defendants.	§	

JUDGMENT AND PERMANENT INJUNCTION BY CONSENT

THIS MATTER is before the Court on the Motion for Entry of Judgment and Permanent Injunction by Consent made by the Plaintiff, United States of America and by Defendants Con Brazos Abiertos LLC, and Jorge Gallegos (collectively, "Defendants").

The Court having reviewed the submissions, as stipulated and consented to by the parties and being fully advised in the premises, hereby FINDS as follows:

1. Defendant Con Brazos Abiertos is indebted to the United States for delinquent Form 941 quarterly employment taxes spanning multiple quarters from 2011 to 2016 in the amount of \$1,143,279.17, plus statutory additions and interest according to law from November 14, 2016.

2. Defendant Con Brazos Abiertos is indebted to the United States for delinquent Form 940 unemployment taxes for tax years 2014 and 2015 in the amount of \$6,223.03, plus statutory additions and interest according to law from November 21, 2016.

3. Plaintiff, the United States of America, has filed a complaint seeking a permanent injunction against Defendants under 26 U.S.C. § 7402(a).

4. Defendants admit for purposes of this injunction that the Court has personal jurisdiction over them and subject matter jurisdiction over this matter but without admitting any of the other allegations in the complaint.

5. Defendants waive the entry of findings of fact and conclusions of law and voluntarily consent to the entry without further notice of this permanent injunction under 26 U.S.C. § 7402(a) and agree to be bound by its terms.

6. Defendants further understand and agree that:

- a. This Judgment and Permanent Injunction by Consent will be entered under Fed. R. Civ. P. 65 and will result in the entry, without further notice, of a Final Judgment against them in this matter;
- b. Defendants waive any right they may have to appeal from this Judgment and Permanent Injunction by Consent;
- c. The Court will retain jurisdiction over this matter for the purpose of implementing and enforcing this Judgment and Permanent Injunction by Consent;
- d. If Defendants violate this injunction, they may be subject to civil and criminal sanctions for contempt of court;
- e. The United States may conduct full post-judgment discovery to monitor compliance with this injunction; and
- f. Entry of this Judgment and Permanent Injunction by Consent resolves only this civil injunction action, and neither precludes the United States, or any of its agencies, from pursuing any other current or future civil or criminal matters or

proceedings, nor precludes Defendants from contesting their liability in any other matter or proceeding.

Accordingly, it is hereby ORDERED that the Joint Motion for Entry of Judgment and Permanent Injunction by Consent is GRANTED.

It is FURTHER ORDERED pursuant to 26 U.S.C. § 7402(a) that:

A. Defendant Con Brazos Abiertos LLC is indebted to the United States for its assessed Form 941 quarterly employment taxes, for the quarters ending in, and in the amounts, as shown in the table below, plus interest, penalties, and statutory additions accruing after November 14, 2016, on this tax until paid:

Quarterly Tax Period	Amount Due as of 11/14/2016
September 30, 2011	\$62,425.60
December 31, 2011	\$48,264.57
March 31, 2012	\$52,434.87
June 30, 2012	\$24,272.14
June 30, 2013	\$53,561.31
September 30, 2013	\$69,158.44
December 31, 2013	\$69,753.66
March 31, 2014	\$69,450.56
June 30, 2014	\$52,393.24
September 30, 2014	\$104,614.29
December 31, 2014	\$93,049.06
March 31, 2015	\$86,899.95
June 30, 2015	\$86,401.55
September 30, 2015	\$72,900.03
December 31, 2015	\$57,858.51

March 31, 2016	\$67,680.66
June 30, 2016	\$72,160.73
Total	\$1,143,279.17

B. Defendant Con Brazos Abiertos LLC is indebted to the United States for its assessed Form 940 unemployment, for the tax years and in the amounts as shown in the table below, plus interest, penalties, and statutory additions accruing after November 21, 2016, on this tax until paid:

Tax Year	Amount Due as of 11/21/2016
2014	\$3,615.12
2015	\$2,607.91
Total:	\$6,223.03

It is FURTHER ORDERED pursuant to 26 U.S.C. § 7402(a) that:

C. Jorge Gallegos (individually and doing business under any other name or using any other entity) and Con Brazos Abiertos LLC, and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, are prohibited from failing to withhold and pay over to the IRS all employment taxes, including federal income, FUTA, and FICA taxes, required by law;

D. Jorge Gallegos and Con Brazos Abiertos LLC, shall 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 FICA taxes, in an appropriate federal depository bank in accordance with the federal deposit regulations;

E. Jorge Gallegos and Con Brazos Abiertos LLC, shall deposit FUTA taxes in an appropriate federal depository bank each quarter in accordance with the federal deposit regulations;

F. Jorge Gallegos and Con Brazos Abiertos LLC, and any other individuals who are responsible for carrying out the duties established under paragraphs D. and E. above, shall, for a period of five years, sign and deliver affidavits, letters, or other correspondence signed under penalty of perjury pursuant to 28 U.S.C § 1746 to the Internal Revenue Service, 1810 Hale Ave. , Harlingen, Texas 78550 or to such other specific location as directed by the IRS, no later than the twentieth day of each month, stating that the requisite withheld income, FICA, and FUTA tax deposits were timely made;

G. Jorge Gallegos and Con Brazos Abiertos LLC, shall timely file all Form 941 and 940 tax returns with the IRS at 1810 Hale Ave., Harlingen, Texas 78550, or to such other specific location as directed by the IRS;

H. Jorge Gallegos and Con Brazos Abiertos LLC, shall timely pay all required outstanding liabilities due on each tax return required to be filed;

I. Jorge Gallegos and Con Brazos Abiertos LLC, and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, are prohibited from assigning any property or rights to property or making any disbursements before paying all required outstanding liabilities due on each tax return required to be filed going forward from the date of this Judgment and Permanent Injunction by Consent; and

J. Jorge Gallegos shall notify the IRS in the future of any new company he may come to own, manage, or work for in the next five years.

K. Each party will bear its own costs.

IT IS FURTHER ORDERED that this Court retains jurisdiction over this case to ensure compliance with this Judgment and Permanent Injunction by Consent and that the United States may conduct full post-judgment discovery to monitor compliance with the injunction.

SO ORDERED this 18th day of April, 2017, at McAllen, Texas.




Randy Crane
United States District Judge

This Judgment and Permanent Injunction by Consent is consented to by:

ABE MARTINEZ
Acting United States Attorney

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