

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 T-N-T OF YORK COUNTY, INC.,)
 TM TRUCKING OF THE CAROLINAS, LLC,)
 and TONY MCMILLAN,)
)
 Defendants.)
 _____)

Case No. 0:15-cv-2379-MBS

JUDGMENT AND PERMANENT INJUNCTION BY CONSENT

THIS MATTER is before the Court on the Joint Motion for Entry of Judgment and Permanent Injunction by Consent made by Plaintiff, the United States, and Defendants T-N-T of York County, Inc., TM Trucking of the Carolinas, LLC, and Tony McMillan (collectively, “Defendants”) (ECF No. 15).

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. Plaintiff, the United States of America, has filed a complaint seeking a permanent injunction against Defendants under 26 U.S.C. § 7402(a).
2. 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.
3. Defendants waive the entry of findings of fact and conclusions of law and voluntarily consent to the entry of this permanent injunction under 26 U.S.C. § 7402(a) without further notice and agree to be bound by its terms.

4. 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 the 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 and ADJUDGED that the Joint Motion for Entry of Judgment and Permanent Injunction by Consent is GRANTED.

It is FURTHER ORDERED and ADJUDGED pursuant to 26 U.S.C. §§ 3102, 3111, 3301, 3402, 6011, 6302, 6157, and 7402(a) and 26 C.F.R. §§ 31.6302-1, 31.6302(c)-1, 31.6302(c)-3, 31.6071(a)-1, that:

A. Tony McMillan (individually and doing business under any other name or using any other entity), T-N-T of York County, Inc., TM Trucking of the Carolinas, 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;

B. Tony McMillan, T-N-T of York County, Inc., and TM Trucking of the Carolinas, 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;

C. Tony McMillan, T-N-T of York County, Inc., and TM Trucking of the Carolinas, LLC, shall deposit FUTA taxes in an appropriate federal depository bank each quarter in accordance with the federal deposit regulations;

D. Tony McMillan, T-N-T of York County, Inc., and TM Trucking of the Carolinas, LLC, and any other individuals who are responsible for carrying out the duties established under paragraphs B. and C. 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 Internal Revenue Service Revenue Officer Patricia Terry at 10715 David Taylor Dr., Charlotte, North

Carolina, 28262 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;

E. Tony McMillan, T-N-T of York County, Inc., and TM Trucking of the Carolinas, LLC, shall timely file all Form 941 and 940 tax returns with the IRS at 10715 David Taylor Dr., Charlotte, North Carolina, 28262, or to such other specific location as directed by the IRS;

F. Tony McMillan, T-N-T of York County, Inc., and TM Trucking of the Carolinas, LLC, shall timely pay all required outstanding liabilities due on each tax return required to be filed;

G. Tony McMillan, T-N-T of York County, Inc., and TM Trucking of the Carolinas, 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

H. Tony McMillan 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.

IT IS FURTHER ORDERED and ADJUDGED 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.

s/ Margaret B. Seymour

Margaret B. Seymour

Senior United States District Judge

January 14, 2016

Columbia, South Carolina

Pursuant to Local Civil Rule 83.I.08, this order is being sent to local counsel only.

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

For Plaintiff

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September 2, 2015

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TONY McMILLAN, individually
and as President of T-N-T York County,
Inc. and TM Trucking of the Carolinas,
LLC

September 2, 2015