

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 04-CV-253-TCK-PJC
)	
RICHARD M. BLACKSTOCK,)	
)	
Defendant.)	

ORDER

Before the Court is the Government’s Objection to the Report and Recommendation Granting Motion for Permanent Injunction (Dkt. No. 28). Because this is a potentially dispositive matter, the Court’s review is de novo.

On February 14, 2005 Magistrate Paul J. Cleary entered a Report and Recommendation (Dkt. No. 24) recommending this Court enter a permanent injunction against Defendant, Richard M. Blackstock. Though Defendant filed several documents post the filing of the Report and Recommendation all were stricken as none could be construed as a substantive objection to the Magistrate’s Report and Recommendation.

The Government’s only objection to the Magistrate’s finding is that the recommended Order contained therein does not require Defendant to provide the Government with a list identifying (with names, mailing and e-mail addresses, phone numbers, and social security or taxpayer -identification numbers) all persons and entities to whom he has sold his corporation sole and claim of right programs. The Government maintains that this

information is necessary to ensure that Defendant's customers are complying with internal revenue laws and to monitor whether Defendant is complying with other parts of the injunction, once entered, such as the requirement that the injunction be sent to all of Defendant's former customers. "Although the First Amendment does protect many forms of expression, including the right to disagree with the law, it does not protect speech which is directed toward producing imminent lawless action or which proposes illegal activity or transactions." *Abdo v. United States*, 234 F. Supp. 2d 553, 569 (M.D.N.C. 2002), *aff'd mem.*, 63 Fed. Appx. 163 (4th Cir. 2003) (citing *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 102 S.Ct. 1186, 71 L.Ed.2d 362 (1982); *Brandenburg v. Ohio*, 395 U.S. 444, 89 S.Ct. 1827, 23 L.Ed.2d 430 (1969)). Furthermore, the Government has a compelling interest in Defendant's customer list. *See First Nat. Bank of Tulsa v. U.S. Dept. of Justice*, 865 F.2d 217 (10th Cir. 1999) (holding the investigation into compliance with tax laws and enforcement of same is a compelling interest outweighing any concerns regarding First Amendment associational rights).

Thus it is the Order of the Court that Defendant is permanently enjoined pursuant to IRC §§ 7402(a) and 7408. The emphasized language below indicates the additions the Court has made to the Order set forth by the Magistrate in his Report and Recommendation.

ORDER FOR PERMANENT INJUNCTION

Based on the foregoing factual findings and for good cause shown, entry of a permanent injunction is appropriate. Therefore, it is hereby

ORDERED that Defendant Richard M. Blackstock, individually and doing business

as any other entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, is permanently enjoined from directly or indirectly:

- (1) Organizing, promoting, marketing, or selling any abusive tax shelter, plan or arrangement that advises or encourages taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities, including the corporation sole and claim of right programs;
- (2) Making false statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by participating in such tax shelters, plans or arrangements;
- (3) Encouraging, instructing, advising or assisting others to violate the tax laws, including to evade the payment of taxes;
- (4) Engaging in conduct subject to penalty under IRC § 6700, *i.e.*, by making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement the defendant knows or has reason to know to be false or fraudulent as to any material matter;
- (5) Engaging in conduct subject to penalty under IRC § 6701, *i.e.*, preparing or assisting others in the preparation of any tax forms or other documents to be used in connection with any material matter arising under the internal revenue laws and which the defendant knows will (if so used) result in the understatement of tax liability;
- (6) Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws by the Internal Revenue Service; and
- (7) Representing any persons or entities before the Internal Revenue Service in any manner, directly or indirectly.

Further, IT IS HEREBY ORDERED that Blackstock, at his own expense, contact by mail (or by e-mail, if an address is unknown) all individuals who have previously purchased

his abusive tax shelters, plans, arrangements or programs, including the corporation sole program and the claim of right program, and inform those individuals of the Court's findings concerning the falsity of the defendant's prior representations and provide a copy of this Permanent Injunction Order to those persons, and to file with the Court, within 15 days of the date of this Order, a certification that he has done so. ***Such certification shall include a list identifying (with names, mailing and e-mail addresses, phone numbers, and social security or taxpayer -identification numbers) all persons and entities to whom he has sold his corporation sole and claim of right programs;***

Further, IT IS HEREBY ORDERED that Blackstock and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, remove from their websites, including www.freedomcommittee.com/5567/5567, all abusive tax scheme promotional materials, false commercial speech, and materials designed to incite others imminently to violate the law (including the tax laws), to display prominently on the first page of those websites a complete copy of this Order, and to maintain the websites, at their own expense, for one year with a complete copy of the Court's permanent injunction so displayed throughout that time; and to file with the Court, within 15 days of the date of this Order, a certification that he has done so;

Further, IT IS HEREBY ORDERED that the United States is permitted to engage in post judgment discovery to ensure compliance with the permanent injunction; and

Further, IT IS HEREBY ORDERED that this Court shall retain jurisdiction of this action for the purpose of implementing and enforcing this Final Judgment.

The Government's Objection to the Report and Recommendation Granting Motion for Permanent Injunction (Dkt. No. 28) is SUSTAINED. The Report and Recommendation (Dkt. No. 24) is affirmed and adopted with the modification set forth above.

ORDERED this 21st day of March, 2005.

A handwritten signature in cursive script that reads "Terence Kern". The signature is written in black ink and is positioned above a horizontal line.

TERENCE KERN
UNITED STATES DISTRICT JUDGE