IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

FILED
JUN 30 2004
CLERK, U.S. DISTRICT COURT
NORFOLK, VA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 2:04-CV-329
	)	
RONALD M. GREEN, d/b/a PEOPLES RIGHTS TRUSTED TAX SERVICES and ECONOMIC EMPOWERMENT FOR ALL PEOPLE,	)	
	)	
Defendant.	)	

PRELIMINARY INJUNCTION

Upon motion by plaintiff, the United States of America, the Court makes the following findings of fact and conclusions of law and enters this preliminary injunction against defendant Ronald M. Green, doing business as Peoples Rights Trusted Tax Services and Economic Empowerment for All People.

Standards for Preliminary Injunction

In a statutory-injunction action such as this, the moving party must demonstrate that the statute has been violated and that there is a reasonable likelihood of future violations.

To obtain an injunction under Internal Revenue Code (I.R.C.) (26 U.S.C.) § 7407, the United States must show that a return-preparer has continually or repeatedly: (1) violated § 6694, which prohibits the preparation or submission of a return containing an unrealistic position, (2) violated § 6695, which mandates that return preparers furnish their identifying numbers, keep copies of returns prepared or a list of customers for whom returns were prepared, and produce the copies of returns or the customer list to the IRS upon request, (3) misrepresented

his experience or education as a tax return preparer, or (4) engaged in any fraudulent or deceptive conduct substantially interfering with the proper administration of the internal revenue laws. In addition, the United States must show that a narrower injunction prohibiting only the specific misconduct would be insufficient to prevent further interference. *See* I.R.C. § 7407.

To obtain a preliminary injunction under I.R.C. § 7408, the United States must show that defendants have engaged in conduct subject to penalty under §§ 6700 or 6701 and that injunctive relief is appropriate to prevent the recurrence of such conduct.

For a preliminary injunction under § 7402(a), the United States must show that an injunction is necessary or appropriate for the enforcement of the internal revenue laws.

Alternatively, under the Fourth Circuit's equitable test for injunctions, this Court will issue injunctive relief if the following factors weigh in favor of such relief: (1) the likelihood of irreparable harm to the plaintiff if the preliminary injunction is denied, (2) the likelihood of harm to the defendant if the requested relief is granted, (3) the likelihood that the plaintiff will succeed on the merits, and (4) the public interest. *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991).

Findings of Fact

Based on the evidence and the parties' arguments, the Court finds as follows:

1. Green is doing business as Peoples Rights Trusted Tax Services and Economic Empowerment for All People.

2. Green prepares fraudulent federal tax returns for customers.

3. For some customers, Green reports the customer's income on an IRS Form 1041, U.S. Income Tax Return for Estates and Trusts, instead of a Form 1040, U.S. Individual Income Tax

Return, as if the customer's income belongs to a trust, and deducts non-deductible expenses to reduce or eliminate the income and claim a refund.

4. For others, Green reports the customer's income on a Form 1040, but deducts trust-related expenses and other non-deductible expenses to reduce or eliminate the customer's income and to claim a refund.

5. Green also prepares IRS Forms 2555, Foreign Earned Income, falsely reporting on the Form 2555 that the customer spent the entire tax year living outside the United States and that his or her income is therefore excludible on Form 1040.

6. A Form 1041 is not the proper vehicle for reporting individual income; rather, individuals are required to report their income on Form 1040.

7. The trusts that are the subject of Green's returns either do not exist or lack economic substance and are shams. Green's customers retain complete control over the assets purportedly belonging to the trusts. The only function of these sham trusts is to improperly reduce or eliminate the customer's federal income tax liability.

8. The deductions Green claims on the returns he prepares include such non-deductible personal expenses as cable television bills, cellular telephone bills, clothing, food, car payments, gas, and entertainment.

9. Green attended a seminar conducted by Trust Educational Services (TES), also known as National Trust Services (NTS), in Lancaster, Pennsylvania.

10. Through seminars, called "Trust Academies," conducted nationwide, TES promoted an abusive trust scheme that advocated using sham trusts, Forms 1041, and non-deductible personal expenses to reduce or eliminate income. TES and one of its founders, Roderick A.

Prescott, have been permanently enjoined from organizing, promoting, marketing, or selling their abusive trust scheme. (*United States v. Roderick A. Prescott and Trust Educational Services (TES)*, Civil No. 02-CV-0692 (S.D. Cal.)).

11. Several of Green's customers also attended TES's Trust Academies and purchased purported trust instruments from TES. They then hired Green to prepare returns for their TES-created trusts, which are sham trusts lacking in economic substance.

12. The IRS has identified 87 Forms 1041 and 224 Forms 1040 prepared by Green from 1999 to the present.

13. The IRS has examined returns Green prepared for twelve customers. All of these returns contain significant errors, such as inflated deductions and deductions for personal, non-deductible expenses; the use of a Form 1041 to report individual income; and the use of a Form 2555 to falsely claim that the customer resides outside the United States.

14. The IRS has identified a tax loss of $744,679, excluding penalties and interest, attributable to the returns Green prepared for twelve of his customers.

15. In addition, the IRS erroneously issued refunds totaling $979,135.86 based on the fraudulent returns Green prepared. This amount includes $12,914 in refunds issued to Green's wife Pamela Green and $3,770 issued to Green. It also includes two refund checks, totaling $962,451.86, issued in September 2003 and January 2004; the IRS recovered one of those checks, for $240,964, before it was cashed.

16. The majority of Green's customers reside in Tidewater—in Norfolk, Virginia Beach, Portsmouth, and Chesapeake. He also has customers in New York, Arizona, Maryland, Alabama, Pennsylvania, California, South Carolina, and Texas.

17. Green charges customers up to $1,795 for each return he prepares, plus 10% of any refund, credit, or taxes saved.

18. When their returns are selected for examination, Green advises his customers not to cooperate with the IRS.

19. Green requires some customers to execute a contract agreeing not to disclose any aspect of Green's return preparation service. The contract states that if the customer discloses the contract to anyone, he or she will be liable to Green for "$1,000,000 dollars plus withholding taxes in gold currency . . . ."

20. Green's customers have refused to cooperate with IRS examinations, have failed to appear at scheduled appointments with the IRS, and have refused IRS requests for documents.

21. Green obstructs IRS examinations of the returns he prepares by refusing to provide information to the IRS and by sending frivolous letters to the IRS challenging its authority.

22. On at least one occasion, Green has tried to intimidate IRS personnel.

23. At a September 24, 2002 meeting, IRS Revenue Agent Rick Cook informed Green that trust returns were not the proper vehicle for reporting individual income and that the law requires individuals to file Forms 1040.

24. The United States filed suit, *United States v. Ronald M. Green*, Case No. 2:03-cv-463, in this Court on July 1, 2003, to recover the erroneous refunds issued to Green; on January 7, 2004, the Honorable Jerome B. Friedman entered default judgment in favor of the United States for the erroneous refunds.

25. The United States filed suit, *United States v. Pamela Green*, in this Court on April 17, 2003 to recover the erroneous refunds issued to Pamela Green; on March 15, 2004, the parties entered into a consent judgment in favor of the United States.

Conclusions of Law

Based on the evidence presented by the United States and Green, the Court finds that Green is engaging in conduct subject to penalty under I.R.C. §§ 6694 and 6701 and is interfering with the administration of the internal revenue laws. The Court further finds that absent an injunction, Green is likely to continue preparing fraudulent federal tax returns and interfering with the IRS. Green's contract purporting to hold his customer liable to him should they disclose his tax return preparation service and other activities violates public policy and is null and void. Accordingly, the court finds that Green should be preliminarily enjoined under I.R.C. §§ 7407, 7408, and 7402(a).

The Court finds that the United States has presented persuasive evidence that the United States will suffer irreparable harm in the absence of this preliminary injunction and that Green will suffer little, if any, harm if the preliminary injunction is granted. The United States also has presented evidence and argument sufficient to convince the Court that the United States has a high likelihood of success on the merits and that the public interest will be advanced by granting this preliminary injunction. Accordingly, the Court finds that a preliminary injunction under I.R.C. §§ 7407, 7408, and 7402(a) is appropriate under the Court's inherent equitable powers.

Order

Based on the foregoing factual findings and for good cause shown, the Court ORDERS

A. That, pursuant to I.R.C. § 7407, Green is enjoined from preparing federal income tax returns during the pendency of this action;

B. That, pursuant to I.R.C. §§ 7402(a) and 7408, Green, individually and doing business under any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, are enjoined during the pendency of this action from directly or indirectly:

1. Preparing and/or assisting in the preparation of a document related to a matter material to the internal revenue laws, including federal tax returns and related documents, that includes a position that he knows or has reason to know will, if used, result in an understatement of tax liability;
2. Advocating or promoting the use of Form 2555 when the individual has no foreign earned income, the use of Form 1041 to report individual income, or the use of sham trusts to reduce federal income tax;
3. Engaging in any other activity subject to penalty under I.R.C. § 6701;
4. Entering into a contract which purports to restrict any person from openly discussing his return preparation service and related activities;
5. Attempting to enforce, through a law suit or other means, any contract that purports to restrict any person from openly discussing his return preparation service and related activities;

6. Engaging in other conduct interfering with the enforcement of the internal revenue laws;

7. Corresponding with the IRS on behalf of any other person; and

8. Representing any other person or appearing with any other person, except in regard to his own tax liability, before the IRS;

C. That, pursuant to I.R.C. § 7402(a), within 20 days after the issuance of this Preliminary Injunction, Green SHALL (Acm) send a letter in the form attached hereto as Attachment A, along with a copy of this Preliminary Injunction, by mail to all individuals who have purchased his tax return preparation service, or any other tax-related shelter, plan, or arrangement in which he has been involved, and to all individuals who have entered into a contract with him in which the individual promised not to disclose information regarding Green's services. Green shall bear all costs associated with this mailing;

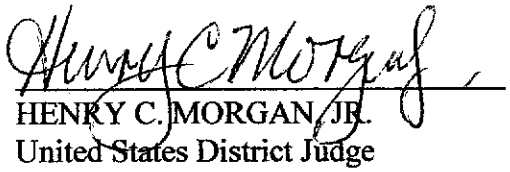
D. That, pursuant to I.R.C. §§ 7402(a) and 7407, Green SHALL (Acm) produce to counsel for the United States, on or before July 6, 2004, a list identifying by name, taxpayer-identification number, address, and telephone number all individuals and entities for whom he has prepared federal tax returns and all individuals who have purchased his tax return preparation service or any other tax-related shelter, plan, or arrangement in which he has been involved;

E. That, pursuant to I.R.C. § 6695, Green SHALL (Acm) produce to counsel for the United States, on or before July 26, 2004, copies of all federal tax returns he has prepared for any person from January 1, 1999, to the present;

F. That, within 11 days after completing the requirements listed *supra* in paragraphs C through E, Green shall file with the Court an affidavit certifying his compliance with those requirements; and

G. That the United States is permitted to conduct discovery to monitor Green's compliance with this Preliminary Injunction.

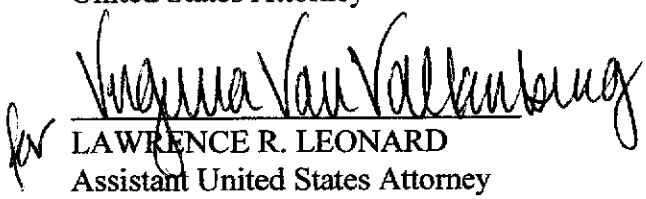
SO ORDERED this 30th day of June, 2004.



HENRY C. MORGAN, JR.
United States District Judge

Prepared and submitted by:

PAUL J. McNULTY
United States Attorney



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[DATE]
[NAME AND MAILING ADDRESS OF CUSTOMER]

NOTICE TO CUSTOMERS OF RONALD M. GREEN

The United States District Court for the Eastern District of Virginia has entered an order called a Preliminary Injunction against Ronald M. Green. A copy of the Preliminary Injunction is enclosed. You are receiving this notice because Mr. Green has identified you as one of his customers.

In the Preliminary Injunction, the Court ordered Mr. Green not to prepare federal tax returns for anyone and not to communicate with the IRS regarding anyone other than himself. The Court has also ordered Mr. Green to give the Government a list of his customers, which includes you, and copies of the returns he prepared for his customers.

The Court has found that Mr. Green prepared fraudulent federal tax returns. If Mr. Green prepared fraudulent returns for you, you may be subject to civil or criminal tax penalties, or both. You may wish to contact a licensed attorney or certified public accountant to determine whether the returns Mr. Green prepared for you were fraudulent and what you should do to correct any fraudulent returns.

The Court also found that an agreement Mr. Green had with some of his customers, which said that the customers would owe Mr. Green money or gold currency if they discussed his return preparation service with anyone, cannot be enforced. If you entered into such an agreement with Mr. Green, be aware that Mr. Green cannot enforce that agreement. You are free to discuss Mr. Green's return preparation service with anyone and Mr. Green cannot force you to pay him any money.

If you have any questions about this Preliminary Injunction, you should contact Gregory Van Hoey, Trial Attorney, U.S. Department of Justice, Tax Division, at (202) 307-6391.

Enclosure (Preliminary Injunction)

ATTACHMENT A