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FILED
2004 MAR -9 AM 10:15

IN THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

United States,

Plaintiff,

Anthony L. Hargis individually and dba Anthony L. Hargis & Co.,

Defendants.

Case No.

SACV04-00273 AHS (MLGx)

United States v. Anthony L. Hargis et al.

Complaint

Complaint

Plaintiff United States of America, for its complaint against defendants Anthony L. Hargis and Anthony L. Hargis & Co (A.L.H.), states as follows:

Jurisdiction and Venue

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402 and 7408.

2. This suit is brought under 26 U.S.C. §§ 7402 and 7408 to restrain and enjoin Hargis from:

a. Engaging in activity subject to penalty under 26 U.S.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the tax benefits of participating in the plan that he knows or has reason to know is false or fraudulent as to any material matter;

b. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws through the promotion of a false tax scheme.

3. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General under 26 U.S.C. §§ 7402 and 7408.

4. Hargis conducts business as Anthony L. Hargis & Co., an unincorporated business entity with an office at 17220 Newhope Street, Suite 201, Fountain Valley, California, within this judicial district.

5. On information and belief, Hargis resides in or around Fountain Valley, California, within this judicial district.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396.

Hargis's Warehouse Banking Scheme

7. Hargis promotes and markets a "warehouse banking scheme" over the Internet at www.anthonyhargis.com.

8. Hargis promotes and operates this warehouse banking scheme to aid his customers in evading federal taxes and in hiding their income, assets, expenditures, and identities from the IRS.

9. The homepage of this website describes various services offered by A.L.H., including "developing legal arguments to demonstrate the unconstitutionality of the Internal Revenue Code."

10. At the services section of the website entitled "income tax," potential customers are invited to read an essay entitled "'American Inquisition,' which purports to demonstrate the unconstitutionality of all INTERNAL TAXES."

11. The income tax link to the services section states that by "examining the debates in Congress in 1909, pertaining to the origin of the 16th Amendment, we find some half dozen reasons why the Income tax - and all INTERNAL taxes - are unconstitutional."

12. The services section entitled "private banking" states that the "most comprehensive and subtle means by which people are enslaved is effected by central banking. As long as we continue to use Federal Reserve Notes and Federal Reserve bank accounts, we continue to feed the bandits of mankind."

13. The website section entitled "Alternative" invites potential customers to open an A.L.H. bank account if "you want to boycott the pathological segment of society by denying the use of your resources (represented by your current cash)." This section also encourages potential customers to set up an A.L.H. bank account

"[i]f you don't want your assets to finance socialists and give-away programs" and need "financial privacy."

14. The website section entitled "Alternative" also describes how Hargis's warehouse banking scheme works. Potential customers are told that for a fee, they can open a "current gold account," which is a "numbered account in which a customer has gold on deposit at Anthony L. Hargis & Co. (We also offer accounts denominated in Federal Reserve units.)"

15. At this website section, customers seeking to set up an A.L.H. bank account are instructed to deposit gold coins or federal reserve notes (dollars), which, they are told, will be converted to grams of gold at the current exchange rate.

16. At this website section, potential customers are told that once an A.L.H. bank account is established, they can instruct their customers or employers to pay A.L.H. directly for their goods and services: "continue submitting your invoices or bills to your employer or customers as before, but with a notice to make checks payable to [Anthony L. Hargis or A.L.H, or Hargis's affiliate, Leon Steinhardt or L.R.S.]. Your invoices will continue to carry your name, but the checks you will receive will carry our name."

17. At this website section, potential customers are also instructed that if their customers or employers refuse to make checks payable to ALH alone, "an acceptable alternative is [your name] or Anthony L. Hargis, etc."

18. At this website section, potential customers are also informed that they can use A.L.H. checks to pay their bills. Customers can do so by completing a "transfer order (T.O) indicating how much and to whom the bill should be paid.

Put the T.O. and the invoice in an unsealed, stamped envelope (addressed to the payee) and deliver to A.L.H. & Co. for processing."

19. At this website section, customers seeking to "open an account with a fictitious name" are instructed to send A.L.H. a "signed statement that the applicant is also known as (the fictitious name) and . . . that the individual(s) controlling the account has (have) the authority to do so.

20. Under this scheme, A.L.H. bank customers give money to Hargis, who puts all customers' commingled money into accounts at commercial banks.

21. A.L.H.'s customers use the A.L.H. warehouse bank not only for their personal banking needs, but for a variety of businesses including martial arts instruction, lawn equipment sales and repair, chiropractic services, home and building inspection, landscaping, car repair, real estate appraisal, real estate management, software development, carpet cleaning, vitamin sales, and catering.

22. In order to serve its approximately 253 customers, A.L.H currently has accounts in at least 9 commercial banks in California and Texas.

23. In 2001 alone, the year-end balance for A.L.H.'s deposits in these commercial bank accounts was approximately $7,174,498.

24. As stated in the website, the commercial bank accounts are not in the bank customers' names. Instead, the accounts are held in the names of Hargis and associates who assist him in this scheme.

25. After opening accounts at commercial banks, Hargis's associates sign over blank checks to Hargis, who uses these signed checks to draw money from the various commercial bank accounts to pay the warehouse bank customers' bills.

26. Under this scheme, once an account is established, A.L.H. customers instruct their employers and customers to make checks payable not to them personally but to A.L.H. or Hargis's associates.

27. Because A.L.H. customers can set up accounts using fictitious names, the IRS is unable to readily identify A.L.H.'s customers or the money that they have deposited into the bank. Because A.L.H.'s customers' identities are concealed, the IRS cannot levy on A.L.H.'s customers' bank accounts to satisfy their outstanding federal tax liabilities.

28. A.L.H. customers instruct their employers and customers to make checks payable to A.L.H. or Hargis's affiliates for deposit in an A.L.H. account, and thus do not deposit checks for their services in commercial accounts bearing their name. Accordingly, the IRS is unable to readily identify A.L.H. customers' sources of income.

29. For A.L.H.'s customers who operate businesses but do not file federal income tax returns, the IRS is unable to determine their federal taxable income because A.L.H. commingles customers' funds in various accounts and refuses to provide account information to the IRS.

30. In addition, because A.L.H. customers' funds are commingled into various accounts with Hargis and his associates having exclusive knowledge of individual depositor information, the IRS is unable to determine the exact amount individual A.L.H. customers have deposited in the bank.

31. Because A.L.H. customers can use an A.L.H. account to pay bills, the IRS is unable to identify A.L.H customers' expenditures.

32. Because A.L.H. guarantees "financial privacy" to its customers and falsely asserts that the IRS does not have the right to summons the warehouse bank's records, Hargis and his associates have refused to turn over the A.L.H. bank customer list or any other summoned information to the IRS. Thus, the IRS is unable to determine the income, assets, expenditures, or identities of A.L.H.'s customers.

33. Hargis knows or should know that in *Nat'l Commodity and Barter Assn./Nat'l Commodity Exch. v. United States,* 843 F.Supp. 655 (D.Colo. 1993), *aff'd*, 42 F.3d 1406 (10th Cir. 1994)(unpublished decision, available at 1994 WL 664970 (10th Cir. 1994)), *cert. denied*, 516 U.S. 807 (1995), the court held that a virtually identical warehouse bank was established to thwart enforcement of the tax laws and was subject to penalties under 26 U.S.C. § 6700.

Harm to the Government

34. Hargis and his associates have refused to turn over the ALH bank customer lists or any information sought by IRS summonses.

35. Based on information the IRS has received from commercial banks where Hargis holds some of his customers' funds, the IRS estimates that A.L.H. has at least 253 warehouse bank customers.

36. Of these 253 warehouse bank customers, the IRS has already identified 14 customers who have substantial unpaid federal tax debts, ranging from $17,000 to $411,000.

37. The IRS conservatively estimates that the total federal tax debt incurred by ALH's 14 identified customers alone is $1,363,267, for an average federal tax debt of $97,376 per customer.

38. Based on an average debt of $97,376 and a client base of 253 customers, the IRS conservatively estimates that the total tax debt of those participating in Hargis's scheme to hide income and assets from the IRS is at least $24,636,128.

39. In addition to failing to pay their federal tax liabilities, Hargis and his associates, as well as several identified bank customers, have failed to file federal income tax returns when lawfully required to do so.

40. As noted above, the IRS has already identified 14 A.L.H. customers who use A.L.H. bank accounts to hinder the IRS's ability to collect on their estimated $1,363,267 federal tax debt. This figure does not include the damage caused by other A.L.H. customers who, after incurring substantial federal tax liabilities, have used or will use the bank to hide their income, assets, and expenditures from the IRS.

41. Because Hargis and his associates have refused to turn over the A.L.H. customer list, the IRS will have to devote substantial resources to identifying A.L.H's customers, some of whom may not be detected, and thus evade paying federal tax, by the very "financial privacy" promised by this elaborate scheme. Moreover, because Hargis continues to aggressively market the warehouse bank worldwide over the Internet, the government's damages will increase exponentially if Hargis is not enjoined quickly.

42. Hargis continues to promote this false and fraudulent scheme, even after the IRS informed him that his warehouse bank is illegal and interferes with the proper enforcement of the internal revenue laws.

Count I

(Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6700)

43. The United States incorporates by reference the allegations in paragraphs 1 through 42.

44. 26 U.S.C. § 7408 authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under 26 U.S.C. § 6700 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

45. 26 U.S.C. § 6700 penalizes any person who organizes or sells a plan or arrangement and makes, in connection with organizing or selling the plan or arrangement, a statement regarding the excludibility of income or securing of other tax benefit that the person knows or has reason to know is false or fraudulent as to any material matter.

46. Hargis sells a fraudulent tax scheme. In selling this fraudulent tax scheme, Hargis falsely promises customers that they can legally put their income and assets beyond the reach of the IRS through the warehouse bank. Hargis knows or has reason to know that his programs and program materials contain false or fraudulent statements within the meaning of 26 U.S.C. § 6700.

47. If he is not enjoined from promoting the warehouse bank scheme describe above, Hargis is likely to continue engaging in conduct subject to the § 6700 penalty and continue aiding his customers in hiding their assets and income from the IRS.

Count II

(Unlawful Interference with the Enforcement of the Internal Revenue Laws)

48. The United States incorporates by reference paragraphs 1 through 47.

49. Through the conduct described above, Hargis has engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws. Even after being told by the IRS that he is engaging in conduct subject to penalty, Hargis has refused to stop promoting the fraudulent warehouse bank, conduct that substantially interferes with enforcement of the internal revenue laws. Unless enjoined by this Court, Hargis is likely to continue to engage in such conduct. Hargis's conduct is causing irreparable injury to the United States, and the United States has no adequate remedy at law:

a. Hargis's conduct, unless enjoined, is likely to cause a substantial loss of revenue to the United States Treasury. Unless he is enjoined, the IRS will have to expend substantial time and resources to determine the income, assets, and expenditures of A.L.H. customers who have incurred substantial federal tax liabilities.

b. The identification of and determination of the income, assets, and expenditures of A.L.H. customers with substantial federal tax liabilities will place a serious burden on the IRS's resources. Even if all of A.L.H's customers are identified and their income, assets, and expenditures determined, the IRS may not be able to collect all taxes and penalties due.

c. If Hargis is not enjoined, he likely will continue to engage in conduct that substantially interferes with the enforcement of the internal revenue laws.

WHEREFORE, plaintiff, the United States of America, respectfully prays for the following:

A. That the Court find that Hargis has engaged in conduct subject to penalty under 26 U.S.C. § 6700, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

B. That this Court, under 26 U.S.C. §§ 7402 and 7408, enter a permanent injunction prohibiting Hargis, individually and doing business as A.L.H., or

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

a. Engaging in activity subject to penalty under 26 U.S.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the tax benefits of participating in the plan that he knows or has reason to know is false or fraudulent as to any material matter; and

b. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws through the promotion of a false tax scheme.

C. That this Court, under 26 U.S.C. §§ 7402 and 7408 enter an injunction requiring Hargis to contact by mail (and also by e-mail, if an address is known) all individuals who have purchased his abusive tax plan and inform those individuals of the Court's findings concerning the falsity of Hargis's prior representations and attach a copy of the permanent injunction against Hargis and his associates and related entities;

D. That this Court, under 26 U.S.C. §§ 7402 and 7408 enter an injunction requiring Hargis to produce to the United States any records in his possession or to which he has access, identifying the persons who have purchased his abusive tax plan, arrangement, or program (purchased either directly from him or from his associates or related entities);

E. That this Court, under 26 U.S.C. §§ 7402 and 7408 enter an injunction requiring Hargis and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, to remove from his website all abusive tax scheme promotional materials and false commercial speech, to display prominently on the first page of his website a complete copy of

the Court's permanent injunction, and to maintain the website for one year with a complete copy of the Court's permanent injunction so displayed throughout that time;

F. That this Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and

G. That this Court grant the United States such other relief, including costs, as is just and equitable.

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