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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA

UNITED STATES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
DERRICK H. SANDERS,	)	1 05-CV 2458
	)	
Defendant.	)	

Complaint and Request for Injunctive Relief

This is a civil action brought by the United States to permanently enjoin Derrick Sanders from promoting a tax-fraud scheme.

Jurisdiction and Venue

1. Jurisdiction is conferred on this Court by 28 U.S.C.§§ 1340 and 1345 and 26 U.S.C. §§ 7401, 7402(a) and 7408.

2. This action has been requested by the IRS Chief Counsel, 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. §§ 7401, 7402, and 7408.

3. Sanders resides at 520 Lynn Valley Road SW, Atlanta, Georgia. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396.

Facts Common to all Counts

4. Sanders promotes a tax-fraud scheme that involves preparing for his customers documents that falsely claim the customers are exempt from federal income taxation.

5. Sanders, a.k.a. Dr. Derrick H. Sanders El, claims to be the Grand Master Consul of an entity he calls the Yamassee Native Americans of Eatonton, Georgia.

6. On information and belief, the purported Yamassee Native Americans claim to be descended from Egyptians and a group of Native Americans known collectively as the Yamassee, which settled along the northern Georgia and southwest South Carolina coast in the 1600s.

7. On information and belief, the Yamassee Native Americans were initially formed as a group called the Nuwaubian Nation of Moors, based in Eatonton, Georgia.

8. Sanders falsely claims that the purported Yamassee Native Americans are an indigenous Native American tribe whose members are nonresident aliens not subject to the jurisdiction of the United States and exempt from federal income taxation.

9. As part of his tax-fraud scheme, Sanders prepares for his customers, who are U.S. citizens, documents in which customers claim to be "nationalized" citizens of the Yamassee Native American government.

10. On information and belief, Sanders prepares and provides to his customers a Substitute IRS Form W-8BEN, "Certificate of Foreign Status of Beneficial Owner for United States Withholding." On information and belief, Sanders instructs his customers to file these forms with the IRS and provide them to their employers in claiming that they are exempt from federal income taxation, including withholding.

11. On October 13, 2004, Sanders signed, on his own behalf, a Substitute IRS Form W-8BEN in which he lists an Atlanta address but claims that he is a resident of "Yamassee Native America" and is not "a U.S. person," and that "the income to which this form relates is not effectively connected with the conduct of a trade or business in the United States."

12. The IRS had received 36 Forms W-8BEN from Sanders's customers, who improperly claimed that they were exempt from federal income taxes.

13. Although Sanders's customers purport to be Yamassee Native Americans, almost all of his customers who filed fraudulent IRS Forms W-8BEN live in or around Philadelphia, Pennsylvania.

14. Native Americans are United States citizens and generally are subject to federal income tax in the same manner as other U.S. citizens, absent specific exemption by treaty or statute.

15. The Yamassee Native Americans have not been recognized as an Indian tribe by the Bureau of Indian Affairs, do not have a treaty with the United States, and are not listed as a recognized Indian tribe in IRS Revenue Procedure 2002-64.

16. Under the Internal Revenue Code, an IRS Form W-8BEN may be used only by foreign persons who seek to claim a reduced rate or exemption from withholding as a resident of a foreign country with which the United States has an income tax treaty.

17. The Form W-8BEN may not be used by United States citizens, including Native Americans.

Count I

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

18. The United States incorporates by reference the allegations in paragraphs 1 through 17.

19. 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.

20. 26 U.S.C. § 6700 penalizes any person who organizes or sells a plan or arrangement and, in connection with the organization or sale, makes a statement regarding any tax benefit which the person knows or has reason to know is false or fraudulent as to any material matter.

21. Sanders has organized a tax-fraud scheme that he falsely claims will enable customers to avoid the assessment and collection of federal taxes.

22. In organizing his tax-fraud scheme, Sanders has made false or fraudulent statements regarding the tax consequences of the scheme, including false statements concerning the customers' status as U.S. taxpayers and their obligation to pay federal income taxes.

23. Sanders knows or has reason to know that his tax-fraud scheme contains false or fraudulent statements within the meaning of 26 U.S.C. § 6700.

24. If he is not enjoined, Sanders is likely to continue to organize his tax-fraud scheme.

Count II

Injunction under I.R.C. § 7408 for Violation of I.R.C. § 6701

25. The United States incorporates by reference the allegations in paragraphs 1 through 24.

26. 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. § 6701 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

27. 26 U.S.C. § 6701 penalizes any person (1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; (2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and (3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person.

28. Sanders prepares or assists in the preparation of documents known as IRS Forms W-8BEN for his customers.

29. Sanders knows or has reason to believe that these documents will be filed with the IRS and given to employers, and thus that the documents will be used in connection with a material matter arising under the internal revenue laws.

30. Sanders knows that the documents he prepares will, if used, result in his customers understating their tax liability.

31. If Sanders is not enjoined, he is likely to continue to engage in conduct which violates § 6701.

Count III

Unlawful Interference with the Enforcement of the Internal Revenue Laws

32. The United States incorporates herein as if fully restated, the allegations in paragraphs 1 through 31.

33. Sanders, through the conduct described above, has engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws. Unless enjoined by this Court, Sanders is likely to continue to engage in such conduct. Sanders' conduct is causing irreparable injury to the United States, and the United States has no adequate remedy at law.

34. The United States is entitled to injunctive relief under 26 U.S.C. § 7402(a).

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

A. That the Court find that Sanders has engaged in conduct subject to penalty under 26 U.S.C. §§ 6700 and 6701, and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent him and anyone acting in concert with him from engaging in any further such conduct;

B. That the Court find that Sanders has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief

against him and anyone acting in concert with him is appropriate to prevent recurrence of that conduct, under the Court's inherent equity powers and 26 U.S.C. § 7402(a);

C. That the Court, under 26 U.S.C. § 7408, enter a permanent injunction prohibiting Sanders and his representatives, agents, servants, employees, and those persons in active concert or participation with him, from, directly or indirectly, by means of false, deceptive, or misleading commercial speech:

(1) Organizing, promoting, marketing, or selling (or assisting therein) the tax shelter, plan, or arrangement, set forth in this Complaint, or any other abusive tax shelter, plan or arrangement that incites taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities or unlawfully claim improper tax refunds;

(2) In connection with promoting a tax scheme, stating that Native Americans are not subject to federal income tax;

(3) In connection with promoting a tax scheme, stating that any United States citizen, including any Native American, can use the IRS Form W-8BEN;

(4) Further engaging in any conduct subject to penalty under 26 U.S.C. § 6700, *i.e.,* making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement he knows or has reason to know is false or fraudulent as to any material matter;

(5) Further engaging in any conduct subject to penalty under 26 U.S.C. § 6701, *i.e.,* 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 he knows will (if so used) result in the understatement of income tax liability;

(6) Further engaging in any conduct that is subject to penalty under any provision of the Internal Revenue Code or that otherwise interferes with the administration and enforcement of the internal revenue laws by the Internal Revenue Service; and

D. That this Court, under 26 U.S.C. § 7408, enter an injunction requiring Sanders to contact, within 14 days of the entry of this Order:

(1) all persons to whom he gave, sold, or distributed any materials, forms, or services related to the tax-fraud scheme he promoted; and

(2) all persons who contacted Sanders, or whom Sanders contacted, regarding the tax-fraud scheme described above (in paper form, via telephone, or through electronic means);

and inform those persons of the entry of the Court's findings concerning the falsity of Sanders's representations, the possibility of the imposition of penalties against them, and the fact that a permanent injunction has been entered against Sanders. Sanders must file with the Court a certificate of compliance under penalty of perjury with this portion of the Order, within 18 days of the entry of this Order.

E. That this Court, under 26 U.S.C. §§ 7402 and 7408, enter an injunction requiring Sanders, within 14 days of the entry of this Order, to turn over to the United States a list that identifies (1) the persons to whom he gave or

sold, directly or indirectly, any materials related to the tax-fraud scheme described above, (2) the persons who assisted in the marketing or preparation of materials used by Sanders or written materials sent to potential customers, (3) any individuals or entities who purchased or used any other tax shelter, plan, or arrangement in which Sanders has been involved; and (4) the names, addresses, e-mail addresses, telephone numbers, and Social Security numbers of all such persons;

F. That this Court allow the government full post-judgment discovery to monitor Sanders's compliance with the injunction; and

G. For such other and further relief as this Court may deem just and

appropriate under the circumstances.

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