

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 5:03-cv-436-Oc-10GRJ

EDDIE RAY KAHN, a/k/a EDDIE RAY, a/k/a
EDDIE RAY: HOUSE OF KAHN; MILTON
HARGRAVES BAXLEY, II; BRYAN
MALATESTA; KATHLEEN KAHN, a/k/a
KOOKIE KAHN; DAVID STEPHEN LOKIETZ,
a/k/a DAVID-STEPHEN: HOUSE OF
LOKIETZ; AMERICAN RIGHTS LITIGATORS,
a purported trust; GUIDING LIGHT OF GOD
MINISTRIES, a purported corporation sole;
and EDDIE KAHN AND ASSOCIATES, a
purported limited liability corporation,

Defendants.

FILED
DEC 29 PM 3:53
CLERK OF DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA, FLORIDA

PRELIMINARY INJUNCTION

The United States seeks a preliminary injunction against the Defendants prohibiting a variety of activities allegedly being carried on by them in frustration of the Internal Revenue Service in its enforcement of the Internal Revenue Code.

Jurisdiction exists under 28 USC §§ 1340 and 1345, and 26 USC §§ 7402(a) and 7408(a). Venue is appropriate because many of the Defendants' activities are managed from, or carried on in, Lake County, Florida, and three of the individual Defendants reside there.

Notice was given and a hearing was conducted in open court on Friday, December 19, 2003, upon the United States' application for preliminary injunctive

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relief. All five of the named individual Defendants appeared and were heard during that hearing.

To obtain preliminary injunctive relief, the United States must establish: (a) a substantial likelihood of success on the merits; (b) irreparable injury if the Defendants are not enjoined; (c) that the Defendants will not suffer substantial injury or harm if enjoined; and (d) that the public interest will be served. Upon due consideration, the Court finds that the affidavits and other papers filed by the United States are sufficient to establish each of these requirements, and the Government is therefore entitled to some (but not all) of the preliminary relief it seeks.

Findings of Fact¹

1. Defendants Eddie Ray Kahn, Milton Hargraves Baxley, II, Bryan Malatesta, Kathleen Kahn, David Stephen Lokietz, American Rights Litigators (ARL), Guiding Light of God Ministries (GLGM), and Eddie Kahn and Associates organize and sell, or participate in the organization and sale of, several “abusive tax schemes,”² including counterfeit checks and bonds, UCC-financing statements and related documents, corporations sole, and an IMF/BMF decoding package.

2. Defendants interfere with the administration of the internal revenue laws through their abusive tax schemes and through frivolous and harassing letters

¹ These facts are found on the basis of the papers filed to date and for the purpose of preliminary injunctive relief. All such findings are subject to alteration in all later stages of the case based upon the evidence, or lack of evidence, presented at that time.

² The term “abusive tax schemes” means any transaction or course of conduct designed or intended to obstruct or frustrate the employees and agents of the Internal Revenue Service in carrying out their duties relating to the enforcement of the internal Revenue Code.

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directed to the IRS and to third parties, false and frivolous complaints to the Treasury Inspector General for Tax Administration (TIGTA), assisting customers in hiding assets from the IRS in corporations sole, advising customers to obstruct IRS examinations and collections, and advising customers to not file federal tax returns or pay federal taxes.

3. Defendants promote their abusive tax schemes through seminars, web-based radio shows, and the Internet, including the following websites: www.eddiekahn.com, www.taxtruthnews.com, www.glgm.org, and www.eddiekahnoverseer.org.

4. Defendants charge customers for products and services related to their abusive tax schemes.

5. Defendants make or caused to be made false and fraudulent statements concerning the tax benefits to be derived from their abusive tax schemes, including that:

- a. ARL/GLGM's counterfeit checks are "valid forms of payment." Declarations and Attachments in Support of United States' Motion for TRO and Preliminary Injunction, Tab 11, Declaration of Marion L. Goyette, Ex. A at 43.
- b. The Government maintains a "Treasury Direct Account" for each American. Tab 11, Goyette Decl., Ex. A at 6.
- c. By using a corporation sole, customer's income becomes tax-exempt and their assets become collection-proof.
- d. A corporation sole is "Something the IRS Cannot Touch." Tab 11, Goyette Decl., Ex. A at 60.
- e. What the IRS does "to collect money is usually not correct. They don't want the public to understand that much less

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[sic] understand how to expose their deceptive tax practices. Therefore, they would rather let a person go than to let such information become public knowledge even if the amount the person supposedly owes is one million dollars.” Tab 11, Goyette Decl., Ex. A at 90.

- f. The IRS cannot answer the question “What Specific Tax Form Am I Required by Law to File?” Tab 11, Goyette Decl., Ex. A at 92.
 - g. “There is no law that requires anyone to file a 1040 form.” Tab 3, Declaration of Barbara Cantrell, Ex. B at 76.
 - h. Sending ARL/GLGM’s blank POA package to the IRS “eliminat[es] willful failure to file a tax return and tax evasion [charges].” Tab 3, Cantrell Decl., Ex. B at 132.
 - i. “Based on our research, no American is liable for Individual Income Tax.” Tab 3, Cantrell Decl., Ex. B at 148.
 - j. Kahn’s “registered bills of exchange” and “registered bonds” can be used to satisfy tax liabilities. Tab 11, Goyette Decl., Ex. A at 5.
 - k. “Anyone can create their own corporation sole and take advantage of all its inherent benefits.” Tab 11, Goyette Decl., Ex. A at 61.
 - l. “[A] corporation sole has no filing requirements with the Internal Revenue. It has no requirement to file taxes. So the money is flowing through [the corporation sole] just on a tax-free basis, it works like a ministry.” Tab 14, Transcript from CD of Kahn Broadcast at 62:17-63:8.
6. Defendants’ false or fraudulent statements pertain to a material matter:
the assessment and collection of federal tax.
7. Defendants did not cease their abusive tax scheme promotion or interference with the administration of the internal revenue laws even after two of their

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customers were convicted of tax crimes and Baxley was sanctioned by two federal district courts.

8. Defendants have prepared documents for filing with or presentation to the IRS, including counterfeit checks, counterfeit bonds, and frivolous letters, that they knew would, if accepted, result in understatement of tax liability. Defendants' preparation of these documents has substantially interfered with the administration of the internal revenue laws.

9. Absent this Preliminary Injunction Defendants are unlikely to stop their abusive tax scheme promotion or their interference with the administration of the internal revenue laws.

Conclusions of Law

Based upon these findings, the Court concludes that Eddie Ray Kahn, Milton Hargraves Baxley, II, Bryan Malatesta, Kathleen Kahn, David Stephen Lokietz, ARL, GLGM, and Eddie Kahn and Associates are engaging in conduct subject to penalty under 26 USC §§ 6700 and 6701 and are interfering with the administration of the internal revenue laws. Accordingly, the court finds that the Defendants should be preliminarily enjoined under 26 USC §§ 7408 and 7402(a).

The Court concludes that the United States has presented persuasive evidence that the United States and the public will suffer irreparable harm in the absence of this preliminary injunction and that Defendants 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

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of success on the merits and that Defendants' tax positions are frivolous. Further, the United States has presented credible evidence and argument that shows the public interest will be served through granting this preliminary injunction. Finally, the evidence presented shows that absent this preliminary injunction, Defendants will continue to violate 26 USC §§ 6700 and 6701 and to interfere with the administration of the internal revenue laws. Accordingly, the Court concludes that a preliminary injunction under 26 USC §§ 7408 and 7402(a) is necessary and appropriate for the enforcement of the internal revenue laws.

ORDER

The Court ORDERS and DECREES pursuant to 26 USC § 7408 that each of the Defendants, their agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are hereby preliminarily enjoined, directly or indirectly, from:

1. Preparing or assisting in the preparation of correspondence to the IRS on behalf of any other person or entity;
2. Preparing or assisting in the preparation of UCC forms purporting to give the customer a security interest in his or herself, own name, own birth certificate, or own property;
3. Selling or organizing any business arrangement, including corporations sole, that encourages noncompliance with the income tax laws, misrepresents the tax savings realized by using the arrangement, or conceals the receipt of income; or selling any purported draft check, bond or other similar instrument to be used by the purchaser to pay federal taxes;

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4. Preparing or assisting in the preparation of complaints to TIGTA;
 5. Preparing or assisting in the preparation of FOIA and Privacy Act requests on behalf of any other person or entity;
 6. Representing any other person or entity before the IRS;
 7. Preparing or assisting in the preparation of documents purporting to “decode” IRS files;
 8. Falsely advising anyone that they are not required to file federal tax returns or pay federal taxes; and
 9. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

The Court further ORDERS pursuant to I.R.C. § 7402(a) that Defendants produce to the United States any records in their possession or to which they have access identifying by name, Social Security numbers, and address the members of ARL/GLGM and the persons who have purchased Defendants’ abusive tax shelters, plans, arrangements or programs. The individual Defendants must each file a sworn certificate of compliance stating that he or she has complied with this portion of the Order, within twenty (20) days of the date of this Order.

The Court further ORDERS pursuant to 26 USC § 7402(a) that Defendants, jointly and/or individually, and their representatives agents, servants, employees, attorneys and those persons in active concert or participation with them, prominently and conspicuously display on the first page of any internet website maintained by them a complete copy of this preliminary injunction. The individual Defendants must

each file a sworn certificate of compliance stating that he or she has complied with this portion of the Order, within twenty (20) days of the date of this Order.

The Court further ORDERS that the United States may conduct discovery to ensure Defendants' compliance with this preliminary injunction.³

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida, this 29th day of December, 2003. *at 3:40 p.m.*



UNITED STATES DISTRICT JUDGE

Copies to: All Pro Se Parties
Counsel of Record
Maurya McSheehy



³ This preliminary injunction differs in form from the proposed preliminary injunction submitted by the United States. This should not be interpreted to mean, however, that a specific behavior requested to be enjoined by the United States, but not granted, is, for that reason, permissible conduct. Such conduct may be covered by other portions of this preliminary injunction, or may yet be included in the final decree if the United States prevails on the merits.

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F I L E C O P Y



Date Printed: 12/29/2003

Notice sent to:

— Anne Norris Graham, Esq.
U.S. Department of Justice
Tax Division
Ben Franklin Station
P.O. Box 7238
Washington, DC 20044

5:03-cv-00436 ail

— Evan J. Davis, Esq.
U.S. Dept. of Justice
Tax Division
P.O. Box 7238
Washington, DC 20044

5:03-cv-00436 ail

— Eddie Ray Kahn
32504 Wekiva Pines Blvd.
Sorrento, FL 32776-9387

5:03-cv-00436 ail

— Kathleen Kahn
32504 Wekiva Pines Blvd.
Sorrento, FL 32776-9387

5:03-cv-00436 ail

— Bryan Malatesta
3717 Commerce Place
Bedford, TX 76021

5:03-cv-00436 ail

— David Stephen Lokietz
176 Lake Franklin Dr.
Mount Dora, FL 32775

5:03-cv-00436 ail