DONALD N. DOWIE, 3576
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-1714
Fax: (202) 514-6770
ATTORNEY FOR UNITED STATES

ORIGINAL FILED

AUG 15 2003

WILLIAM T. WALSH, CLERK

2003 AUG 15 A 9:09

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY

UNITED STATES Plaintiff, v. CLIFTON BEALE, LIGHTHOUSE ESTATE PLANNING TRUST, BEACON TRUST SERVICE, TAX COMPLIANCE SERVICES, LLC and CLIFTON BEALE CONSULTING, LLC, Defendants.	)))))))))))))	Civil No. 03 CV 3880 JBS Judge:

UNITED STATES' COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The plaintiff, the United States of America, alleges as follows:

Parties

1. The plaintiff is the United States of America. Counsel for the United States is located at the U.S. Department of Justice, Tax Division, 555 - 4th Street, NW, Washington, D.C.

2. The defendant Clifton Beale resides at 6102 Forrest Avenue, Pennsauken, New Jersey. He has a regular place of business at P.O. Box 1478, Merchantville, New Jersey. He also regularly conducts business from a post-office box in Abingdon, Maryland. He is within this Court's jurisdiction.

3. The defendant Lighthouse Estate Planning Trust is owned and operated by Clifton Beale. On information and belief, Beale is the trustee, and does business through this trust from his place of business in New Jersey. The exact physical location of Beale's place of business is unknown, but on information and belief, it is at or near his residence at 6102 Forrest Avenue, Pennsauken, New Jersey. It is within this Court's jurisdiction.

4. The defendant Beacon Trust Service, LLC is a limited liability company in the state of Maryland, with an address at 1022 Woodshire Lane, Street, Maryland. Its registered agent is Patricia Vaughan, 1601 Tollgate Road, Bel Air, Maryland. Beacon Trust Service provides services for Clifton Beale's customers, and carries on continuous and systematic business activities within the state of New Jersey. It is within this Court's jurisdiction.

5. The defendant Tax Compliance Services, LLC is a limited liability company in the state of Maryland, with an address at 1601 Tollgate Road, Bel Air, Maryland. The registered agents are John Tselepis and Clifton Beale. On information and belief, Beale operates this company from New Jersey. It is within this Court's jurisdiction.

6. The defendant Clifton Beale Consulting, LLC is a business owned and operated by Beale at his place of business in New Jersey. The exact physical location of Beale's place of business is unknown, but on information and belief, it is at or near his residence at 6102 Forrest Avenue, Pennsauken, New Jersey. It is within this Court's jurisdiction.

Jurisdiction and Venue

7. This Court has jurisdiction over this action under 28 U.S.C. §§ 1340 and 1345 and §§ 7402(a), 7407, and 7408 of the Internal Revenue Code of 1986 (26 U.S.C.) (Internal Revenue Code).

8. 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 of the United States, pursuant to the provisions of IRC §§ 7402, 7407, and 7408.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

10. The United States brings this complaint pursuant to IRC §§ 7402(a), 7408, and 7407 to restrain and enjoin the defendant from:

a. engaging in any activity subject to penalty under IRC § 6700, including organizing or selling a plan or arrangement and, in connection with that activity, making a statement regarding the excludability of income that he knows or has reason to know is false or fraudulent as to any material matter;

b. engaging in any activity subject to penalty under IRC § 6701, including advising others with respect to the preparation of documents related to a matter material under the internal revenue laws, that includes a position that Beale knows will result in the understatement of tax liability;

c. engaging in any other activity subject to penalty under IRC §§ 6700 or 6701;

d. engaging in acts or omissions subject to penalty under IRC §§ 6694 or 6695; and

e. engaging in other, similar conduct that unlawfully interferes with the proper administration and enforcement of the internal revenue laws.

Count I

(Injunction under IRC § 7408 for violations of § 6700 and 6701)

11. IRC § 7408 authorizes a court to enjoin persons who have engaged in conduct subject to penalty under IRC §§ 6700 and 6701.

12. In relevant part, IRC § 6700 imposes a penalty on any person who organizes (or assists in the organization of) any shelter, plan, or arrangement, or participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement; and makes or furnishes or causes another person to make or furnish (in connection with such organization or sale) a statement regarding any deduction, credit, or the excludability of income; which the person knows or has reason to know is false or fraudulent as to any material matter.

13. Section 6701 imposes a penalty on any person who aids in or advises with respect to the preparation of any portion of a return, affidavit, claim, or other document, who knows (or has reason to know) that the portion will be used in connection with any material matter arising under the internal revenue laws, and who knows the portion would (if so sued) result in an understatement of tax liability.

14. Beale has sold abusive tax schemes that use sham trusts and limited liability companies through his entity known as Lighthouse Estate Planning, and possibly through other entities. The schemes qualify as shelters, plans and/or arrangements under Section 6700.

15. Specifically, Beale promotes a scheme where his customers transfer their assets to allegedly "non-grantor" "Family Trusts." In return for conveying their assets into trusts, the taxpayers receive "Certificates of Beneficial Interest" (CBIs). These CBIs allegedly give the taxpayers, as beneficiaries, the right to "income distributions."

16. Beale then arranges for a purported "independent trustee" to be appointed for these trusts through an entity known as Beacon Trust Services. But the customer becomes the "trust manager" as an "employee" of the trust. As the trust manager, the customer gets to "run the whole operation just as [he or she] did in the past," with complete "financial and operation responsibility [sic] ."

17. Beale advises trust purchasers to transfer major assets such as a personal residences to the Family Trust ("FT"). He further falsely advises that the trusts can then deduct expenses such as lawn care, utilities, and house repairs on federal income tax returns. He also falsely advises customers that their conveyance to the trusts gives the transferred properties a new, stepped-up basis for depreciation purposes on tax returns.

18. Beale also has advised customers that they can place their businesses into trusts, which he has termed "non-grantor" "Contract Business Trusts" ("CBTs"). Beale has advised that the CBTs may act as pass-through entities, taking deductions, making expenditures and then transferring remaining monies to the FTs. The FTs were then to distribute "W-2" or "K-1" income to the taxpayers/ trust purchasers, resulting in lower taxes on the income than if it had been directly received by the taxpayer.

19. As with FTs, the trust purchasers retained control over the assets transferred into CBTs.

20. In 1999, after learning that the IRS was likely to audit taxpayers who used purported "non-grantor" CBTs like the ones Beale was promoting, Beale advised clients to transfer the assets in their CBTs to limited liability companies (LLCs) in an effort to conceal the customers'

actions from the IRS. Beale falsely advises his customers that the LLCs can obtain the same tax benefits as the trusts.

21. Both the LLCs and the trusts referred to above are shams that are devoid of economic substance.

22. Beale knows that the advice he has given and continues to give to customers, as described above, has resulted in and will continue to result in understatements of tax liability on the federal income tax returns of those persons who follow Beale's advice.

23. Beale's statements about the purported tax benefits under the trust and LLC schemes, including deductions and the excludability of income, are false and fraudulent.

24. Beale worked for the IRS for 19 years as a revenue agent and as an appeals officer, departing from the IRS in 1998. He has a bachelor's degree in accounting and a master's degree in taxation. Beale knows or has reason to know that his statements about the purported tax benefits under the trust and LLC schemes, including deductions and the excludability of income, are false and fraudulent.

25. Beale's false and fraudulent statements relate to material matters under the internal revenue laws.

26. Beale conduct as described above is subject to penalty under IRC §§ 6700 and 6701.

27. An injunction is necessary and appropriate to halt Beale's violations of the internal revenue laws.

28. Beale is therefore subject to injunction under IRC § 7408.

Count II

(Injunction under IRC § 7402)

29. The United States incorporates herein as if fully restated, the allegations in paragraphs 1 through 28.

30. Unless the Court enjoins Beale, he is likely to continue to engage in the conduct described in paragraphs 1 through 28 of this complaint.

31. Beale's conduct described in paragraphs 1 through 28 has resulted and continues to result in irreparable harm to the United States.

32. The United States has no adequate remedy at law to halt this irreparable harm. The United States is entitled to an injunction under IRC § 7402. Specifically:

a. Beale'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 detect future returns based on bogus claims, and may be unable to detect all of them. If erroneous refunds are made and later detected, the Government will either lose those funds or have to expend substantial funds and resources to recover them. Based on past experience, the Government cannot expect to recover 100% of the erroneous refunds issued, and therefore the Government can expect a revenue loss if Beale is allowed to continue promoting abusive plans and arrangements;

b. The detection and audit of taxpayers who have used Beale's scheme will place a serious burden on the IRS's resources and—to the extent erroneous-refund suits must be brought against taxpayers—on the resources of the federal judicial system; and

c. If Beale is not enjoined, he likely will continue to engage in unlawful conduct that interferes with the enforcement of the internal revenue laws, thereby undermining the federal tax system.

Count III

(Injunction under IRC § 7407)

33. Under IRC § 7407, if an income-tax-return preparer has engaged in conduct subject to penalty under IRC §§ 6694 or 6695 or engaged in fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, the Court may enjoin the return-preparer from further engaging in that conduct.

34. Further, if the Court finds that the preparer has continually or repeatedly engaged in any conduct described in paragraph 33 and that an injunction prohibiting the conduct would not be sufficient to prevent the preparer from interfering with the proper administration of the internal revenue laws, the court may enjoin the person from acting as an income-tax-return preparer.

35. Beale prepares income-tax returns for others for compensation.

36. As described in paragraphs 13-32 above, incorporated fully herein, Beale has repeatedly and continuously engaged in conduct subject to the § 6694 or 6695 penalty and in fraudulent and deceptive conduct which substantially interferes with the proper administration of the internal revenue laws.

37. An injunction is necessary and appropriate to prevent Beale from continuing to engage in fraudulent, deceptive, and other illegal conduct that substantially interferes with the proper administration of the internal revenue laws.

38. Beale is therefore subject to injunction under IRC § 7407.

39. This alone, however, will not be sufficient to prevent Beale from interfering with the proper administration of the internal revenue laws. Accordingly the Court should enjoin Beale from acting as an income-tax return preparer.

WHEREFORE, the plaintiff United States prays for the following:

A. That the Court find that the defendants have engaged in conduct subject to penalty under IRC §§ 6700 and 6701, and that injunctive relief is appropriate under IRC § 7408 to prevent them and anyone acting in concert with them from engaging in any further such conduct;

B. That the Court find that the defendants have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against them and anyone acting in concert with them is appropriate to prevent the recurrence of that conduct, pursuant to the Court's inherent equity powers and IRC § 7402(a);

C. That the Court, pursuant to IRC §§ 7402 and 7408, enter a permanent injunction prohibiting the defendants and their representatives, agents, servants, employees, attorneys, and those persons in concert or participation with them, from directly or indirectly by means of false, deceptive, or misleading commercial speech:

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

(2) Further engaging in any conduct subject to penalty under IRC § 6700, *i.e.*, making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement they know or have reason to know is false or fraudulent as to any material matter;

(3) Further engaging in any conduct that unlawfully interferes with the administration and enforcement of the internal revenue laws by the Internal Revenue Service.

D. That this Court, pursuant to IRC §§ 7402 and 7408, enter an injunction requiring the defendants to contact, in writing, by first class mail:

(1) all persons who purchased any shelter, plan, or arrangement from the defendants, or from their representatives, agents, servants, employees, attorneys, or other persons acting in concert or participation with them, at any time since January 1, 1997;

(2) all persons who purchased any shelter, plan, or arrangement at any time since January 1, 1997 from any entity (including without limitation any corporation, partnership, limited partnership, limited liability company, proprietorship or other organization or association) in which or with whom the defendants have had (a) any ownership interest, (b) any employment relationship, ©) any contractual arrangement, (d) or any other commercial or business affiliation;

(3) all persons on whose behalf the defendants, or their representatives, agents, servants, employees, attorneys, or other persons acting in concert or participation

with them, prepared and/or assisted in the preparation of any federal or state income tax returns or tax-related documents at any time since January 1, 1997; and

(2) all persons who contacted the defendants, their representatives, agents, servants, employees, attorneys, or other persons acting in concert or participation with them, regarding the purchase of any shelter, plan or arrangement at any time since January 1, 1997;

and to provide each of those persons with a true, correct and complete copy of the Court's findings and order of permanent injunction, and further, to inform those persons using a memorandum approved by the Court concerning the falsity of the representations made by the defendants, the falsity of any tax returns prepared on these persons' behalf, the possibility of the imposition of frivolous-return penalties against them, the possibility that the United States may seek to recover any erroneous refund they may have received, and the fact that a permanent injunction has been entered against the defendants.

E. That this Court, pursuant to IRC §§ 7402, 7407 and 7408, enter an injunction requiring the defendants to produce to the United States all records in their possession, custody, or control or to which they have access that identify (1) the persons to whom they gave or sold or otherwise provided, directly or indirectly, any documents or other information related to trusts or limited liability companies that the defendants have sold or promoted since January 1, 1997; (2) the persons who assisted in the preparation or marketing of materials used by the defendants or by their representatives, agents, servants, employees, attorneys, or other persons acting in concert

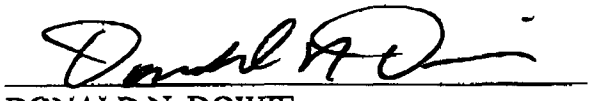
or participation with him since January 1, 1997, (3) all individuals or entities for whom the defendants, or their representatives, agents, servants, employees, attorneys, or other persons acting in concert or participation with them, have prepared or have assisted in the preparation of any tax-related documents, including claims for refund or tax returns since January 1, 1997, and (4) all individuals or entities who purchased or used any other tax shelter, plan, or arrangement in which the defendants have been involved since January 1, 1997.

F. That the Court, pursuant to IRC § 7407, enjoin Beale from acting as an income-tax return-preparer.

G. That the Court grant the United States its costs in bringing this action.

H. That the Court grant such other relief as the Court deems appropriate.

CHRISTOPHER J. CHRISTIE
United States Attorney



DONALD N. DOWIE
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-1714
Fax: (202) 514-6770