

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

Civil No. 8:09-cv-00618-RAL-EAJ

GEORGE B. CALVERT d/b/a CALVERT)

AND ASSOCIATES, INC.; GREGORY)

GUIDO; RONALD FONTENOT; LOUIS)

POWELL; ELIZABETH POWELL;)

ROBERT H. ANDERSON;)

ANTHONY BURRELL;)

WILLIAM G. NEEL; RALPH D.)

JOHNSON; MARK D. JOHNSON;)

DAVID J. GEIGER; JOHN L.)

ENGELSMAN; SALLY HAND -)

BOSTICK; CARL MARTIN STEWART;)

EDWARD W. ADAMS; TIMOTHY W.)

ADAMS; DAVID M. BERGER;)

ELIZABETH SPINELLI; VINSON)

STANPHILL; SILAS ANDERSON; URSA)

BOOKMAN; CLEVON HARPER; CRAIG)

JOHNSON; JACQUELINE LEVIAS;)

JACKIE MAYFIELD; CARLOS)

METOYER; YUSEF MUHAMMED;)

JOANN SPOONER; GLORIA TOREN;)

EDWARD TROTTY; DENISE WHITE;)

and WALTER DRAKEFORD, SR.,)

d/b/a DRAKEFORD & DRAKEFORD PA,)

Defendants.)

STIPULATED PERMANENT INJUNCTION
AS TO DEFENDANT DAVID M. BERGER

The United States has filed a complaint in which it seeks, in part, a permanent injunction under 26 U.S.C. §§ 7402(a), 7407, and 7408 against the above-named

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defendants. The United States alleges, in part, that the defendants have promoted a tax-fraud scheme that is designed to enable customers to claim false or fraudulent federal income tax credits, pursuant to Internal Revenue Code (I.R.C.) (26 U.S.C.) § 45K (formerly I.R.C. § 29), for the purported sale of fuel from nonconventional sources (“FNS”), leading to an understatement of the customers’ tax liabilities.

Defendant David M. Berger waives the entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure, consents to the entry of this permanent injunction, and agrees to be bound by its terms. The United States and David M. Berger agree that no provision in this stipulated permanent injunction or the fact that David M. Berger is agreeing to it constitutes an admission by him of any of the allegations set forth by the United States in the foregoing paragraph or in its complaint. David M. Berger understands that this permanent injunction constitutes the final judgment in this matter, and waives the right to appeal from this judgment.

David M. Berger further understands and agrees that the Court will retain jurisdiction over this matter for the purpose of implementing and enforcing this injunction and understands that if he violates the injunction, he may be subject to civil and criminal sanctions for contempt of court.

ORDER

IT IS ORDERED that David M. Berger and his representatives, agents, servants, employees and anyone in active concert or participation with them, are

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PERMANENTLY ENJOINED, pursuant to Internal Revenue Code (I.R.C.) (26 U.S.C.) §§ 7402, 7407, and 7408, effective from entry of this Order from directly or indirectly:

(1) Organizing, promoting, marketing, or selling the FNS credit scheme or any other tax shelter, plan, or other arrangement that advises or assists customers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;

(2) Engaging in any conduct subject to penalty under IRC § 6700, including making gross valuation overstatements;

(3) Engaging in activity subject to penalty under I.R.C. § 6701, including advising with respect to, preparing, or assisting in the preparation of a document related to a material matter under the internal revenue laws that they know will, if used, result in an understatement of another person's tax liability;

(4) Engaging in any activity subject to penalty under I.R.C. § 6694, including preparing federal tax returns that assert frivolous or unrealistic positions, or willfully and recklessly understating federal tax liability;

(5) Altering or backdating documents or delaying the negotiation of checks in order to deceive the IRS or to obstruct or impede IRS investigations; or

(6) Engaging in any other conduct subject to penalty under any penalty provision of the IRC, or engaging in any other conduct that interferes with the administration and enforcement of the internal revenue laws.

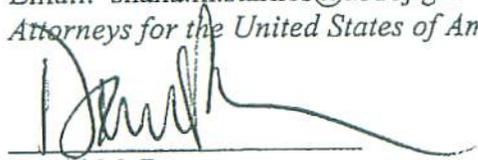
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IT IS FURTHER ORDERED that the Court retains jurisdiction to enforce this injunction and the United States may engage in post-judgment discovery to monitor David M. Berger's compliance with this injunction.

Agreed to on January 24, 2010 by:

A. BRIAN ALBRITTON
United States Attorney

s/Shana M. Starnes
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SO ORDERED:



UNITED STATES DISTRICT JUDGE
MAGISTRATE

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