

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	No. 1:12-cv-394
v.	)	
	)	
DAVID RAY FRANKLIN, RACHEL	)	Judge Sarah Evans Barker
WIGGINS, WILLIAM BROWN, AND	)	
INSTANT REFUND TAX SERVICE	)	Magistrate Judge Denise K. LaRue
INC. (d/b/a Instant Tax Service),	)	
	)	
Defendants.	)	

**AGREED PRELIMINARY INJUNCTION ORDER AGAINST  
DAVID FRANKLIN AND INSTANT REFUND TAX SERVICE, INC.**

Plaintiff United States of America (“Plaintiff”) and Defendants Instant Refund Tax Service Inc. (“IRTS”) and David R. Franklin (“Franklin,” and together with IRTS, “Defendants”)<sup>1</sup>, by their respective undersigned counsel, having jointly agreed and consented to entry of a stipulated order, IT IS HEREBY ORDERED:

1) Plaintiff filed an Amended Complaint against the above-named Defendants under 26 U.S.C. §§ 7402, 7407 and 7408. This Court has subject-matter jurisdiction pursuant to 26 U.S.C. §§ 7402(a), 7407(a) and 7408(a). This Court has personal jurisdiction over Defendants pursuant to 28 U.S.C. §§ 1340 and 1345.

2) This Order memorializes an agreement reached on January 18, 2013, in a hearing before this Court, in which counsel for Plaintiff and Defendants were heard and Franklin was present.

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<sup>1</sup> Defendants William Brown and Rachel Wiggins are not represented by undersigned counsel and are not the subject of this Order.

3) Franklin, without admitting any of the allegations in the Amended Complaint or admitting any negligence, culpability, fault, wrongdoing, or liability, and without waiving Fifth Amendment rights, voluntarily consented to entry of this injunction without further notice and agreed to be bound by the terms of this order, to become effective immediately upon entry, subject to the self-executing exception stated below.

4) This order is made pursuant to Federal Rule of Civil Procedure 65 to effectuate the agreement of Plaintiff and Defendants. The Court makes no findings of fact or conclusions of law.

5) Defendant David Franklin AGREES TO BE AND HEREBY IS PRELIMINARY ENJOINED, directly or indirectly, from:

- a. Any and all tax return preparation for any person or entity, other than himself;
- b. Owning or operating any tax return preparation business;
- c. Using, loaning or transferring any Electronic Filing Identification Number (EFIN) to any other person or entity.

6) This Order shall apply to any business or corporation owned or operated by Franklin, including Defendant IRTS and 317 Tax. Notwithstanding and without violating the foregoing prohibitions, this Order does not apply to assets or business operations previously operated by IRTS that have been sold to the franchisor ITS Financial, LLC, with the exception of EFINS, which are not transferable.

7) Notwithstanding and without violating the foregoing prohibitions, solely for a period of thirty (30) days from the date of the hearing, January 18, 2013, Franklin is hereby authorized, Franklin is hereby authorized and permitted to offer administrative guidance to the

tax return preparation business operating in Indianapolis, Indiana, which was previously owned and operated by Franklin and IRTS, all of the assets of which Defendants represent were sold to ITS Financial, LLC (the Ohio company which acts as the franchisor for Instant Tax Service). Franklin's work shall be limited to administrative guidance and consultation, and Franklin shall not participate, directly or indirectly, in the preparation of tax returns.

8) Entry of this Order neither precludes Plaintiff from pursuing this or other civil or criminal matters, nor precludes Defendants from contesting those matters.

9) This order shall not apply to or otherwise govern William Brown or Rachel Wiggins, also named as defendants in this action.

The terms and conditions of this Order shall remain in effect until further order of this Court.

Agreed to and submitted by,

KATHRYN KENEALLY  
Assistant Attorney General  
Tax Division, U.S. Department of Justice

/s/ Nathan E. Clukey  
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COUNSEL FOR DEFENDANTS  
DAVID R. FRANKLIN AND  
INSTANT REFUND TAX SERVICE,  
INC.

IT IS SO ORDERED

Date: 01/28/2013

A handwritten signature in black ink, appearing to read "Sarah Evans Barker", is written over a horizontal line.

SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

Copies to:

Electronically registered counsel of record