

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 BAKER FUNERAL HOME, LTD. and)
 VINCE BAKER)
)
 Defendants.)

No. 11-7316

FILED

APR 12 2012

CLERK
CLERK

PERMANENT INJUNCTION

The plaintiff, the United States of America, and the defendants, Baker Funeral Home, Ltd. and Vince Baker, hereby consent to the entry of this permanent injunction.

Standards for Permanent Injunction

In order to obtain an injunction under section 7402(a) of the Internal Revenue Code, the United States must show that an injunction is "necessary or appropriate for the enforcement of the internal revenue laws." 26 U.S.C. § 7402(a). Alternatively, the court may issue a preliminary injunction based upon the traditional equity criteria of: (1) whether the United States has a likelihood of success on the merits; (2) whether the United States would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of the injunction.

Findings of Fact

1. Defendant Baker Funeral Home, Ltd. ("Baker Funeral") is a Pennsylvania

corporation that has operated since 1975.

2. As owner and operator of Baker Funeral, defendant Vince Baker was responsible for Baker Funeral's federal tax operations.
3. Baker Funeral has failed to timely file its employment tax returns and failed to timely pay its employment tax liabilities since 2002.
4. Baker Funeral owes approximately \$800,000 in unpaid federal tax liabilities as of August 1, 2011, including penalties and interest that have accrued since 2002 and will continue to accrue according to law. Baker Funeral owes no tax, interest, or penalty prior to 2002.
5. Baker Funeral continues to incur new and additional federal employment tax liabilities.
6. As Baker Funeral continues to pyramid its tax liabilities, its aggregate delinquent tax obligation to the United States continues to increase.
7. Beginning in 1999, the Internal Revenue Service has devoted a considerable amount of its resources to encourage Baker Funeral's voluntary compliance and to administratively collect its delinquent taxes.
8. The Service's collection efforts were minimally successful, and Baker Funeral's federal tax liabilities continue to increase.
9. It is reasonably likely that Baker Funeral and Vince Baker will continue to pyramid federal tax liabilities in the future.
10. The Internal Revenue Service believes that further administrative collection

efforts will not resolve Baker Funeral's large outstanding tax liability or stop Baker Funeral's continuing noncompliance with the internal revenue laws.

Conclusions of Law

11. Baker Funeral and Vince Baker ("Defendants") have violated and continue to violate 26 U.S.C. §§ 3102, 3111, 3301, 3402, 6011(a) & 6041 by failing to timely file their employment tax returns as required by law, and by failing to pay over to the Internal Revenue Service the full amounts of the federal employment taxes due and owing.
12. A preliminary injunction is "necessary or appropriate for the enforcement of the internal revenue laws" and is therefore appropriate under 26 U.S.C. § 7402(a).
13. The United States is also entitled to injunctive relief under the traditional equitable principles.
14. The United States lacks an adequate remedy at law because the Defendants have evaded the United States' previous collection efforts.
15. The United States will suffer irreparable harm without an injunction because the Defendants' ever-increasing federal tax liabilities of approximately \$800,000 may never be collected.
16. The injury to the United States outweighs any potential injury to the Defendants.
17. An injunction will serve the public interest.

Security

18. The United States is not required to give security for an injunction under Federal

Rule of Civil Procedure 65(c).

Order and Preliminary Injunction

19. The Court hereby ORDERS and issues this preliminary injunction as follows:
- A. Baker Funeral and Vince Baker shall immediately cease violating Internal Revenue Code sections 3102, 3111, 3301, 3402, 6011(a) and 6041;
 - B. Baker Funeral is required to withhold and pay over to the Internal Revenue Service all employment and unemployment taxes required by law;
 - C. From the date of the injunction, Baker Funeral shall timely make the federal tax deposits of (1) Form 941 payroll taxes (income and FICA taxes withheld from the employees' wages and the employer's share of FICA taxes), and (2) Form 940 unemployment (FUTA) tax, in an appropriate federal depository bank in accordance with the federal deposit regulations;
 - D. From the date of the injunction, Baker Funeral shall timely file all federal employment (Form 941) and unemployment (Form 940) tax returns and pay any balances due on those returns upon filing;
 - E. From the date of the injunction, Baker Funeral shall be enjoined from paying other creditors and transferring, disbursing or assigning any money, property or assets until the required federal

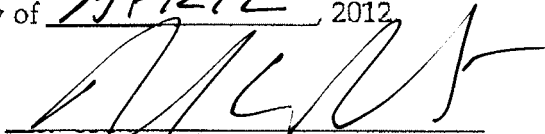
- tax deposits have been fully made for the given tax period;
- F. Baker Funeral is enjoined from paying other creditors unless Baker Funeral is current on its federal employment tax obligations;
- G. Baker Funeral shall file all of its unfiled and past-due federal tax returns with the IRS within 60 days of the entry of this preliminary injunction;
- H. Baker Funeral and Vince Baker shall notify the IRS within 10 business days if they or their representative, agent, employee, or anyone in active concert or participation with them begins to operate any new business enterprise, and shall identify the new business by its name, address, and employer identification number;
- I. Baker Funeral and Vince Baker shall post and keep posted in one or more conspicuous places on business premises of Baker Funeral, where notices to office employees are customarily posted, a copy of this Court's findings and preliminary injunction;
- J. Baker Funeral and Vince Baker shall mail or otherwise deliver the proof of the Forms 941 and 940 federal tax deposit payments to Marvena Lewis, Revenue Officer, Internal Revenue Service, 600 Arch Street, Room 3256, Philadelphia, Pennsylvania, 19106, within 5 business days of their due date;
- K. If Baker Funeral or Vince Baker violate any part of this preliminary

injunction, the Court may find the defendants to be in civil and/or criminal contempt;

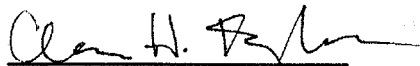
L. This Court shall retain jurisdiction over this action for the purpose of enforcing the injunction provisions set forth above.

M. The parties shall bear their own attorney's fees and costs.

It is so ORDERED this 11 day of APRIL, 2012


UNITED STATES DISTRICT JUDGE

PREPARED BY:

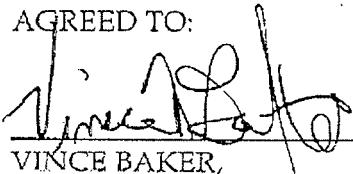


Date: 1/30/12

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AGREED TO:



Date: 1/30/2012

VINCE BAKER,
Individually and on behalf of Baker Funeral Home, Ltd.
2008 North Broad Street
Philadelphia, PA 19121