

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 1:18-cv-733
Plaintiff,)	Hon. Solomon Oliver
)	
v.)	
)	
ODYSSEY SPIRITS, INC.,)	
MARK A. HOEHN, and)	
LAURA A. HOEHN,)	
)	
Defendants.)	
_____)	

PROPOSED STIPULATED ORDER

This *Stipulated Order* is agreed to by the plaintiff United States of America and the defendants Odyssey Spirits, Inc., Mark A. Hoehn, and Laura A. Hoehn (“defendants”). Mark A. Hoehn and Laura A. Hoehn, personally and in their capacity as owners and officers of Odyssey Spirits, Inc., waive the entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure, consent to the entry of a judgment and injunction against all defendants, agree that an injunction is necessary and appropriate, and agree to be bound by the terms of the injunction. The defendants understand and agree that the Court will retain jurisdiction over this matter for the purpose of implementing and enforcing the injunction and that if the defendants violate the injunction, they may be subject to civil or criminal sanctions for contempt of court as specified below.

I. Order Resolving Count I for Injunction

The United States and the defendants agree to the entry of a judgment of injunction as follows:

A. Mark and Laura Hoehn shall cause Odyssey, and any other employer entity that they control, to:

1. Withhold from each employee's paycheck an appropriate amount of income tax and the employee portion of the Federal Insurance Contributions Act ("FICA") tax;

2. Timely deposit withheld employee income tax, withheld employee FICA tax, and employer FICA tax in an appropriate federal depository bank in accordance with federal deposit regulations, *e.g.*, via the Electronic Federal Tax Payment System (EFTPS), which may be accomplished via a commercial payroll service company approved by the United States;

3. Timely deposit Federal Unemployment Tax Act ("FUTA") taxes in an appropriate federal depository bank each quarter in accordance with federal deposit regulations, *e.g.*, via EFTPS, which may be accomplished via a commercial payroll services company approved by the United States;

4. Timely file Form 941 (FICA) employment tax returns, Form 940 (FUTA) unemployment tax returns, and Form 1120 corporate tax returns that come due after the date of the injunction;

5. Timely pay all required outstanding liabilities due on each return required to be filed under the Court's injunction order;

B. The defendants are enjoined from:

1. Paying other creditors of Odyssey or from transferring, disbursing, or assigning any money, property, or assets of Odyssey after the date of the injunction order until after such time as the required deposits described in paragraphs A.2. and A.3., and any liabilities described in paragraph A.5., have been paid in full, for any tax period ending after the injunction is issued;

2. Assigning and/or transferring money or property to any other entity to have that entity pay the salaries or wages of Odyssey's employees, except for a commercial payroll service approved by counsel of the United States.

C. For a five-year period beginning on the date this injunction order is entered, Mark and Laura Hoehn shall:

1. Permit a representative from the Internal Revenue Service to inspect Odyssey's books and records with two days' notice;

2. Notify, in writing, Trial Attorney Angela R. Foster, if either Mark or Laura Hoehn intend to or do form, incorporate, own, or work in a managerial capacity for a business entity other than Odyssey Spirits, Inc.

D. For a five-year period beginning on the date this injunction order is entered:

1. The Court shall retain jurisdiction over this case to ensure compliance with this injunction, including authorizing the United States to take post-judgment discovery to ensure compliance.

2. If any of the defendants violate any term of this injunction, then counsel for the United States shall send defendants written notice of the violation, and defendants shall have 10 days after notification is sent to cure the violation. A "cure" for the violation includes making a late tax deposit and all accruals on such tax; paying delinquent tax shown on a return and all accruals on such tax; or filing a delinquent tax return.

3. If counsel for the United States has sent defendants three separate written notifications for three separate violations, then counsel for the United States shall no longer be obligated to send written notification of a violation. If any violation is not cured within ten days of notification or if, after the third notification followed by cures, the United States becomes

aware of a new violation by Mark Hoehn, Laura Hoehn, or Odyssey, then the United States shall be entitled to file with this Court a motion for an Order to Show Cause why Mark and Laura Hoehn and Odyssey should not be held in contempt of this injunction and why Odyssey should not be ordered to cease doing business immediately and why Mark and Laura Hoehn should not be permanently enjoined from forming, incorporating, or owning another or a successor business entity and from working for any business in any capacity that includes any responsibility for withholding, accounting for, or paying over employment taxes or for filing employment tax returns.

II. Order Resolving Count II to Reduce Tax Liabilities of Odyssey Spirits, Inc. to Judgment

The United States and the defendants agree to the entry of a judgment that Defendant Odyssey Spirits, Inc., is liable to the United States in the amount of \$548,356.02, plus statutory additions from March 19, 2018, including interest pursuant to 26 U.S.C. § 6601, 6621, and 6622 and 28 U.S.C. § 1961(c), for: the unpaid federal taxes, penalties, and interest, for quarterly employment taxes (Form 941) for tax periods ending on March 31, 2007, September 30, 2007, December 31, 2007, March 31, 2008, June 30, 2008, September 30, 2008, December 31, 2008, March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010, June 30, 2010, September 30, 2010, December 31, 2010, March 31, 2011, June 30, 2011, September 30, 2011, December 31, 2011, March 31, 2012, June 30, 2012, September 30, 2012, December 31, 2012, March 31, 2013, June 30, 2013, December 31, 2013; as well as the unpaid federal taxes, penalties, and interest, for annual unemployment taxes (Form 940) for tax periods 2009 – 2011 and 2013; as well as the late filing penalties for Form 1120 for income tax years 2008 – 2011; and an IRC § 6721 Civil Penalty for Intentional Disregard for the tax period ending on December 31, 2010.

Agreed to on July 23, 2018 by:

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/James V. Moroney
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Attorney for Defendants
Odyssey Spirits, Inc.,
Mark A. Hoehn, and
Laura A. Hoehn

/s/Angela R. Foster
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Attorney for Plaintiff
United State of America

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 2018, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

James Moroney
Attorney for the Defendants

/s/ Angela R. Foster
ANGELA R. FOSTER
Trial Attorney
United States Department of Justice, Tax Division

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No.: 1:18 CV 733
)	
Plaintiffs)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
ODYSSEY SPIRITS, INC., <i>et al.</i> ,)	
)	
)	
Defendants)	<u>ORDER</u>

The court adopts the Proposed Stipulated Order, (CM/ECF No. 11), agreed to by the parties,
as its own.

IT IS ORDERED

/s/SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

July 26, 2018