

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 DAVID W. PENDARVIS, III, and)
 PENDARVIS ENTERPRISE LLC,)
)
 Defendants.)
 _____)

Case No. 5:16-cv-03986-JMC

**JUDGMENT AND PERMANENT
INJUNCTION BY CONSENT**

THIS MATTER is before the Court on the Joint Motion for Entry of Judgment and Permanent Injunction by Consent by the Plaintiff, the United States of America, and the Defendants, David W. Pendarvis, III, and Pendarvis Enterprise LLC (ECF No.15).

The Court having reviewed the Motion and stipulations therein, and otherwise being fully advised in the premises, hereby **FINDS** as follows:

The United States filed the instant Complaint seeking a permanent injunction against Defendants pursuant to 26 U.S.C. § 7402(a). ECF No. 1. The Court has subject matter jurisdiction to hear and decide all the claims and defenses in this action under 26 U.S.C. § 7402. The parties have also stipulated and agreed that the Court has personal jurisdiction over the Defendants. The Defendants agreed to waive the entry of findings of fact and conclusions of law and voluntarily consented to the entry, without further notice, of a permanent injunction pursuant to 26 U.S.C. § 7402(a).

A proposed Judgment and Permanent Injunction by Consent (“the Injunction”) has been signed by the parties and submitted to the Court. The Defendants agreed to be bound by the terms of the Injunction, and further understand and agree that the Injunction will be entered pursuant to

Fed. R. Civ. P. 65 and may result in the entry, without further notice, of a final judgment against them in this case. The Defendants have further agreed to waive any right they may have to appeal from the Injunction or any final judgment entered against them in this case.

The parties requested that the Court retain jurisdiction over this matter for the purpose of implementing and enforcing the Injunction. The Defendants understand and agree that if they fail to comply with the terms of the Injunction, they may be subject to civil and criminal sanctions for contempt of court. The Defendants further understand and agree that the United States may, without further notice, conduct post-judgment discovery to monitor their compliance with the Injunction.

The parties agree that entry of the Injunction will resolve all issues in this case as contemplated by Federal Rules of Civil Procedure 54 and 58. However, entry of the Injunction will not preclude the United States, or any of its agencies, from pursuing any other civil or criminal matter or proceeding against the Defendants, nor will it preclude the Defendants from contesting the underlying federal employment and unemployment tax liabilities in other matters or proceedings.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Joint Motion for Entry of Judgment and Permanent Injunction by Consent is **GRANTED**.

It is **FURTHER ORDERED** and **ADJUDGED** pursuant to 26 U.S.C. § 7402(a) that David W. Pendarvis, III (individually and doing business under any other name or using any other entity), Pendarvis Enterprise LLC, and their representatives, agents, servants, employees, attorneys, successors in interest, assigns, and anyone in active concert or participation with them, shall—

1. withhold and pay over to the Internal Revenue Service all income and Federal Insurance Contributions Act (“FICA”) taxes of their employees, as well as the employer’s portion of Federal Unemployment Tax Act (“FUTA”) and FICA taxes, as required by law;

2. segregate and hold separate and apart from all other funds the monies withheld from employees for taxes pursuant to any internal revenue laws of the United States, and deposit such monies and the employer’s share of FICA taxes in an appropriate federal depository bank in accordance with the federal deposit regulations;

3. deposit FUTA taxes in an appropriate federal depository bank each quarter in accordance with the federal deposit regulations;

4. for a period of five years, sign and deliver affidavits to the Internal Revenue Service at 1835 Assembly Street, MDP 36, Columbia, South Carolina 29201, or to such other specific location as directed by the Service, not later than the twentieth day of each month, stating that the requisite withheld income, FICA, and FUTA tax deposits were timely made;

5. timely file all required Form 941 and 940 tax returns with the Internal Revenue Service at 1835 Assembly Street, MDP 36, Columbia, South Carolina 29201, or to such other specific location as directed by the Service;

6. timely pay the federal tax liabilities reported as due on every Form 941 and 940 return that David W. Pendarvis, III, and/or Pendarvis Enterprise LLC are required to file;

7. not convey or assign any of Pendarvis Enterprise LLC's property or rights to property or make any disbursements from the assets of Pendarvis Enterprise LLC before paying all the federal tax liabilities reported as due on each tax return required to be filed after the date of this Judgment and Permanent Injunction by Consent; and

8. promptly notify the Internal Revenue Service of any entity that David W. Pendarvis, III, may own, manage, or work for during the next five years.

IT IS FURTHER ORDERED and **ADJUDGED** that this Court retains jurisdiction over this case to ensure compliance with this Judgment and Permanent Injunction by Consent and that the United States may, without further notice, conduct full post-judgment discovery to monitor the Defendants' compliance with this order.

s/J. Michelle Childs
J. MICHELLE CHILDS
UNITED STATES DISTRICT JUDGE

April 13, 2017
Columbia, South Carolina

Consented to by:

For the United States of America

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