

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:16-CV-03051-LTS
)	
ATHENA SERVICES, INC.; ATHENA SERVICES, INC., d/b/a ABC LAWN CARE; MARK G. GROAT; SHELLI R. GROAT; and RYAN T. JOHNSON,)	
)	
Defendants.)	
)	

STIPULATED ORDER OF PERMANENT INJUNCTION

Plaintiff United States and defendants Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, Mark G. Groat, Shelli R. Groat, and Ryan T. Johnson stipulate as follows:

1. Defendants waive the entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure.
2. Defendants voluntarily consent to entry of this Stipulated Order of Permanent Injunction and waive any right they may have to appeal from it.
3. The United States and Defendants agree that entry of this Stipulated Order of Permanent Injunction resolves only the United States' claims seeking a civil injunction against Defendants and neither precludes the United States from pursuing other current or future civil or criminal matters or proceedings, nor precludes Defendants from contesting their liability in any matter or proceeding.

4. Defendants agree that the Court shall retain jurisdiction over this case for the purpose of implementing and enforcing this Stipulated Order of Permanent Injunction:

Pursuant to 26 U.S.C. § 7402(a), IT IS ORDERED, ADJUDGED, and DECREED:

- I. This injunction is issued to prevent defendants Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care from “pyramiding” employment taxes by accruing federal tax liabilities beyond their ability to pay the liabilities as they become due. This injunction is warranted under 26 U.S.C. § 7402(a) as necessary or appropriate for the enforcement of the internal revenue laws.
- II. This Injunction Order authorizes enforceable injunctive relief. If any provision of this Injunction Order is violated, the United States or the Court may enforce the injunction through the mechanisms set forth in paragraph III(J) below.
- III. An injunction shall issue as follows from the date of this Order:
 - A. Parties Covered by Injunction: This injunction binds Defendants as well as their officers, shareholders, agents, employees, and persons in concert or participation with them, in whatever form they continue to carry on business-related activities under the name Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, or any other name. Where the terms of the injunction require Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care to take action, such requirement shall equally apply to Shelli Groat, Mark Groat, and Ryan Johnson insofar as they shall be required to ensure that Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, or any business entity that they control take the required actions.

- B. Withholding Requirement: Defendants shall withhold federal income, Federal Insurance Contributions Act (“FICA”), Social Security, and Medicare taxes from the wages of their employees when wages are paid; shall keep the withheld funds in a bank account separate from any operating account(s) or other accounts; and shall pay the withheld taxes to the Internal Revenue Service as they become due.**
- C. Deposit Requirements: In accordance with federal deposit regulations, Defendants shall timely make deposits of withheld income and FICA taxes, as well as FICA taxes owed by Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, or any entity Shelli Groat, Mark Groat, or Ryan Johnson control, and Federal Unemployment Tax Act (“FUTA”) taxes, in an appropriate federal depository bank. Defendants shall also timely deposit FUTA taxes in an appropriate federal depository bank each quarter, in accordance with the federal deposit regulations.**
- D. Reporting Requirements: Within three days after Defendants make a timely federal tax deposit as required by paragraph (III)(C), Defendants shall send by fax to IRS Revenue Officer Nancy Alderton at (888) 899-1720, or to such other IRS employee designated by the IRS, the receipt, deposit slip, or other proof that the employment tax deposit has been made, and a copy of the payroll report showing the amount that should be deposited. Shelli Groat, Mark Groat, or Ryan Johnson shall also sign and deliver an affidavit (signed under penalty of perjury) to Revenue Officer Nancy Alderton (or to such other person or location as the IRS designates in writing) on the first day of each month, stating that she or he has personally ensured that for each pay period during the prior month, the required**

federal income taxes, FICA, and FUTA taxes were fully deposited and timely made. If Defendants do not pay their payroll at the regularly scheduled time, Shelli Groat, Mark Groat, or Ryan Johnson shall send a letter within two business days of any regularly scheduled payroll date stating that the payroll was not paid and stating the date it will be paid. This letter shall be sent to Revenue Officer Nancy Alderton, or such other employee of the IRS who the IRS designates in writing, at 3539 Southern Hills Drive, Sioux City, Iowa 51106.

- E. Return Requirements: Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, and any entity Shelli Groat, Mark Groat, and Ryan Johnson control shall timely file with the IRS all of its employment (Form 941) and unemployment (Form 940) tax returns. Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, and any entity Shelli Groat, Mark Groat, or Ryan Johnson control shall file the original forms with Revenue Officer Nancy Alderton (or such other employee of the IRS who the IRS designates in writing) at 3539 Southern Hills Drive, Sioux City, Iowa 51106. Each return shall be considered timely filed if filed before the date it is due or within three days after the return is due. Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, and any entity Shelli Groat, Mark Groat, or Ryan Johnson control shall pay any balance due on those returns upon filing. Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care, shall also file all overdue Forms 941 and 940.**
- F. Employment Tax Priority: From the date this injunction is entered, Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, and any**

entity Shelli Groat, Mark Groat, or Ryan Johnson control shall be prohibited from paying other creditors before paying federal employment tax debts as they come due.

- G. **Transfer Prohibition:** Defendants and those persons in concert or participation with them are prohibited from transferring, disbursing, or assigning any money, property, or assets after the date of the Injunction Order if the employment tax deposits required by paragraph (III)(C) of this Injunction Order have not been fully made for any tax period.
- H. **Notification of New Business:** For the next five years, Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care shall notify Revenue Officer Nancy Alderton (or such other IRS employee who is designated by the IRS) of any new or presently operating company or entity with which Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care become involved in relation to federal employment tax withholding, depositing, or reporting and shall also inform the IRS if Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care assumes a new name or transfers its employees or business operations to another entity. Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care shall provide such notification within 10 days after the aforementioned actions. For the next five years, Shelli Groat, Mark Groat, and Ryan Johnson shall notify Revenue Officer Nancy Alderton (or such other IRS employee who is designated by the IRS) within 10 days of any new company they each may come to own, manage, or work for as an officer or employee during the term of this injunction.

- I. **Term of Injunction:** If Defendants comply with the terms of this injunction for five years from the date the injunction is issued, they may move this Court to dissolve the injunction order at a hearing to be set in 2021.
- J. **Failure to Comply:** If Defendants, or anyone subject to this injunction violates any part of this injunction, the following enforcement mechanisms may be taken:
- i. the IRS may seize the business property of Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, and any other entity that Athena Services, Inc. or Athena Services, Inc., doing business as ABC Lawn Care uses, directs, or controls as part of its business-related consulting work, and may sell the seized property to satisfy the outstanding tax liabilities of Athena Services, Inc. and Athena Services, Inc., doing business as ABC Lawn Care; and
 - ii. the Court may find Athena Services, Inc., Athena Services, Inc., doing business as ABC Lawn Care, Shelli Groat, Mark Groat, or Ryan Johnson in civil or criminal contempt of this Court and punish the violator with a fine, incarceration, or both.
- K. **Enforcement of Injunction:** The United States shall be permitted to issue discovery requests during the term of the injunction to assure Defendants' compliance with the injunction. The Court shall retain jurisdiction of this action for the purpose of implementing and enforcing this injunction and entering all additional decrees and orders necessary and appropriate for the public interest.
- IV. Defendants shall deliver to all of their current employees a copy of this Injunction Order.
- V. Within 30 days after entry of this Order by the Court, Shelli Groat, Mark Groat, or Ryan

Johnson shall provide counsel for the United States in this action a declaration, signed under penalty of perjury, certifying that she or he has received the Court-executed copy of this Order and has complied with Paragraph IV above.

VI. The Clerk of Court is instructed to enter judgment against each Defendant and in favor of the United States consistent with this Order.

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Shelli R. Groat, on behalf of
Defendant Athena Services, Inc. and
Defendant Athena Services, Inc.,
doing business as ABC Lawn Care

Dated: 3/31/2016



Shelli R. Groat
Defendant

Dated: 3/31/2016



Mark G. Groat
Defendant

Dated: 3/31/2016



Ryan T. Johnson
Defendant

Dated: 3/31/2016

This 3rd day of August, 2016.



LEONARD T. STRAND
UNITED STATES DISTRICT JUDGE