

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:16-cv-1177
)	
(1) BASEMENT AND FOUNDATION)	
REPAIR, INC.; and)	
(2) JOSEPH DIX,)	
)	
Defendants.)	
_____)	

STIPULATED ORDER OF PERMANENT INJUNCTION AND CONSENT JUDGMENT

This matter comes before the Court upon the Joint Motion for Entry of Stipulated Order of Permanent Injunction and Consent Judgment by Plaintiff, United States of America, and Defendants, Basement and Foundation Repair, Inc., and Joseph Dix. Defendants waived the entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure. Defendants voluntarily consented to entry of this Stipulated Order of Permanent Injunction and Consent Judgment and waived any right they may have to appeal from it. Defendants agreed that the Court shall retain jurisdiction over this case for the purpose of implementing and enforcing this Stipulated Order of Permanent Injunction.

Pursuant to the joint motion, it is hereby ORDERED, ADJUDGED, and DECREED that:

1. The motion (Dkt. 8) is GRANTED.
2. Judgment is entered in favor of the United States and against the defendant, Basement and Foundation Repair, Inc., for unpaid federal employment tax liabilities, federal unemployment tax liabilities, and federal corporate income tax liabilities in the amounts of

\$143,661.53, \$3,905.39, and \$1,033.56, respectively, plus interest accruing after July 15, 2016, in accordance with Counts I, II, and III of the complaint.

3. A permanent injunction is entered pursuant to 26 U.S.C. § 7402(a) against Basement and Foundation Repair, Inc. and Joseph Dix as follows:

- 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 Basement and Foundation Repair, Inc. or any other name. Where the terms of the injunction require Basement and Foundation Repair, Inc. to take action, such requirement shall equally apply to Joseph Dix insofar as he shall be required to ensure that Basement and Foundation Repair, Inc. or any business entity that he controls takes 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 Basement and Foundation Repair, Inc. or any entity Joseph Dix controls, 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 3.c. above, Defendants shall send by fax to IRS Revenue Officer Steven Friend at (888) 268-0096 (or such other employee of the IRS who the IRS designates in writing), the receipt, deposit slip, or other proof that the tax deposit has been made, and a copy of the payroll report showing the amount that should be deposited. Joseph Dix shall also sign and deliver a declaration (signed under penalty of perjury) to Revenue Officer Steven Friend (or such other employee of the IRS who the IRS designates in writing), on the first day of each month, stating that 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, Joseph Dix 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 Steven Friend (or such other employee of the IRS who the IRS designates in writing), at 1222 Spruce Street, Stop 5223 STL, St. Louis, MO 63103.
- e. Return Requirements: Basement and Foundation Repair, Inc. and any entity Joseph Dix controls shall timely file with the IRS all of its employment (Form 941) and unemployment (Form 940) tax returns. Basement and Foundation Repair, Inc. and any entity Joseph Dix controls shall file the original forms with

Revenue Officer Steven Friend (or such other employee of the IRS who the IRS designates in writing), at 1222 Spruce Street, Stop 5223 STL, St. Louis, MO 63103. Each return shall be considered timely filed if filed before the date it is due or within three days after the return is due. Basement and Foundation Repair and any entity Joseph Dix controls shall pay any balance due on those returns upon filing.

- f. Employment Tax Priority: From the date this injunction is entered, Basement and Foundation Repair and any entity Joseph Dix controls shall be prohibited from paying other creditors before paying federal employment and unemployment 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 tax deposits required by paragraph 3.c. of this Injunction Order have not been fully made for any tax period.
- h. Notification of New Business: For the next five years, Basement and Foundation Repair, Inc. shall notify Revenue Officer Steven Friend (or such other employee of the IRS who the IRS designates in writing), of any new or presently operating company or entity with which Basement and Foundation becomes involved in relation to federal employment and unemployment tax withholding, depositing, or reporting, and shall also inform the IRS if Basement and Foundation Repair, Inc. assumes a new name or transfers its employees or business operations to another entity. Basement and Foundation Repair, Inc. shall provide such notification


within 10 days after the aforementioned actions. For the next five years, Joseph Dix shall notify Revenue Officer Steven Friend (or such other employee of the IRS who the IRS designates in writing), of any new or presently operating company or entity Joseph Dix may come to own, manage, or work for as an officer or employee during the term of this injunction. Joseph Dix shall provide such notification within 10 days after the aforementioned actions.

- 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, violate any part of this injunction, the following enforcement mechanisms may be taken:
 - i. the IRS may seize the business property of Basement and Foundation Repair, Inc., Joseph Dix, or any entity that Joseph Dix owns, directs, or controls as part of his basement repair work, and may sell the seized property to satisfy Basement and Foundation Repair, Inc.'s or Joseph Dix's outstanding tax liabilities; and
 - ii. the Court may find Basement and Foundation Repair, Inc. or Joseph Dix 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.

4. Defendants shall deliver to all of their current employees a copy of this Stipulated Order of Permanent Injunction and Consent Judgment.
5. Within 30 days after entry of this Stipulated Order of Permanent Injunction and Consent Judgment by the Court, Joseph Dix shall provide counsel for the United States in this action a declaration, signed under penalty of perjury, certifying that he has received the Court-executed copy of this Stipulated Order of Permanent Injunction and Consent Judgment and has complied with Paragraph 4 above.
6. The Clerk of Court is instructed to enter judgment against each Defendant and in favor of the United States consistent with this Order.

IT IS SO ORDERED this 9th day of September, 2016.


JEAN C. HAMILTON
United States District Judge