

# United States District Court

EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA ,  
Plaintiff,

**AMENDED  
JUDGMENT IN A CIVIL CASE**

v.

Case No. 15-CV-1536

U.S. CONTRACTING LLC, et al  
Defendant(s).

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- Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- Decision by Court.** This action came before the Court for consideration.

**IT IS HEREBY ORDERED AND ADJUDGED** that default judgment is entered in favor of the United States and against the defendant, U.S. Contracting, LLC, in the amount of \$471,857.62 plus interest accruing after August 1, 2016 .

**IT IS FURTHER ORDERED** that default judgment is entered in favor of the United States and against Russell D. Manthei in the amount of \$104,158.10 plus interest accruing after August 1, 2016.

**IT IS FURTHER ORDERED** that default judgment is entered in favor of the United States and against Russell D. Manthei for unpaid federal income taxes for years 2004 - 2013 in the amount of \$559,581.00 plus interest accruing after August 1, 2016.

**IT IS FURTHER ORDERED** that a permanent injunction effective August 4, 2016 is entered pursuant to 26 U.S.C. § 7402(a) against U.S. Contracting, LLC and Russell D. Manthei.

**IT IS FURTHER ORDERED** that the following permanent injunction is entered:

- (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 of U.S. Contracting, LLC, or any other name. Where the terms of the injunction require U.S. Contracting, LLC, or Russell D. Manthei to take action, such requirement shall equally apply to Russell D. Manthei insofar as he shall be required to ensure that U.S. Contracting, LLC, 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, owed by U.S. Contracting, Russell D. Manthei or any entity that Russell D. Manthei controls, in an appropriate federal depository bank. To the extent federal deposit regulations require Defendants to periodically deposit Federal Unemployment Tax Act ("FUTA") in an appropriate federal depository bank, Defendants shall comply with those regulations. If those regulations do not require Defendants to periodically deposit FUTA taxes in a federal depository bank, then Defendants shall pay their FUTA taxes when those taxes come due.
- (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 Ryan Benson at (877) 832-9377, or to such other IRS employee designated by the IRS, 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. Russell D. Manthei shall also sign and deliver a declaration (signed under penalty of perjury) to Revenue Officer Benson or to such other person or location as 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, Russell D. Manthei 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 Benson or such other employee of the IRS who the IRS designates in writing, at Internal Revenue Service, Attn: Ryan Benson, 440 Security Blvd., Green Bay, Wisconsin, 54313.
- (e) Return Requirements: U.S. Contracting, LLC, Russell D. Manthei, and any entity that Russell D. Manthei controls shall timely file with the IRS all of its employment (Forms 941 or 944) and unemployment (Form 940) tax returns. U.S. Contracting, LLC, Russell D. Manthei, and any entity that Russell D. Manthei controls shall file the original forms with Revenue Officer Benson (or such other employee of the IRS who the IRS designates in writing), at Internal Revenue Service, Attn: Ryan Benson, 440 Security Blvd., Green Bay, Wisconsin, 54313. Each return shall be considered timely filed if filed before the date it is due or within three days after the return is due. U.S. Contracting, LLC, Russell D. Manthei, and any entity that Russell D. Manthei controls shall pay any balance due on those returns upon filing.
- (f) Employment Tax Priority: From the date this injunction is entered, U.S. Contracting, LLC, Russell D. Manthei, and any entity that Russell D. Manthei 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 III(C) of this injunction have not been fully made for any tax period.
- (h) Notification of New Business: For the next five years, U.S. Contracting, LLC, shall notify Revenue Officer Benson or such other IRS employee who is designated by the IRS, of any new or presently operating company or entity with which U.S. Contracting, LLC becomes involved in relation to federal employment and unemployment tax withholding, depositing, or reporting, and shall also inform the IRS if U.S. Contracting, LLC assumes a new name or transfers its employees or business operations to another entity. U.S. Contracting, LLC shall provide such notification within 10 days after the aforementioned actions. For the next five years, Russell D. Manthei shall notify Revenue Officer Benson or such other IRS employee who is designated by the IRS, of any new or presently operating company or entity that Russell D. Manthei may come to own, manage, or work for as an officer or employee during the term of this injunction. Russell D. Manthei 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 violates any part of this injunction, the following enforcement mechanisms may be taken:
- i. the IRS may seize the business property of U.S. Contracting, LLC, Russell D. Manthei, or any entity that Russell D. Manthei owns, directs, or controls as part of his demolition business, and may sell the seized property to satisfy U.S. Contracting, LLC's or Russell D. Manthei's outstanding tax liabilities; and
  - ii. the Court may find U.S. Contracting, LLC, or Russell D. Manthei 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.
1. Defendants shall deliver to all of their current employees a copy of this Judgment.
  2. Within 30 days after entry of this Judgment by the Court, Russell D. Manthei 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 Judgment and has complied with Paragraph IV above.

**IT IS FURTHER ORDERED** that pursuant to Fed. R. Civ. P. 4.1, the following individuals are specially appointed to personally serve this Default Judgment and Order of Permanent Injunction on U.S. Contracting, LLC, and Russell D. Manthei: (i) IRS Revenue Officer Ryan Benson (ii) any employee of the IRS; and (iii) any process server hired by the United States.

Approved: s/ William C. Griesbach  
William C. Griesbach, Chief Judge  
United States District Court

Dated: August 8, 2016.

JON W. SANFILIPPO  
Clerk of Court

s/ T. Parins  
(By) Deputy Clerk