

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 15-60788-CIV-BLOOM/VALLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

**J. SCOTT GUNN and
J. SCOTT GUNN, P.A.,**

Defendants.

ORDER GRANTING PERMANENT INJUNCTION

THIS CAUSE is before the Court upon the parties' Stipulation for Entry of Permanent Injunction, ECF No. [25] (the "Stipulation"). Accordingly, Plaintiff, the United States of America, and Defendants, J. Scott Gunn ("Gunn") and J. Scott Gunn, P.A., (the "Gunn Firm") (collectively, "Defendants"), stipulate and agree as follows:

1. Plaintiff filed a complaint for permanent injunction under 26 U.S.C. § 7402(a) against Defendants.
2. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402(a).
3. The Court may impose injunctive relief pursuant to and 26 U.S.C. § 7402(a) and the Court's inherent equity powers to stop Defendants from interfering with the enforcement of the internal revenue laws as described in the complaint.
4. With no further proceedings, Defendants and their representatives, agents, servants, employees, attorneys, their successors in interest and assigns, and anyone in active

concert or participation with them, including any new businesses formed by

Defendants, consent to be permanently restrained and enjoined individually from:

- a. failing to pay over to the Internal Revenue Service (“IRS”) federal taxes withheld from employee wages;
- b. failing to make timely federal employment and unemployment tax deposits and payments to the IRS;
- c. failing to file timely federal employment and unemployment tax returns;
- d. assigning any property or making any disbursements until all required taxes that accrue after the injunction date are paid to the IRS;
- e. owning or operating any new or unknown company or business within five years without notifying the IRS;
- f. failing to notify the IRS of their future employment tax conduct; and
- g. failing to provide proof to the IRS of their compliance with the injunction.

5. Pursuant to 26 U.S.C. § 7402, Defendants consent to a permanent injunction:

- h. prohibiting Gunn (individually and doing business under any other name or using any other entity), the Gunn Firm, and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, from failing to withhold and pay over to the IRS all employment taxes, including federal income and FICA taxes, required by law;
- i. requiring Gunn and the Gunn Firm to segregate and hold separate and apart from all other funds all monies withheld from employees or collected from others for taxes under any internal revenue laws of the United States and to

- deposit the monies so withheld and collected, as well as the employer's share of FICA taxes, in an appropriate federal depository bank in accordance with the federal deposit regulations;
- j. requiring Gunn and the Gunn Firm to deposit FUTA taxes in an appropriate federal depository bank each quarter in accordance with the federal deposit regulations;
 - k. requiring Gunn and the Gunn Firm, and any other individuals who are responsible for carrying out the duties established under paragraphs C(2) and (3) of the complaint, for a period of three years, to sign and deliver affidavits to the Internal Revenue Service Revenue at 7850 SW 6th Court, Mail Stop 5180, Plantation, FL 33324, or to such other specific location as directed by the IRS, no later than the twentieth day of each month, stating that the requisite withheld income, FICA, and FUTA tax deposits were timely made;
 - l. requiring Gunn and the Gunn Firm to timely file all Form 941 and 940 tax returns with the IRS at 7850 SW 6th Court, Mail Stop 5180, Plantation, FL 33324, or to such other specific location as directed by the IRS;
 - m. requiring Gunn and the Gunn Firm to timely pay all required outstanding liabilities due on each tax return required to be filed, from the date of entry of this Permanent Injunction going forward;
 - n. prohibiting Gunn and the Gunn Firm, and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, in the event all required outstanding liabilities due on each tax return required to be filed going

- forward from the date of the injunction are not timely paid, from assigning any property or rights to property or making any disbursements before paying the delinquent federal employment and unemployment taxes due; and
- o. requiring Gunn to notify the IRS of his future employment tax conduct with respect to any new or presently unknown company, including the imposition of an affirmative duty upon the principal officer, Gunn, to notify Internal Revenue Service revenue officer Stephen Crimmins (or to such other person as directed by the IRS) in the future of any new company she may come to own, manage, or work for in the next five years.
6. This stipulated order for permanent injunction will be entered under Fed. R. Civ. P. 65 and will result in the entry, without further notice, of a final judgment in this matter;
- p. Defendants waive the right to appeal from the stipulated order for permanent injunction;
 - q. The parties will bear their own costs, including any attorneys' fees or other expenses of this litigation;
 - r. The Court will retain jurisdiction over this matter for the purpose of implementing and enforcing the permanent injunction by stipulation and consent;
 - s. If Defendants violate the permanent injunction, they may be subject to civil and criminal sanctions for contempt of court;
 - t. In addition to the specific directives in the permanent injunction, Defendants have an obligation to preserve all pertinent documents in their possession,

including tax returns, informational returns, correspondence, working papers, or any other documents connected to their tax preparation activities, whether stored electronically or on paper, as required by the Internal Revenue Code;

- u. The United States may conduct full post-judgment discovery to monitor compliance with the permanent injunction; and
- v. Entry of the permanent injunction resolves only this civil injunction action, and neither precludes the government from pursuing any other current or future civil or criminal matters or proceedings, nor precludes the defendants from contesting their liability in any matter or proceeding.

Accordingly, it is **ORDERED AND ADJUDGED** that Defendants, and any other person or entity working in concert or participation with them directly or indirectly, are

PERMANENTLY ENJOINED from directly or indirectly:

1. Failing to pay over to the IRS federal taxes withheld from employee wages;
2. Failing to make timely federal employment and unemployment tax deposits and payments to the IRS;
3. Failing to file timely federal employment and unemployment tax returns;
4. Assigning any property or making any disbursements until all required taxes that accrue after the injunction date are paid to the IRS; and
5. Owning or operating any new or unknown company or business within five years without notifying the IRS.

IT IS FURTHER ORDERED that the United States will be allowed full post-judgment discovery to monitor compliance with the permanent injunction;

CASE NO. 15-60788-CIV-BLOOM/VALLE

The Court retains jurisdiction over this action for purpose of implementing and enforcing the permanent injunction and any additional orders necessary and appropriate to the public interest; and

The Clerk shall **ADMINISTRATIVELY CLOSE** this case.

DONE AND ORDERED, in Miami, Florida, this 10th day of September, 2015.

A handwritten signature in black ink, appearing to be 'JB' with a long horizontal stroke extending to the right.

BETH BLOOM
UNITED STATES DISTRICT JUDGE

cc: Counsel of record