

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Civil No. 14-112 (RHKj/SER)

Plaintiff,

INJUNCTION ORDER

v.

LIVE SPARK, INC., DANIEL YAMAN,

Defendants.

This matter comes before the Court on the United States' Motions for default judgments against Defendants Live Spark, Inc., and Daniel Yaman. (Doc. Nos. 14 and 15.) Live Spark and Yaman have failed to appear or defend in this case, and their defaults have been entered by the Clerk of Court. (Doc. No. 13.) The United States asks this Court to enter an injunction against Defendants under 26 U.S.C. § 7402(a) requiring them to comply with the internal revenue laws and requiring them to timely report, deposit, and pay over Live Spark's federal employment and unemployment taxes. (Doc. Nos. 14 and 15.) Having considered the United States' Motions for entry of default judgments and any response thereto, **IT IS ORDERED** that the United States' Motions (Doc. Nos. 14 and 15) are **GRANTED**.

IT IS FURTHER ORDERED that default judgments shall be entered against Defendants Live Spark, Inc., and Daniel Yaman. Both Defendants shall be subject to an injunction under 26 U.S.C. § 7402(a) consistent with this Court's Order.

IT IS ORDERED:

1. This injunction is issued to prevent Live Spark from “pyramiding” its employment taxes by accruing federal tax liabilities beyond Live Spark’s 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.
2. This Injunction Order authorizes enforceable injunctive relief and, if any provision of this Injunction Order is violated, the injunction can be enforced by the United States or the Court through the mechanisms set forth in paragraph 3(j) below.
3. An injunction shall issue as follows from the date of this Order:
 - a. Parties Covered by Injunction: This injunction binds Live Spark and Yaman as well as Live Spark’s officers, shareholders, agents, employees, and persons in concert or participation with them, in whatever form they continue to carry on Live Spark’s business-related consulting work under the name Live Spark or any other name. Where the terms of the injunction require Live Spark to take action, such requirement shall equally apply to Yaman insofar as he shall be required to ensure that Live Spark takes the required actions.
 - b. Withholding Requirement: Live Spark shall withhold federal income, Federal Insurance Contributions Act (“FICA”), Social Security, and Medicare taxes from the wages of Live Spark’s employees when wages are paid, shall keep the withheld funds in a bank account separate from Live Spark’s operating account

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, Live Spark shall timely make deposits of withheld FICA taxes, as well as Live Spark's share of FICA taxes, employment taxes, and Federal Unemployment Tax Act ("FUTA") taxes, in an appropriate federal depository bank. Live Spark 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 Live Spark makes a timely federal tax deposit as required by paragraph (c), Live Spark shall send by fax to IRS Revenue Officer Jackie Jacobson at (888) 896-6215, 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. Yaman shall also sign and deliver an affidavit to Jacobson, or to such other person or location as the IRS designates in writing, on the first day of each month, stating that Yaman 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 Live Spark does not pay its payroll at the regularly scheduled time, it shall send a letter within two business days of its 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 Jackie Jacobson, or such other employee of the IRS who the IRS designates in writing, at 30 East 7th Street, Mail Stop 5121, Saint Paul, MN 55101.

- e. Return Requirements: Live Spark shall timely file with the IRS all of its employment (Form 941) and unemployment (Form 940) tax returns. Live Spark shall file the original forms with Jackie Jacobson, (or such other employee of the IRS who the IRS designates in writing), at 30 East 7th Street, Mail Stop 5121, Saint Paul, MN 55101. Each return shall be considered timely filed if filed before the date it is due or within three days after the return is due. Live Spark shall pay any balance due on those returns upon filing.
- f. Employment Tax Priority: From the date this injunction is entered, Live Spark shall be prohibited from paying its other creditors before paying its federal employment tax debts as they come due.
- g. Transfer Prohibition: Live Spark and Yaman and those persons in concert or participation with Live Spark 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 (c) of this Injunction Order have not been fully made for any tax period;
- h. Notification of New Business: For the next five years, Live Spark shall notify Revenue Officer Jacobson, or such other IRS employee who is designated by the IRS, of any new or presently operating company or entity with which Live Spark becomes involved in relation to federal employment tax withholding,

depositing, or reporting and shall also inform the IRS if Live Spark assumes a new name or transfers its employees or business operations to another entity. Live Spark shall provide such notification within 10 days after the aforementioned actions. For the next five years, Yaman shall notify Revenue Officer Jacobson, or such other IRS employee who is designated by the IRS, within 10 days of any new company Yaman may come to own, manage, or work for during the term of this injunction.

- i. Term of Injunction: If Live Spark and Yaman comply with the terms of this injunction for five years from the date the injunction is issued, Live Spark and Yaman may move this Court to dissolve the injunction order at a hearing to be set in 2019.
- j. Failure to Comply: If Live Spark, Yaman, 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 Live Spark or any other entity that Live Spark uses, directs, or controls as part of its business-related consulting work, and may sell the seized property to satisfy Live Spark's outstanding tax liabilities; and
 - ii. the Court may find Live Spark or Yaman 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 Live Spark is in

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. Yaman and Live Spark shall deliver to all of their current employees a copy of this Injunction Order.
5. The Clerk of Court is instructed to enter judgment against each Defendant and in favor of the United States consistent with this Order.

Dated: September 19, 2014

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge