

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

FILED by *Tom* D.C.
MAY
JUN 29 2006
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
)
v.)
)
LABIB BALTAGI, INC. d/b/a JACKSON)
HEWITT TAX SERVICES, INC. and)
AHMAD LABIB BALTAGI,)
)
Defendants.)

Civ. No. 06-20949 - *CIU- Cooke*

**STIPULATED JUDGMENT OF PERMANENT INJUNCTION AGAINST
DEFENDANTS LABIB BALTAGI, INC. AND AHMAD LABIB BALTAGI**

Plaintiff United States of America and Defendants Labib Baltagi, Inc. d/b/a as Jackson Hewitt Tax Services, Inc., and Ahmad Labib Baltagi (collectively "Defendants" or "Baltagi") stipulate as follows:

A. The United States has filed a complaint alleging that defendants and their employees have prepared tax returns which understated some of their customers' tax liabilities by asserting the frivolous and unrealistic position that per capita distributions of gaming proceeds paid to Native Americans are exempt from federal income taxes. The United States seeks a permanent injunction prohibiting defendants from: (1) preparing federal income tax returns that assert that per capita distributions of gaming proceeds are exempt from federal income taxes; and (2) preparing federal income tax returns that understate tax liability by asserting any other frivolous or unrealistic position. The complaint also asks the Court to order defendants to take certain corrective actions.

14
15
1698151

- B. Defendants admit that they or their employees have prepared at least 32 tax returns that incorrectly took the position that per capita distributions of gaming proceeds paid to Native Americans are exempt from federal income taxes.
- C. Defendants waive the entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure and the Internal Revenue Code, 26 U.S.C. §§ 7407, 7408 and 7402(a).
- D. Defendants understand that this Stipulated Judgment of Permanent Injunction constitutes the final judgment in this matter, and waive any and all right to file an appeal from this judgment.
- E. Defendants consent to the entry of this Stipulated Judgment of Permanent Injunction without further notice and agree to be bound by its terms. Defendants further understand and agree that the Court will retain jurisdiction over this matter for the purpose of implementing and enforcing this Stipulated Judgment of Final Injunction and understand that if they violate this Stipulated Judgment of Final Injunction, they may be found to be in contempt of court and may be sanctioned for the same.

WHEREFORE, in light of the foregoing, the Court hereby FINDS, ORDERS, and

DECREES:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407 and 7408;
2. The defendants have consented to the entry of this Stipulated Judgment of Permanent Injunction and agree to be bound by its terms;
3. Pursuant to 26 U.S.C. §§ 7402(a), 7407 and 7408, defendants and their employees are permanently enjoined from:

- a. preparing or assisting in the preparation of, or counseling or advising the preparation or filing of, federal tax returns which assert that per capita distributions of gaming proceeds paid to Native Americans are exempt from federal income tax;
 - b. preparing or assisting in the preparation of, or counseling or advising the preparation or filing of federal tax returns that assert any position for which there is not a realistic possibility of being sustained on its merits that results in the understatement of tax liability, or that evinces a willful, intentional, or reckless disregard for the applicable laws, rules, and regulations;
 - c. engaging in any fraudulent or deceptive conduct which interferes with the proper administration of the internal revenue laws.
4. Pursuant to 26 U.S.C. §§ 6695, 7402(a), and 7407, defendants are hereby ordered to:
- a. Cooperate fully with the Government's efforts to identify all tax returns prepared by defendants or their employees which understated a customer's tax liability by asserting that per capita distributions of gaming proceeds paid to Native Americans were exempt from federal income taxes;
 - b. Produce to counsel for the United States, within 14 days of the Court's order, a list of all customers that defendants have identified for whom they or their employees prepared income tax returns which asserted that any income, of whatever kind, was exempt from taxation due to a purported Native American Treaty; and for each customer, provide the customer's name, social security number, address and telephone number;

- c. Produce to counsel for the United States within 14 days of the Court's order, copies of all federal tax returns (including amended returns), that defendants have identified, which defendants or their employees prepared that asserted that any income, of whatever kind, was exempt from taxation due to a purported Native American Treaty;
- d. Send, at their own expense, within 14 days of the Court's order, the attached letter to all customers for whom they prepared tax returns which asserted that any income was exempt from taxation pursuant to a Native American Treaty,
- e. Continue their efforts to identify and correct any income tax returns which asserted that income was exempt from taxation due to a purported Native American Treaty after making their initial report to counsel for the United States, and to the extent that defendants identify any additional returns which asserted that income was exempt from taxation due to a purported Native American Treaty, defendants shall comply with the obligations set forth in subparagraphs (b)-(d) within 14 days of identifying such a return.

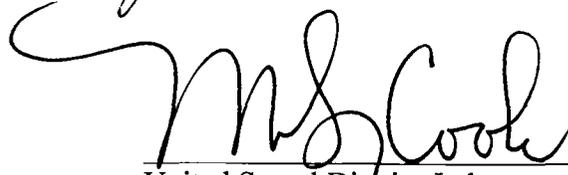
5. Pursuant to 26 U.S.C. § 7402(a), defendants are further ordered to file with the Court, within 14 days after the entry of this Stipulated Judgment of Permanent Injunction, a certificate of compliance, signed under penalty of perjury, which states that defendants have provided counsel for the United States:

- a. a list of all customers that defendants have identified for whom defendants or their employees prepared income tax returns which asserted that any income, of whatever kind, was exempt from taxation due to a purported Native American Treaty;
- b. a complete description of the means by which defendants identified such customers;
- c. a complete description of the means by which defendants have notified their customers that: (1) all per capita distributions of gaming proceeds are subject to federal income taxes and (2) any income tax return on which such customers claimed that income was exempt from taxation due a Native American Treaty may need to be amended.

Furthermore, to the extent that defendants identify any further income tax returns which asserted that income was exempt from taxation due to a purported Native American Treaty after filing the initial sworn certificate of compliance, they shall, within 14 days, file a further certificate of compliance, signed under penalty of perjury, which contains the information required by subparagraphs (a)-(c) of this paragraph.

6. The Court shall retain jurisdiction over this matter and defendants for the purpose of enforcing any permanent injunction;
7. The United States is granted the right to conduct post-judgment discovery for the purpose of monitoring defendants' compliance with the terms of this injunction;

SO ORDERED, this 29 day of June, 2006


United States District Judge

Consented and Agreed to:

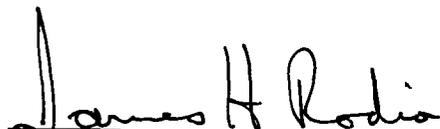
Labib Baltagi
AHMAD LABIB BALTAGI

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

LABIB BALTAGI, INC. d/b/a
JACKSON HEWITT TAX SERVICES, INC.


JANENE M. MARASCIULLO
Trial Attorney
U.S. Department of Justice
Tax Division
P.O. Box 7238
Washington, D.C. 20044
Phone: (202) 305-2334
Fax: (202) 514-6770

By: Labib Baltagi
AHMAD LABIB BALTAGI


JAMES H. RODIO
Attorney for Defendant
Holland & Knight LLP
1600 Tysons Blvd., Suite 700
McLean, Virginia 22102-4867
(703)720-8660