

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

FILED

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UNITED STATES OF AMERICA

Plaintiff

v.

THE JOY FOUNDATION, a purported trust;
JACK L. MALONE, individually
and as trustee of THE JOY FOUNDATION;
YVONNE M. MALONE; and ROBERT
LAWRENCE

Defendants

JOHN M. WATERS, Clerk
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

CIVIL NO. 02-5

**Complaint for Permanent
Injunction and Other Equitable Relief**

Nature of Action

1. This is a civil action brought by the United States of America pursuant to Sections 7402(a) and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) to restrain and enjoin the defendants, The Joy Foundation, Jack L. Malone, Yvonne M. Malone, and Robert Lawrence, and all those in active concert or participation with them from the following:

- (a) Organizing or selling abusive tax shelters, plans, programs or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of their correct federal tax;
- (b) Making false statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by the reason of participating in such tax shelters, plans, programs, or arrangements;
- (c) Instructing or advising taxpayers to not file tax returns, not pay taxes, and/or to understate their federal income tax liabilities in connection with the marketing of trusts or other programs;
- (d) Engaging in any other activity subject to penalty under I.R.C. § 6700;
- (e) Engaging in other similar conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction

2. This action has been authorized and requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to the provisions of I.R.C. §§ 7402 and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§ 7402(a) and 7408.

Defendants

4. The Joy Foundation is a purported trust with its main office located at 13936 West Hillsborough Avenue, Tampa, Florida, 33635. The Joy Foundation, through its agents operating in this district, has engaged in conduct subject to penalty under I.R.C. § 6700, and has engaged in conduct in this district that interferes with the enforcement of the internal revenue laws.

5. Jack L. Malone resides at 16856 Chickadee Court, Springhill, Florida 34610. Jack L. Malone is the creator and co-trustee of the Joy Foundation, along with Joseph N. Sweet, who was recently enjoined by the United States District Court for the Middle District of Florida from promoting abusive tax shelters, plans or arrangements. Jack L. Malone has engaged in conduct in this district subject to penalty under I.R.C. § 6700, and has engaged in conduct in this district that interferes with the enforcement of the internal revenue laws.

6. Yvonne M. Malone resides at 2209 Ramsgate Court, Safety Harbor, Florida 34695. Yvonne M. Malone has engaged in conduct in this district subject to penalty under I.R.C. § 6700, and has engaged in conduct in this district that interferes with the enforcement of the internal revenue laws.

7. Robert Lawrence resides at 223 Stewart Street, East Peoria, Illinois.

Count I
Injunction under I.R.C. § 7408

8. The defendants Joy Foundation, Jack L. Malone, Yvonne M. Malone, and Robert Lawrence prepare, promote, and market a variety of products and services that purport to “legally and safely teach an individual how to ‘un-volunteer’ from the FORM 1040 Income tax system.” Defendants teach individuals how to build a “Reliance Offense,” which allegedly will protect them from any consequences of not paying taxes. Defendants prepare, promote, and market the following tax-avoidance schemes:

- The Associate’s Degree Program and Associate’s Degree Plus
- The Bachelor’s Degree Program and Bachelor’s Degree Plus
- Unincorporated Business Trust Organization (UBTO) and UBTO Plus

9. Defendants promote their programs through the Internet, newspaper advertisements, word of mouth, and through a publication entitled “GOOD NEWS For FORM 1040 Filers: Your Compliance is Strictly VOLUNTARY! BAD NEWS For The IRS! Everything You Ever Needed to Know About the Income Tax That the IRS Is Afraid You’ll Find Out.” Defendants claim that thousands of individuals have participated in their programs. Their programs are promoted on numerous Internet websites. The most comprehensive version of their Internet promotional materials is at www.joyfoundation.com.

10. Defendants’ programs provide customers with books, forms, and referrals to “authorized Joy professionals,” including attorneys, “Tax Professionals,” CPAs and officers of the Joy Foundation, to assist them in “un-volunteering” themselves from the federal income tax system. The defendants’ “Reliance Offense” consists of a series of letters sent to the United States Treasury Department, which purport to serve two purposes. Defendants assert that their “Reliance Offense” results in decreased odds of being audited by the IRS, and also “nullif[ies] any ‘willfulness’ in the ‘willful failure to file’ or ‘tax evasion charges.’” The defendants also teach customers how to circumvent an IRS levy on personal bank accounts, how to circumvent an employer’s obligation to withhold taxes on wages, and how to avoid complying with IRS summonses. Defendants’ programs

falsely teach customers that paying federal income tax is unnecessary, and instruct them how to stop.

11. Defendants also promote the use of Unincorporated Business Trust Organizations, or UBTOs. UBTOs are nothing more than sham trusts designed by Defendants for the sole purpose of improperly sheltering or hiding income and assets. Defendants falsely claim that by following a series of convoluted steps, ultimately resulting in a fully-funded UBTO, customers can receive all the benefits of their assets and income, yet avoid paying any federal income tax.

12. Defendants charge customers a "ONE-TIME educational fee of \$1,650.00" to become Joy Foundation members. Defendants have the following fee schedule for their Plus Programs:

Associate's Degree Plus	\$2,135.00
Bachelor's Degree Plus	\$3,050.00
UBTO Plus	\$3,050.00
Associate's Degree and UBTO Plus	\$5,185.00
Associate's Degree, Bachelor's Degree and UBTO Plus	\$8,235.00

13. In promoting their programs, defendants state that in recent years thousands of people have used their programs, and "not one person has had to go to criminal trial much less to prison!"

14. In promoting and explaining their programs, defendants have made the following false or fraudulent statements, orally, via the Internet, or in the books and materials sold in connection with their programs:

- Wages are not taxable income;
- The federal income tax is unconstitutional as a direct tax not apportioned among the states;
- The Internal Revenue Service is not legally authorized to collect taxes;
- Filing tax returns and paying taxes, including income taxes, are voluntary;
- The federal tax laws apply only to foreign earned income;
- The Internal Revenue Service is the collection arm for the Federal Reserve

System, a system of private banking corporations;

- Individuals are exempt from internal revenue laws requiring tax withholding;
- Income earned on trust-owned property is not taxable.

15. The defendants employed these and other false and fraudulent statements in advising customers to:

- not file income tax returns,
- improperly attempt to avoid tax withholding from wages,
- transfer assets to bogus trusts, and
- not pay federal income tax.

16. Defendants knew or had reason to know that their programs and program materials contained false or fraudulent statements within the meaning of I.R.C. § 6700.

17. The Joy Foundation promotional materials provide "testimonials" in order to induce customers to purchase the defendants' tax avoidance schemes. One of the testimonials, from a purported accounting professional and Joy Foundation member, explained how the Joy Foundation's Program works:

The beauty of The Joy Foundation's program is the building of your "Reliance Offense." This "Reliance Offense" effectively takes away the IRS's ability to pursue taxpayers at the beginning stage of the IRS attempts to have non-taxpayers file and collect. My experience is that the IRS then goes away and bothers someone else. ...The Joy Foundation course shows the individual how to permanently LEGALLY AND LEGITIMATELY get out of the IRS system as individuals.

18. Another testimonial, from an unidentified Northern California Joy Foundation customer, states that the Joy Foundation helped him "un-volunteer" from the income tax system:

I feel safe in knowing that the Professionals in the Joy Foundation are available to help me every step of the way. If that were NOT the case, I would not even attempt to do this... after all, I am just an average citizen who knows NOTHING about the laws, etc. Since there are accountants and lawyers available to help me, by me being a member [of the Joy Foundation], I feel confident that I CAN DO IT, AND THAT I WILL BE INFORMED THAT THIS IS 100% LEGAL!

19. A third testimonial, from a Joy Foundation customer from Florida, explained the Joy Foundation's claimed expertise in legal and tax matters:

The founders of the Joy Foundation spent years studying the IRS tax codes, the Constitution, the laws of the land, and Supreme Court decisions regarding Income Taxes, and came to the realization that most people who work for a living are not engaged in an activity that make them liable for paying income taxes.

20. Through defendants' actions, the Joy Foundation has recruited numerous customers in the Bloomington and Peoria areas. Defendants have advertised their programs by word of mouth and by advertisements in the Peoria *Journal Star* and the *Register Mail*, of Galesburg. Defendants have held meetings and seminars in the Peoria area to promote their programs and recruit customers.

21. Defendant Robert Lawrence promoted Joy Foundation programs and recruited Joy Foundation customers while working at Mitsubishi Motor Manufacturing of America, Inc., in Normal. Lawrence has also arranged Joy Foundation recruitment meetings.

22. Defendant Jack Malone is the founder and co-trustee of the Joy Foundation, and actively promotes Joy Foundation programs. Jack Malone was instrumental in recruiting defendant Robert Lawrence into the Joy Foundation. Jack Malone has promoted Joy Foundation recruiting programs at Joy Foundation meetings or seminars in the Peoria area.

23. Defendant Yvonne Malone also promoted Joy Foundation programs at meetings or seminars in the Peoria area.

24. Through defendants' promotional activities at Mitsubishi Motors and in the Peoria area, a number of current or former Mitsubishi employees became Joy Foundation members, and based on the defendants' promotions, have attempted to circumvent Mitsubishi's obligation to withhold federal taxes on wages, and stopped filing federal income tax returns, in violation of I.R.C. §§ 6001 and 6011.

25. Andrew Whaley, Accounting and Finance Manager at Mitsubishi in Normal, contacted the IRS after a number of Mitsubishi employees filed W-4 Forms claiming exemption from tax withholding. Mitsubishi employees submitted virtually identical documents with their exempt W-4s, including a "NOTICE OF WITHDRAWAL OF AUTHORIZATION TO WITHHOLD and CONSTRUCTIVE NOTICE AND DEMAND TO CEASE WITHHOLDINGS." One set of these documents included a Joy Foundation business card. These materials were provided to the employees through the defendants' promotional recruitment activities.

26. In compliance with the Internal Revenue Code, Mitsubishi refused to honor its employees' exempt designations on W-4 Forms. As a result of this, defendant Robert Lawrence filed suit against Mitsubishi in McLean County Circuit Court, Case No. 01-AR-529, in an improper attempt to prevent Mitsubishi from fulfilling its legal obligation to withhold federal taxes on wages.

27. As a result of defendants' activities, a number of Joy Foundation customers failed to file federal income tax returns for the year 2000. As a result of defendants' activities, a number of Joy Foundation customers also failed to file federal income tax returns for 1999.

28. Defendants have engaged in conduct subject to penalty under I.R.C. § 6700, and continue to promote their programs through the Internet, newspaper advertisements, word of mouth, seminars, and through the publication "GOOD NEWS... BAD NEWS." Unless enjoined by this Court, defendants are likely to continue to engage in such conduct. Injunctive relief is therefore appropriate under IRC § 7408.

Count II
Injunction Under I.R.C. § 7402 and Appropriateness of Injunctive Relief

29. The United States incorporates by reference the allegations in paragraphs 1 through 28, above.

30. Defendants, through the conduct described above, have engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

31. Defendants' conduct, as described in paragraphs 1 through 28 results in irreparable harm to the United States and the United States has no adequate remedy at law. The defendants' conduct is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may not be recoverable.

32. Unless the defendants are enjoined the IRS will have to devote substantial time and resources auditing each Joy Foundation customer individually. In light of defendants' claim that thousands of individuals have participated in their programs, the burden of pursuing individual members may be an insurmountable obstacle given the IRS's limited resources.

33. If the defendants are not enjoined, they likely will continue to engage in conduct subject to penalty under I.R.C. §§ 6700 and that interferes with the enforcement of the internal revenue laws.

WHEREFORE, plaintiff, United States of America, respectfully prays for the following:

A. That the Court find that each of the defendants has engaged in conduct subject to penalty under I.R.C. § 6700, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

B. That the Court find that each of the defendants has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

C. That this Court, pursuant to I.R.C. §§ 7408 and 7402, enter a permanent injunction prohibiting the defendants, individually and doing business as The Joy Foundation, or any other entity, and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from directly or indirectly by means of false, deceptive or misleading commercial speech:

- (a) Organizing or selling abusive tax shelters, plans, programs, or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of their correct federal tax;
- (b) Making false statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by the reason of participating in such tax shelters, plans, programs, or arrangements;
- (c) Instructing or advising taxpayers to not file tax returns, not pay taxes, or to understate their federal income tax liabilities in connection with the marketing of trusts or other programs;
- (d) Engaging in any other activity subject to penalty under I.R.C. § 6700;
- (e) Engaging in other similar conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

D. That this Court, pursuant to I.R.C. §§ 7408 and 7402, enter an injunction requiring defendants to contact all individuals who have previously purchased their abusive tax shelters, plans, arrangements, or programs, including the Associate's Degree and Bachelor's Degree programs, UBTOs, any of the Plus Programs, the book: "GOOD NEWS... BAD NEWS," or any other tax

shelter, plan or program in which defendants have been involved either individually or through Joy Foundation, and inform those individuals of the Court's findings concerning the falsity of the defendants' prior representations and the entry of the permanent injunction against the defendants.

E. That this Court, pursuant to I.R.C. §§ 7408 and 7402, enter an injunction requiring defendants to turn over to the United States any records in their possession or to which they have access, that identify the persons who have previously purchased their abusive tax shelters, plans, arrangements, or programs, including the Associate's Degree and Bachelor's Degree programs, UBTOs, any of the Plus Programs, the book: "GOOD NEWS... BAD NEWS," or any other tax shelter, plan or program in which defendants have been involved.

F. That this Court, pursuant to IRC §§ 7402 and 7408, enter an injunction requiring defendants and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them to maintain their websites for one year, and to remove from their websites all abusive-tax-scheme promotional materials, false commercial speech, and materials designed to incite others imminently to violate the law (including tax laws), and to display prominently on the first page of those websites a copy of the Court's permanent injunction; and

G. That the Court grant the United States such other relief, including costs, as is just and equitable.

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