

COPY

FILED

2006 AUG 14 PM 3:47

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

1 DEBRA W. YANG
 United States Attorney
 2 SANDRA R. BROWN
 Assistant United States Attorney
 3 Chief, Tax Division
 EVAN DAVIS (SBN Pending)
 4 Assistant United States Attorney
 Federal Building Room 7211
 5 300 North Los Angeles Street
 Los Angeles, California 90012
 6 Telephone: (213) 894-4850
 Facsimile: (213) 894-0115
 7 evan.davis@usdoj.gov

8 HILARIE E. SNYDER
 Trial Attorney, Tax Division
 9 U.S. Department of Justice
 Post Office Box 7238
 10 Ben Franklin Station
 Washington, D.C. 20044
 11 Telephone: (202) 307-2708
 Facsimile: (202) 514-6770
 12 hilarie.e.snyder@usdoj.gov

13 Attorneys for United States

14 IN THE UNITED STATES DISTRICT COURT FOR THE
15 CENTRAL DISTRICT OF CALIFORNIA

16 UNITED STATES *of America*
 17 Plaintiff,

18 vs.

19 DAVID W. CLANCY, Jr.;
 20 JOVITA ARCARO;
 IDEAL MANAGEMENT, LTD. LIMITED
 21 PARTNERSHIP;
 IDEAL FINANCIAL PARTNERS, LTD. A
 22 CA LIMITED PARTNERSHIP;
 IDEAL PAYROLL PLUS, LTD. A
 23 CALIFORNIA LIMITED PARTNERSHIP;
 IDEAL ADVISORS, LTD. A
 24 CALIFORNIA LIMITED PARTNERSHIP;
 IDEAL PAYROLL PLUS II, LTD. LP;
 25 ONESTONE, LTD. A CALIFORNIA
 LIMITED PARTNERSHIP;
 26 BLUESTONE MANAGEMENT, LTD. A
 CALIFORNIA LTD. PARTNERSHIP; and)

EDCV06-0889 VAP (OPx)
 Case No.

1 HILLSTONE ADVISORS, LTD. A)
2 CALIFORNIA LIMITED PARTNERSHIP)
3 Defendants.)

4 **Complaint**

5 This is a civil action brought by the United States to permanently enjoin
6 defendants David W. Clancy, Jr.; Jovita Arcaro; Ideal Management, Ltd. Limited
7 Partnership; Ideal Financial Partners, Ltd. a CA Limited Partnership; Ideal Payroll
8 Plus, Ltd. a California Limited Partnership; Ideal Advisors, Ltd. a California
9 Limited Partnership; Ideal Payroll Plus II, Ltd. LP; Onestone, Ltd. a California
10 Limited Partnership; Bluestone Management, Ltd. a California Limited
11 Partnership, and Hillstone Advisors, Ltd. a California Limited Partnership from
12 promoting tax-fraud schemes.

13 **Jurisdiction and Venue**

14 1. This action has been requested by the Chief Counsel of the Internal
15 Revenue Service, a delegate of the Secretary of the Treasury, and commenced at
16 the direction of a delegate of the Attorney General, pursuant to Internal Revenue
17 Code (I.R.C.) (26 U.S.C.) §§ 7402(a) and 7408.

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

20 3. Clancy and Arcaro reside within this judicial district. Clancy and Arcaro
21 conduct business through the other defendants, all of which are located in this
22 judicial district.

23 4. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396.

1 **Individual Defendants**

2 5. David Clancy, Jr. resides in Hacienda Heights, California. Clancy is the
3 chief executive officer of Ideal Financial Partners and a consultant for the
4 Onestone Financial Group.

5 6. Jovita Arcaro resides in Rancho Cucamonga, California. Arcaro is the
6 business planning division manager of Ideal Financial Partners and the executive
7 director of Onestone Financial Group.

8 **Business Defendants**

9 *Ideal Financial Partners*

10 7. Ideal Management, Ltd. is a Missouri limited partnership founded in
11 2000 and located in Claremont, California. Clancy is its registered agent and
12 general partner.

13 8. Ideal Financial Partners, Ltd. is a California limited partnership founded
14 in 2002 and located in Rancho Cucamonga, California. Clancy is its registered
15 agent and general partner.

16 9. Ideal Payroll Plus, Ltd. is a California limited partnership founded in
17 2000 and located in Ontario, California. J. Michael Clancy is its registered agent
18 and "Ideal Management, L.P., A Montana Limited Partnership" is the general
19 partner. Clancy is the general partner of "Ideal Management, L.P., A Montana
20 Limited partnership."

21 10. Ideal Advisors, Ltd. is a California limited partnership founded in 2000
22 and located in Ontario, California. Clancy is the registered agent and general
23 partner.

24 11. Ideal Payroll Plus II, Ltd. LP is a California limited partnership founded
25 in 2003 and located in Rancho Cucamonga, California. Clancy is the registered
26 agent and Ideal Management, L.P. is the general partner.

1 *Onestone Financial Group*

2 12. Onestone, Ltd. is a California limited partnership founded in 2003 and
3 located in Claremont, California. Clancy is the registered agent and Bluestone
4 Business Solutions, Inc. is the general partner. Bluestone Business Solutions, Inc.
5 is a California corporation founded in 2000 and located in Rancho Cucamonga,
6 California. Clancy is the registered agent and president of Bluestone Business
7 Solutions.

8 13. Bluestone Management, Ltd. is a California limited partnership founded
9 in 2003 and located in Claremont, California. Clancy is the registered agent and
10 Bluestone Business Solutions, Inc. is the general partner.

11 14. Hillstone Advisors, Ltd. is a California limited partnership founded in
12 2003 located in Claremont, California. Clancy is the registered agent and
13 Bluestone Business Solutions, Inc. is the general partner.

14 **Facts**

15 15. Beginning in 2001, defendants began promoting two tax scams: (1) a
16 payroll-tax scheme and (2) a trust scheme.

17 16. The individual defendants promoted both schemes first through the
18 Ideal Financial Partners defendants (2001-2003) and next through the Onestone
19 Financial Group defendants (2003-present).

20 18. On information and belief, Clancy and Arcaro are also promoting and
21 selling their tax-fraud schemes through an entity called US Business Advisors.

22 **1. Payroll Scheme**

23 19. Defendants advertise themselves as either a Professional Employer
24 Organization (Ideal Financial Partners) or an Administrative & Benefit Services
25 Organization (Onestone Financial Group).

1 20. Defendants instruct their business customers about, and purport to
2 assist customers with, employee payroll and withholding.

3 21. In their promotional materials, Defendants advertise that their “system”
4 will help the business customers save on payroll tax and worker’s compensation
5 costs.

6 22. Defendants’ “system,” however, fraudulently disguises wage income in
7 order to reduce reported wages and thereby reduce reported employment taxes.

8 23. Defendants instruct their business customers to split employees’ wages
9 or salaries into two portions.

10 24. Defendants instruct (and assist) their business customers to pay the first
11 portion as wages, with appropriate withholding of federal income and employment
12 taxes.

13 25. Defendants tell their customers to call the second portion of wages
14 something other than Form W-2 wage income, and assist their business customers
15 in disguising the second portion as something other than wages to avoid reporting
16 that portion as wages subject to employment tax.

17 26. Defendants cause their business customers to pay the second portion by
18 means of a different check than is used to pay the first portion, and typically route
19 the second portion through the account of a sham trust or other entity before it is
20 paid to the customers’ employees.

21 27. In their promotional materials and in conferences with their customers,
22 Defendants falsely tell their customers that because the second portion has been
23 labeled something other than Form W-2 wage income, the customers need not
24 withhold or pay federal employment taxes with respect to the second portion.

25 28. At the end of each year, defendants issue (or help their customers to
26 issue) a Form W-2 to each employee falsely reflecting only the first portion as
27

1 wages paid for the year. Similarly, at the end of each year the defendants also
2 prepare and file with the federal government (or help their customers to prepare
3 and file) W-2 and W-3 forms reporting the same false wage information to the IRS
4 and Social Security Administration. And similarly, at the end of each quarter,
5 defendants prepare and file with the IRS (or help their customers to prepare and
6 file) a Form 941 federal employment tax return falsely reporting only the first
7 portion as total wages paid for the quarter.

8 29. Defendants also issue (or help their customers to issue) a K-1 (an IRS
9 form used to report a trust distribution) or other IRS form (such as Form 1099) to
10 each employee reflecting the falsely characterized second portion.

11 30. Despite the labels and despite Defendants' contentions to the contrary,
12 both portions are in fact wages (and not trust or other distributions) paid to the
13 employees for performing work.

14 31. By fraudulently dividing employees' wages into two portions, and
15 reporting and paying federal employment taxes only on the first portion,
16 defendants and their customers report and pay less federal employment tax than is
17 owed.

18 32. The Government is thus harmed by the amount of federal employment
19 tax owed but unpaid, plus the costs of detecting and correcting the fraud.

20 33. The employees are harmed as well, because federal social security and
21 Medicare benefits as well as state workers compensation benefits are tied to the
22 amount of wage income an employee earned. Thus, the employees will receive
23 less government benefits than they are entitled to under the law.

24 34. Defendants know or have reason to know that they falsely misstate the
25 tax consequences of their scheme. The federal government has told them that their
26 scheme understates wage income because simply labeling wages as something
27

1 other than wages does not change the character of the payments as wages subject
2 to federal employment taxes. Further, the State Compensation Insurance Fund has
3 challenged Defendants' practices as well.

4 2. Sham-Trust Scheme

5 35. Defendants, through the business defendants, advertise themselves as
6 financial and estate planners, and charge customers thousands of dollars for their
7 services.

8 36. Defendants help customers set up and use sham trusts and sham limited
9 partnerships to help customers evade their federal tax liabilities.

10 37. Defendants advise and assist customers to transfer all their personal and
11 business assets to several entities, typically limited partnerships or trusts.

12 38. Defendants put the customer's business in one entity, the business's
13 assets in a separate entity, and the customer's personal assets (such as a house or
14 car) in still other entities.

15 39. Defendants then falsely advise customers, in promotional materials and
16 in their meetings with customers, that these transfers increase the customers' tax
17 basis in the transferred property to the property's market value. Defendants also
18 falsely advise customers that they can take depreciation and other deductions for
19 personal home and living expenses.

20 40. The customer's use and enjoyment of the transferred property remains
21 as it was before defendants' scheme was implemented.

22 41. The trusts and limited partnerships that defendants create for their
23 customers are shams, and are devoid of economic substance.

24 42. Contrary to defendants' assertions, customers cannot claim depreciation
25 deductions for their homes or deduct their personal living expenses, and
26
27

1 transferring property into a trust or limited partnership will not increase the
2 customer's basis in the property.

3 43. Claiming these deductions on federal income tax returns materially and
4 substantially understates customers' income tax liabilities.

5 44. Defendants know or have reason to know that this scheme misstates
6 their customers' tax liabilities. Courts have enjoined many such schemes, and a
7 number of participants in and promoters of such schemes have been convicted of
8 tax crimes based on their involvement with the schemes. Moreover, the federal
9 government has told defendants that their trust scheme is illegal, and Michael
10 Richmond, an Illinois resident from whom Clancy received "training," was
11 enjoined in December of 2002 from promoting a similar sham-trust scheme.

12 **Harm to the Government**

13 45. The defendants' schemes harm the government by fraudulently
14 reducing customers' reported tax liabilities. The defendants' payroll scheme
15 results in business customers underreporting and underpaying federal employment
16 tax. The trust scheme results in customers underreporting and underpaying
17 income taxes.

18 46. The payroll-tax scheme has cost the government approximately \$1.7
19 million in employment taxes so far. Defendants have had approximately 50
20 California business customers, including a Riverside transportation company, a
21 Sacramento roofing company, a Palm Springs doctor's office, and a Palm Desert
22 glass company.

23 47. The IRS has thus far identified approximately 35 customers of
24 defendants' trust scheme. The IRS has not yet been able to determine the extent of
25 the tax losses from this scheme. The trust-scheme customers include residents of
26 Huntington Beach, Torrance, Yucaipa, and Del Mar, California.

1 **Count I: Injunction under I.R.C. § 7408 for violations of § 6700**

2 48. The United States incorporates by reference the allegations contained in
3 paragraphs 1 through 47.

4 49. I.R.C. § 7408 authorizes this Court to enjoin persons who have engaged
5 in conduct subject to penalty under I.R.C. § 6700 from engaging in further such
6 conduct if the Court finds that injunctive relief is appropriate to prevent recurrence
7 of the conduct.

8 50. Section 6700 imposes a penalty on any person who organizes or
9 participates in the sale of a plan or arrangement and in connection therewith makes
10 or furnishes (or causes another to make or furnish) a statement with respect to the
11 allowability of any deduction or credit, the excludability of any income, or the
12 securing of any tax benefit by reason of participating in the plan or arrangement
13 which that person knows or has reason to know is false or fraudulent as to any
14 material matter.

15 51. Clancy, Arcaro and the business defendants organized and sold tax-
16 fraud schemes that falsely promised tax benefits to customers.

17 52. In organizing and selling these schemes, the defendants made false or
18 fraudulent statements regarding the tax benefits of participating in the schemes.

19 53. The defendants knew or had reason to know that these statements were
20 false or fraudulent within the meaning of I.R.C. § 6700.

21 54. If they are not enjoined, the defendants are likely to continue to engage
22 in § 6700 penalty conduct in organizing and selling tax-fraud schemes.

23 55. Injunctive relief is appropriate to prevent recurrence of this conduct.

24 **Count II: Injunction Under I.R.C. § 7402**

25 56. The United States incorporates by reference the allegations contained in
26 paragraphs 1 through 55.

1 57. I.R.C. § 7402(a) authorizes a court to issue injunctions as may be
2 necessary or appropriate for the enforcement of the internal revenue laws, even if
3 the United States has other remedies available.

4 58. Clancy, Arcaro, and the business defendants substantially interfere with
5 the enforcement of the internal revenue laws by promoting their tax-fraud
6 schemes.

7 59. The defendants' conduct results in irreparable harm to the United States
8 for which the United States has no adequate remedy at law.

9 60. Unless enjoined by this Court, the defendants are likely to continue to
10 engage in illegal conduct.

11 61. The United States is entitled to injunctive relief under I.R.C. § 7402(a).

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

14 A. That the Court find that Clancy, Arcaro and the business defendants
15 have engaged in conduct subject to penalty under I.R.C. § 6700, and that injunctive
16 relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

17 B. That this Court, under I.R.C. §§ 7402 and 7408, enter a permanent
18 injunction prohibiting Clancy, Arcaro, and the business defendants, and their
19 representatives, agents, servants, employees, attorneys, and those persons in active
20 concert or participation with them, from directly or indirectly:

21 a. Engaging in activity subject to penalty under 26 U.S.C. § 6700,
22 including organizing or selling a plan or arrangement and in
23 connection therewith making or furnishing (or causing another to
24 make or furnish) a statement regarding the tax benefits of
25 participating in the plan that they know or have reason to know is
26 false or fraudulent as to any material matter;

27 b. Engaging in conduct that substantially interferes with the proper
28 administration and enforcement of the internal revenue laws; and

 c. promoting the two tax-fraud schemes described in this complaint.

1 C. That this Court, under 26 U.S.C. § 7402, enter an injunction requiring
2 Clancy and Arcaro to contact by mail (and also by e-mail, if an address is known)
3 all customers who purchased the tax-fraud plans described in the complaint, as
4 well as all employees of customers that used the payroll plan, and inform those
5 persons of the Court's findings concerning the falsity of Clancy and Arcaro's
6 prior representations and attach a copy of the permanent injunction against
7 Clancy, Arcaro, and their related entities;

8 D. That this Court, under 26 U.S.C. § 7402, enter an injunction requiring
9 the defendants to produce to the United States any records in their possession or to
10 which they have access, identifying the persons who have purchased their tax
11 schemes described in the complaint (whether purchased either directly from
12 defendants or from their associates or related entities);


13 E. That this Court, under 26 U.S.C. § 7402, enter an injunction prohibiting
14 defendants from promoting or selling a trust or limited partnership, or advising
15 anybody about the creation of a trust or limited partnership;

16 F. That this Court, under 26 U.S.C. § 7402, enter an injunction prohibiting
17 defendants from advising anyone for compensation about federal income,
18 employment, or unemployment taxes.

19 G. That this Court order that the United States is permitted to engage in
20 post-judgment discovery to ensure compliance with the permanent injunction; and
21
22
23
24
25
26
27

1 H. That this Court grant the United States such other relief, including costs,
2 as is just and equitable.

3
4 DEBRA W. YANG
5 United States Attorney
6 SANDRA BROWN
7 Assistant United States Attorney
8 Chief, Tax Division
9 EVAN DAVIS
10 Assistant United States Attorney
11 Federal Building, Room 7211
12 300 North Los Angeles Street
13 Los Angeles, California 90012
14 Telephone: (213) 894-4850
15 Facsimile: (213) 894-0115

16
17
18
19
20
21
22
23
24
25
26
27
28


HILARIE E. SNYDER
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-2708
Facsimile: (202) 514-6770
hilarie.e.snyder@usdoj.gov