

JS-6

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

UNITED STATES,
Plaintiff,

STIPULATED FINAL
JUDGMENT OF PERMANENT
INJUNCTION AGAINST
DAVID W. CLANCY, JR.

vs.
DAVID W. CLANCY, Jr.; *et al.*
Defendants.

Case No. 5:06-cv-889 VAP-OPx

STIPULATED FINAL JUDGMENT OF PERMANENT INJUNCTION

Plaintiff, the United States of America, has filed a Complaint for Permanent Injunction in this matter against Defendant David W. Clancy, Jr.

Clancy filed an Answer to the Complaint and denies the allegations in the complaint.

Clancy, however, admits that this Court has jurisdiction over him and over the subject matter of this action.

Clancy consents to the entry, without further notice, of this Stipulated Final Judgment of Permanent Injunction.

Clancy waives the entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure and 26 U.S.C. §§ 7402 and 7408.

1 Clancy waives any right he may have to appeal from the Stipulated Final
2 Judgment of Permanent Injunction.

3 Clancy states that he enters into this Stipulated Final Judgment of Permanent
4 Injunction voluntarily.

5 Clancy acknowledges that entry of this Stipulated Final Judgment neither
6 precludes the Internal Revenue Service from assessing taxes, interest, or penalties
7 against him for asserted violations of the Internal Revenue Code, nor precludes
8 Clancy from contesting such taxes, interest, or penalties. Further, nothing in this
9 Stipulated Final Judgment is to be construed as an express or implied admission by
10 Clancy of any allegation in the complaint.

11 Clancy agrees that this Court shall retain jurisdiction over him for the
12 purpose of implementing and enforcing this Stipulated Final Judgment.

13 For the purposes of this Stipulated Final Judgment, the term “payroll
14 scheme” is defined as: splitting an employee’s wages or salary into two portions,
15 categorizing the first portion appropriately as Form W-2 wages, and
16 categorizing/disguising the second portion as something other than Form W-2
17 wage income, including, but not limited to, categorizing the second portion as a
18 trust distribution, a profit distribution, or a distribution from a retirement account.

19 For the purpose of this Stipulated Final Judgment, the term “sham-
20 transaction scheme” is defined as creating, advising anyone to use, or promoting a
21 business structure including, but not limited to a corporation, limited partnership,
22 limited liability company and/or, trust that:

- 23 (a) lacks a legitimate business purpose; or,
24 (b) lacks economic substance; or,
25 (c) is created solely to facilitate avoiding federal tax laws.

1 Additionally, for the purpose of this Stipulated Final Judgment, the term
2 “sham-transaction scheme” is defined as:

3 (a) advising anyone that an entity may depreciate an asset at the asset’s fair
4 market value when that asset was transferred into the entity in exchange for units
5 of beneficial/partnership interest (or some other similar interest);

6 (b) advising anyone to take (or have entities take) a depreciation or other
7 deduction for personal home and/or living expenses; or

8 (c) advising anyone that they should (1) transfer their business, income,
9 and/or personal assets into one or more entities, (2) establish leases for that
10 property with those entities, and (3) have the entity or person deduct anything as a
11 result of that arrangement.

12 NOW, THEREFORE, it is accordingly, ORDERED, ADJUDGED, AND
13 DECREED that:

14 1. The Court has jurisdiction over this action pursuant to §§ 1340 and 1345
15 of Title 28 of the United States Code, and §§ 7402 and 7408 of the Internal
16 Revenue Code of 1986, as amended (26 U.S.C.) (the “Code”).

17 2. Clancy and his agents, servants, employees, and those persons in active
18 concert or participation with them, are prohibited from directly or indirectly:

19 a. Engaging in conduct subject to penalty under 26 U.S.C. § 6700,
20 including making, in connection with the organization or sale of any plan or
21 arrangement, a statement regarding the allowability of any deduction or
22 credit, or the securing of any tax benefit that they know or have reason to
23 know is false or fraudulent as to any material matter;

24 b. Engaging in any other conduct that substantially interferes with the
25 proper administration and enforcement of the internal revenue laws; and

26 c. promoting or selling the payroll scheme and the sham-transaction
27 scheme (as defined herein).

28 Additionally, the Court ORDERS, pursuant to I.R.C. § 7402, that:

1 3. Clancy is required to contact by mail (and also by e-mail, if an address is
2 known) all customers (of Clancy, of any entity in which Clancy held an ownership
3 interest, and/or of one of the other Defendants) who purchased any payroll
4 services, financial planning services, and/or asset planning services, as well as all
5 employees of customers who used the payroll services, and send them a copy of
6 this Stipulated Final Judgment of Permanent Injunction;

7 4. Clancy is required to produce to the United States a list, identifying all
8 persons or entities who have purchased payroll services and/or financial/asset
9 planning services (whether purchased directly from Clancy, from one of the other
10 Defendants, or from their associates or their related entities);

11 5. Clancy is required to certify to the Court within 45 days of entry of this
12 Order that he has complied with the provisions in paragraphs three and four of this
13 Stipulated Final Judgment of Permanent Injunction;

14 6. Clancy is prohibited from promoting, creating, selling, organizing or
15 advising anyone about any corporation, limited liability company, business entity,
16 trust, limited partnership or other plan or arrangement to facilitate non-compliance
17 with the federal tax laws;

18 7. Clancy is prohibited from advising anyone for compensation about federal
19 income, employment, or unemployment taxes;

20 8. Clancy is prohibited from advising anyone for compensation about the
21 federal tax consequences associated with creating, promoting, using, selling or
22 organizing corporations, limited liability companies, business entities, trusts,
23 limited partnerships, or any other entities, plans or arrangements;

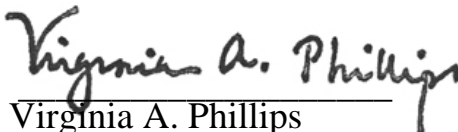
24 9. Nothing in paragraph 8 prohibits Clancy from promoting, creating, selling,
25 using, organizing, or advising anyone about any corporation, limited liability
26 company, business entity, trust, limited partnership or other plan or arrangement
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1 that has a legitimate business purpose, has economic benefit for the client, and is
2 not created solely to facilitate avoiding federal tax laws.

3 10. In promoting, creating, selling, using, or organizing any entity described
4 in paragraph 9, Clancy, as described in paragraph 8, may not advise any of his
5 customers about the federal tax consequences of the transaction. Clancy, however,
6 must inform all customers that “not all trust arrangements are respected for federal
7 income tax purposes,” and may generally inform any customer to consult an
8 independent tax professional or consult the State Bar of California’s Lawyer
9 Referral Services Program if the customer needs advice regarding the federal tax
10 laws. Clancy, however, shall not refer a customer, directly or indirectly, to any
11 particular professional tax advisor for purposes of consultation or instruction.
12 Furthermore, Clancy shall not contact, directly or indirectly, a professional tax
13 advisor to have them communicate with a customer.

14 11. The United States is permitted to engage in post-judgment discovery to
15 ensure compliance with the permanent injunction.

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19 Date: July 17, 2008


Virginia A. Phillips
U.S. District Judge

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Presented by:

Date: 7/11/08

THOMAS P. O'BRIEN
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Chief, Tax Division
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/s/ Hilarie E. Snyder

HILARIE E. SNYDER
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Date: 6/_/08

/s/ David W. Clancy, Jr.

DAVID W. CLANCY, JR
Defendant Pro Se