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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF OREGON

12 UNITED STATES OF AMERICA
13 Plaintiff,

14 v.

Civil No. **CV '07 - 1416 - MO**

15 JOHN D. FITZGERALD, NOREEN
16 McCAUSLAND, MARILYN DIAL,
17 MARTHA FARR SHARP, KAREN GRAY,
18 AMERICAN FAMILY ENTERPRISE, INC.,
19 ALL SAINTS GLOBAL FELLOWSHIP,
20 and WORLD COMMUNITY CO-OP, INC.

21 Defendants.

22 **COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

23 Plaintiff, the United States, for its complaint states as follows:

24 1. The United States is bringing this complaint to enjoin John D. Fitzgerald; Noreen
25 McCausland; Marilyn Dial; Martha Farr Sharp; Karen Gray; American Family Enterprise, Inc.;
26 All Saints Global Fellowship; and World Community Co-Op, Inc. and any other person or entity
27 in active concert or participation with them, from directly or indirectly:

28 A. Organizing, promoting, marketing, or selling any plan or arrangement, including
their nonprofit corporation program, that advises or assists customers to attempt to
violate the internal revenue law or unlawfully evade the assessment or collection
of their federal tax liabilities;

- 1 B. Engaging in conduct subject to penalty under 26 U.S.C. § 6700, i.e., by making or
2 furnishing, in connection with the organization or sale of a plan or arrangement, a
3 statement about the securing of a tax benefit that the defendants know or have
4 reason to know to be false or fraudulent as to any material matter under the federal
5 tax laws;
- 6 C. Engaging in any conduct that interferes with the administration and enforcement
7 of the internal revenue laws; and
- 8 D. Engaging in any activity subject to penalty under the Internal Revenue Code.

9 2. An injunction is warranted based on the defendants' continuing conduct as promoters
10 of a tax-fraud plan. If not enjoined, the defendants' continuing actions will result in the Internal
11 Revenue Service having to devote scarce resources to attempt to locate and investigate the
12 defendants' customers, who by participation in the defendants' scheme have erroneously stopped
13 filing accurate federal income tax returns and paying their federal income taxes. The defendants'
14 actions, if not stopped, may result in penalties and other civil and criminal sanctions being
15 imposed on those customers.

16 Jurisdiction and Venue

17 3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C.
18 §§ 7402(a) and 7408.

19 4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

20 Authorization

21 5. Pursuant to 26 U.S.C. §§ 7401, 7402 and 7408, this action has been requested and
22 authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of
23 the Treasury, and is brought at the direction of the Attorney General of the United States.

24 Defendants

25 6. John D. Fitzgerald resides and operates his businesses in Portland, Oregon within this
26 judicial district.

27 7. Fitzgerald conducts business in the State of Oregon as American Family Enterprise,
28 Inc., All Saints Global Fellowship and World Community Co-Op, Inc., which are entities
registered with the State of Oregon.

1 8. Noreen McCausland resides in Oregon City, Oregon within this judicial district.

2 9. Marilyn Dial resides in Milwaukie, Oregon within this judicial district. She is
3 Fitzgerald's daughter.

4 10. Martha Farr Sharp resides in Oregon City, Oregon within this judicial district. She is
5 Fitzgerald's daughter.

6 11. Karen Gray resides in Oregon City, Oregon within this judicial district. She is
7 Fitzgerald's daughter.

8 Defendants' Activities

9 12. Through American Family Enterprise, Fitzgerald promotes scams that involve the
10 sale and use of sham nonprofit corporations. Fitzgerald organizes and markets the program as a
11 fraudulent means for customers to evade the reporting and payment of federal taxes as well as a
12 means for customers to conceal assets and evade IRS collection efforts.

13 13. Dial, Sharp and Gray assist in the promotion and operation of Fitzgerald's program
14 by running the day-to-day operations of American Family Enterprise. For American Family
15 Enterprise customers, Dial, Sharp and Gray file annual reports, prepare corporate filings, apply
16 for employer identification numbers, update officer information, open bank accounts, and remind
17 customers of upcoming deadlines. Dial, Sharp or Gray are listed as the registered agent or
18 manager of at least 259 organizations created by American Family Enterprise.

19 14. McCausland assists in the promotion and operation of Fitzgerald's program by
20 serving as a registered agent for corporations created by American Family Enterprise. She is
21 listed as the registered agent or manager of at least 397 organizations created by American
22 Family Enterprise.

23 15. Fitzgerald created World Community Co-Op, Inc. in 2000. World Community Co-
24 Op is listed as the registered agent or manager of at least 113 organizations created by American
25 Family Enterprise. World Community Co-Op is the registered agent for American Family
26 Enterprise.

1 16. For a fee of \$250 labeled as an initial “gift,” American Family Enterprise completes
2 the paperwork necessary with the State of Oregon to create a corporation, establishing one of the
3 defendants, other Fitzgerald associates, or World Community Co-Op as the Oregon registered
4 agent. Then, two of the defendants or another Fitzgerald associate will list themselves as the
5 president and secretary of the corporation, only to resign so that the customers may replace them
6 and manage the corporation. American Family Enterprise also offers to complete and file
7 corporate filings with the State of Oregon for an annual \$200 “gift.” American Family
8 Enterprise’s promotional materials state that the customers’ names will not be used in the
9 formation of the corporation with the State of Oregon or the IRS.

10 17. As recently as January 2007, Fitzgerald marketed his program nationwide on his
11 website, www.allsaintsglobal.org. The website informed visitors of opportunities to learn about
12 “ALFII A nonprofit corporation offers a money exchange system without a us bank account” and
13 “LWOD Life without debt.” The website directed visitors who purchased products or applied for
14 membership to send money orders to AFE, Inc. at the registered address for American Family
15 Enterprise, Inc.

16 18. In addition to advertising on the Internet, Fitzgerald has prepared a promotional flyer
17 for American Family Enterprise customers and encourages promotion of his program through
18 word of mouth and customer referrals. Fitzgerald has also conducted seminars at restaurants
19 about incorporating religious corporations.

20 19. Fitzgerald’s tax scheme involves American Family Enterprise setting up sham
21 nonprofit corporations for its customers. The IRS has recognized that tax promoters advocate the
22 use of purportedly tax-exempt charitable organizations to improperly conceal income and shield
23 assets from taxation. *See* I.R.S. News Release IR-2007-37 (Feb. 20, 2007); I.R.S. News Release
24 IR-2006-25 (Feb. 7, 2006).

25 20. In his promotional materials, Fitzgerald advertises that American Family Enterprise
26 will establish a “perpetual nonprofit, non-taxable corporation” in Oregon for its customers.
27 Although he claims to set up the corporation for religious or humanitarian purposes, he then
28

1 states that the corporation will not have an IRS tax-exempt designation pursuant to 26 U.S.C. §
2 501(c)(3).

3 21. In his American Family Enterprise promotional materials, Fitzgerald falsely states
4 that customers' nonprofit corporations are exempt from the IRS's jurisdiction by virtue of the
5 United States Constitution.

6 22. Fitzgerald falsely states in his promotional materials that customers with nonprofit
7 corporations need not keep records for any governmental agency, including the IRS. He further
8 states that because the federal government does not require reporting for customers' nonprofit
9 corporations, all corporate records are solely for the private use of the corporation.

10 23. In his promotional materials, Fitzgerald falsely states that customers can deed their
11 property to their corporation to protect it from lawsuits and the IRS. Fitzgerald also claims that
12 customers can transfer assets to the corporation to separate themselves from ownership but still
13 retain control over how to manage those assets.

14 24. Fitzgerald falsely tells customers that they do not have to file tax returns with the IRS
15 or report income from businesses placed into their nonprofit corporation on the premise that their
16 corporation is exempt from taxation.

17 25. Fitzgerald's statements to customers about the tax benefits associated with his
18 program are false and fraudulent.

19 26. Participation in American Family Enterprise's program results in customers failing to
20 file required tax returns with the IRS and fraudulently reducing their reported tax liability while
21 conducting their business and controlling their assets in the same manner as before joining the
22 program.

23 27. American Family Enterprise's program does not confer any special tax benefits on its
24 participants. In order to receive special tax status, an entity must independently qualify as a
25 religious or charitable organization pursuant to 26 U.S.C. § 501(c)(3). Moreover, organizations
26 established under this statute still must meet certain filing and reporting requirements with the
27 IRS.

1 false or fraudulent as to material matters within the meaning of 26 U.S.C. § 6700. The
2 defendants have thus engaged in conduct subject to penalty under 26 U.S.C. § 6700.

3 42. Unless enjoined by this Court, the defendants are likely to continue to engage in this
4 conduct and continue to organize and sell their abusive tax program. Injunctive relief is
5 appropriate under 26 U.S.C. § 7408.

6 Count II: Injunction under 26 U.S.C. § 7402

7 43. The United States incorporates by reference the allegations contained in paragraphs 1
8 through 42.

9 44. 26 U.S.C. § 7402 authorizes courts to issue injunctions as may be necessary or
10 appropriate for the enforcement of the internal revenue laws.

11 45. The defendants, through the actions described above, have engaged in conduct that
12 interferes substantially with the administration and enforcement of the internal revenue laws.

13 46. Unless the defendants are enjoined, the IRS will have to devote substantial time and
14 resources to identify and locate their customers, and then construct and examine those persons'
15 tax returns and liabilities. The burden of pursuing individual customers may be an
16 insurmountable obstacle, given the IRS's limited resources.

17 47. If the defendants are not enjoined, they likely will continue to engage in conduct that
18 obstructs and interferes with the enforcement of the internal revenue laws. The United States is
19 entitled to injunctive relief pursuant to 26 U.S.C. § 7402(a) to prevent such conduct.

20 Relief Sought

21 WHEREFORE, the United States prays for the following relief:

22 A. That the Court find that the defendants have engaged in conduct subject to penalty
23 under 26 U.S.C. § 7600, and that injunctive relief is appropriate under 26 U.S.C. § 7408 to
24 prevent the defendants, and any business or entity through which they operate, and anyone acting
25 in concert with them from engaging in further such conduct;

26 B. That the Court find that the defendants have engaged in conduct that interferes with
27 the enforcement of the internal revenue laws, and that injunctive relief against the defendants,
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1 and any business or entity through which they operate, and anyone acting in concert with them, is
2 appropriate to prevent the recurrence of that conduct pursuant to the Court's powers under 26
3 U.S.C. § 7402(a);

4 C. That the Court, pursuant to 26 U.S.C. §§ 7402 and 7408, enter a permanent injunction
5 prohibiting the defendants and their representatives, agents, servants, employees, attorneys, and
6 those persons in active concert or participation with them, from directly or indirectly:

- 7 1. Organizing, promoting, marketing, or selling any plan or arrangement, including
8 their nonprofit corporation program, that assists or advises customers to attempt to
9 violate the internal revenue laws or unlawfully evade the assessment or collection
10 of their federal tax liabilities;
- 11 2. Engaging in conduct subject to penalty under 26 U.S.C. § 7600, i.e., by making or
12 furnishing, in connection with the organization or sale of a plan or arrangement, a
13 statement about the securing of any tax benefit that the defendants know or have
14 reason to know to be false or fraudulent as to any material matter under the federal
15 tax laws;
- 16 3. Engaging in any conduct that interferes with the administration and enforcement
17 of the internal revenue laws; and
- 18 4. Engaging in any activity subject to penalty under the Internal Revenue Code.

19 D. That the Court, pursuant to 26 U.S.C. § 7402, enter an injunction requiring the
20 defendants to produce to the United States a list identifying (with names, mailing and e-mail
21 addresses, phone numbers and social security and any other tax-identification numbers) all
22 persons who have purchased an American Family Enterprise program, including its nonprofit
23 corporation program, and to file with the Court, within 20 days of the date the permanent
24 injunction is entered, a certification that they have done so;

25 E. That the Court, pursuant to 26 U.S.C. § 7402, order the defendants and anyone in
26 active concert or participation with them to resign as the registered agents of any corporation
27 purchased through American Family Enterprise, Inc., and to file with the Court within 20 days of
28 the date the permanent injunction is entered, a certification that they have done so;

F. That the Court, pursuant to 26 U.S.C. § 7402, enter an injunction prohibiting the
defendants and anyone in active concert or participation with them from filing papers on behalf

1 of others with state agencies regulating corporations, including corporate annual reports or new
2 corporate registrations with the State of Oregon or any other state.

3 G. That the Court, pursuant to 26 U.S.C. § 7402, enter an injunction requiring the
4 defendants to contact by mail at their own expense, all individuals who have previously
5 purchased an American Family Enterprise program, including its nonprofit corporation program,
6 or any other plan or program in which the defendants have been involved either individually or
7 through any business entity, and inform those individuals of the Court's findings concerning the
8 falsity of the defendants' prior representations, the defendants' resignation as the registered agent
9 for their customers' corporation, and attach a copy of the permanent injunction against the
10 defendants, and to file with the Court, within 20 days of the date the permanent injunction is
11 entered, a certification that they have done so;

12 H. That the Court, pursuant to 26 U.S.C. § 7402, order the defendants and anyone in
13 active concert or participation with them, to remove from their websites and all other websites
14 over which they have control, all tax-fraud scheme promotional materials, false commercial
15 speech regarding the internal revenue laws, and speech likely to incite others imminently to
16 violate of the internal revenue laws; to display prominently at the top of the first page of those
17 websites a complete copy of the permanent injunction; and to maintain it on those websites for
18 one year;


19 I. That the Court order that the United States may engage in post-judgment discovery to
20 ensure compliance with the injunction;

21 J. That the Court retain jurisdiction over this action for purposes of implementing and
22 enforcing the final judgment; and
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1 K. That the Court grant the United States such other and further relief as the Court may
2 deem proper and just.

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4 Dated this 19th day of September 2007.

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6 Respectfully submitted,
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8 United States Attorney

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10 
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