

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

USA,
Plaintiff

vs

Case No. 1:03cv96-SJD-TSH
(Dlott, J.; Hogan, M. J.)

Wilson M. Graham, et. al.,
Defendants

**ORDER AMENDING COURT'S
NOVEMBER 19, 2003
REPORT AND RECOMMENDATION**

This matter is before the Court on the motion to dismiss filed by pro se defendant Homer Richardson, (Doc. 62), and plaintiff's response, (Doc. 64), and upon *sua sponte* review of plaintiff's partial objections to this Court's November 19, 2003 Report and recommendation. (Doc. 75). Defendant Richardson's motion seeks to dismiss any and all claims brought against him pursuant to 26 U.S.C. § 7407, based on allegations that he prepared federal income tax returns. In response, the Government states that it is not seeking to enjoin defendant Richardson from preparing federal income tax returns pursuant to 26 U.S.C. § 7407. Rather, the Government has asserted claims against defendant Richardson pursuant to 26 U.S.C. §§ 6700 and 7408, seeking to enjoin him from promoting an abusive tax scheme.

Upon review of these motion papers and the Government's objections to this Court's November 19, 2003 Report and Recommendation, the Court agrees that neither the allegations in the complaint nor the proof at the preliminary injunction hearing support a finding that defendant Richardson prepared federal income tax returns. Therefore, to the extent that the complaint could be construed as asserting any claims against him pursuant to 26 U.S.C. § 4707, those claims should be

dismissed. In addition, the Court finds that the balance of plaintiff's objections to this Court's Report and Recommendation are well-taken. Consequently, this Court ORDERS that its November 19, 2003 Report and Recommendation be amended as follows:

IT IS THEREFORE RECOMMENDED THAT:

The Court preliminarily enjoin Defendants Wilson Graham and Graham & Associates from preparing income tax returns or otherwise representing clients before the IRS; that the Court preliminarily enjoin Defendants Wilson Graham, Graham & Associates, Homer Richardson and HG Asset Management Company from promoting the sales of abusive trusts under the name of Aegis, Heritage, or any other name, or from engaging in any other activities which are subject to penalty under 26 U.S.C. §§ 6700 or 6701; and that the Court order Defendants to disclose to the IRS a list of the names and current addresses of all those for whom they prepared tax-related documents in connection with a trust package sold by any of the named defendants or sold by another, a list of current names and addresses of all persons for whom a return of any kind was prepared, and disclose to the IRS the names and current addresses of all those who were given, with or without consideration, materials promoting trust schemes as a means to lessen or eliminate income taxation. This information should be provided to the IRS within thirty days of the District Court's ruling on the motion for preliminary injunction and these recommendations.

It is further recommended that based on these findings, defendant Richardson's motion to dismiss (Doc. 62) be denied as moot.

S/ Timothy S. Hogan
Timothy S. Hogan
United States Magistrate Judge