

COPY

1 DEBRA W. YANG
 United States Attorney
 2 EDWARD M. ROBBINS, JR.
 Assistant United States Attorney
 3 Chief, Tax Division
 RICHARD STACK
 4 Assistant United States Attorney
 Federal Building, Room 7211
 5 300 North Los Angeles Street
 Los Angeles, California 90012
 6 Telephone: (213) 894-2400
 Facsimile: (213) 894-0115

7 MARTIN M. SHOEMAKER
 8 Ga. Bar # 001340
 Trial Attorney, Tax Division
 9 U.S. Department of Justice
 P.O. Box 7238
 10 Washington, D.C. 20044
 (202) 514-6491 phone
 11 (202) 514-6770 fax
 Attorney for the United States

2004 MAR 29 AM 9:03
 CLERK U.S. DISTRICT COURT
 CENTRAL DISTRICT CALIF.
 LOS ANGELES

FILED

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

14 UNITED STATES OF AMERICA,
 15 Plaintiff,

16 v.

17 JOSEPH O. SALADINO,
 18 individually and dba FREEDOM &
 PRIVACY COMMITTEE, and
 19 JASON A. WHITNEY, individually
 and dba BB&C OF AMERICA,

20 Defendants.

CV04-2100 ABC

JWJX

Case No.

COMPLAINT FOR PERMANENT
INJUNCTION AND FOR OTHER
RELIEF

21 Plaintiff, the United States of America, states as follows.

22 **Jurisdiction and Venue**

23 1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345,
 24 and §§ 7402(a) and 7408 of the Internal Revenue Code of 1986 (26 U.S.C.)
 25 ("I.R.C.").
 26

27 2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

28 *Complaint*

1 **Nature of Action**

2 3. The United States is bringing this complaint to enjoin the defendants,
3 individually and doing business as or through any other entity, and any other
4 person in active concert or participation with them, from directly or indirectly:

- 5 (a) Organizing, promoting, marketing, or selling any abusive tax shelter,
6 plan or arrangement that advises or encourages customers to attempt
7 to violate the internal revenue laws or unlawfully evade the
8 assessment or collection of their federal tax liabilities;
- 9 (b) Making false statements about the allowability of any deduction or
10 credit, the excludability of any income, or the securing of any tax
11 benefit by the reason of participating in such tax shelters, plans or
12 arrangements;
- 13 (c) Encouraging, instructing, advising or assisting others to violate the
14 tax laws, including to evade the payment of taxes;
- 15 (d) Engaging in conduct subject to penalty under I.R.C. § 6700, *i.e.*, by
16 making or furnishing, in connection with the organization or sale of
17 an abusive shelter, plan, or arrangement, a statement the defendants
18 know or have reason to know to be false or fraudulent as to any
19 material matter;
- 20 (e) Engaging in conduct subject to penalty under I.R.C. § 6701, *i.e.*,
21 preparing or assisting others in the preparation of any tax forms or
22 other documents to be used in connection with any material matter
23 arising under the internal revenue laws and which the defendant
24 knows will (if so used) result in the understatement of tax liability;
25 and
- 26
27

1 (f) Engaging in any conduct that interferes with the administration and
2 enforcement of the internal revenue laws by the Internal Revenue
3 Service.

4 **Authorization**

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

9 **Defendants**

10 5. Joseph O. Saladino resides at 416 Alamosa Avenue, Palmdale, California
11 93551.

12 6. Jason A. Whitney resides at 19528 Ventura Boulevard #211, Tarzana,
13 California 91356.

14 **Defendants' Activities**

15 7. Defendants conduct business through Freedom & Privacy Committee
16 ("FPC"), an entity registered as a nonprofit corporation with the State of
17 Washington, and which serves as Saladino's corporation sole. FPC's headquarters
18 is at 416 Alamosa Avenue, Palmdale, California.

19 8. Saladino is the founder of FPC and the main promoter of the abusive tax
20 programs described below.

21 9. Whitney is associated with FPC as a sales representative and is a
22 promoter of the abusive tax programs described below.

23 10. Saladino and his network of promoters, including Whitney and Janis
24 Greehey, Thomas Chapin, Charlene Chapin, Richard Blackstock, Nancy Lloyd and
25 Frank Perkinson, conspire to circumvent the federal tax laws by marketing and
26 selling their abusive tax program.

1 11. Defendants' abusive tax promotion involves a multi-level marketing
2 organization that promotes several abusive tax evasion packages, including a
3 "corporation sole" package and a "1040X/claim of right" package. Both of these
4 packages are identified in the IRS's annual consumer alert of tax scams that
5 taxpayers are urged to avoid. (See
6 www.irs.gov/newsroom/article/o,,id=120803,00.html.)

7 12. Defendants market the abusive FPC tax program nationwide through
8 internet websites, including the FPC website www.freedomcommittee.com,
9 conference calls, and seminars.

10 13. Whitney promotes the FPC tax program, in the name of BB&C of
11 America, at www.freedomcommittee.com/5577/5577, which is his personalized
12 web page link to FPC's website.

13 14. Membership in the FPC organization costs \$200, with a \$100 annual
14 renewal fee. FPC advertises that membership "can eliminate your personal
15 income taxes" and permits participants to "operate a business tax free and still
16 enjoy limited liabilities."

17 15. Participants or purchasers are encouraged to become FPC
18 subpromoters. Subpromoters market the scheme and receive commissions for
19 successful sales. Subpromoters also receive their own internet web page, which is
20 linked directly to the FPC main website.

21 16. There are over 700 participants in the FPC promotion. The participants
22 are located in nearly every state, as well as Canada, the United Kingdom and the
23 Virgin Islands.

24 *The Corporation Sole Package*

25 17. Defendants market an FPC arrangement known as a "corporation sole"
26 as a means to evade the reporting and payment of federal income taxes, as well as
27

1 a means to conceal assets and thereby evade estate and inheritance taxes and IRS
2 collection efforts.

3 18. Defendants market the corporation sole package for \$2,295.

4 19. After receiving a customer's application and payment, defendants
5 instruct participants how to form a corporation sole, including how to conceal
6 assets and taxable income by transferring assets and income to their corporations
7 sole.

8 20. Defendants presently incorporate or form the corporations sole in the
9 State of Utah.

10 21. Defendants falsely advise participants that they can treat their
11 corporations sole as a "church" with no tax return filing requirement, and yet can
12 control and use the assets and income of the corporation sole for their own
13 personal benefit.

14 22. Defendants falsely advise participants that corporations sole that are
15 used for the participants' personal benefit are tax exempt, do not need to file tax
16 returns of any kind, and do not need to keep records. Defendants falsely state that
17 a corporation sole's church status cannot be challenged by the Government.

18 23. Defendants falsely state that participants can make donations to their
19 corporations sole and then deduct the donations on the participants' federal
20 income tax returns, in the event returns are filed.

21 24. Defendants falsely advise that a participant who becomes the "minister"
22 or "overseer" of the corporation sole and takes a vow of poverty, can assign his
23 income to the corporation sole and thereby transform taxable individual income
24 into nontaxable income of the corporation sole.

25 25. Defendants falsely state that a corporation sole can be engaged in any
26 occupation, business or profession, and that all earnings therefrom are tax exempt,
27 and that no return need be filed.

1 26. Defendants also falsely advise that if the participant's residence or real
2 estate is titled in the name of the corporation sole, then the individual can use and
3 maintain it as a tax-exempt parsonage, and that the corporation sole can provide
4 the participant housing or a housing allowance that is tax exempt.

5 27. Defendants tout participating in the defendants' corporation sole
6 program as a mechanism that enables participants to drop out of the federal tax
7 system entirely.

8 28. FPC promotional literature gives the following description of the
9 program's benefits:

10 Corporation sole can be responsible to provide for all your
11 needs (i.e., shelter, food, transportation, clothing, medical,
12 etc.). This occurs by first conveying all that you own and all
13 future earning to corporation sole. You make a record vow of
14 poverty. This lets the world know that you are now a pauper
15 and own nothing. If you work outside corporation sole, you do
16 so on behalf of the corporation sole. None of these earnings
17 are taxable because they are paid directly to the corporation
18 sole. These payments are made without deductions,
19 diminishments or taxes of any kind.

20 29. Defendants' statements about the tax benefits associated with the
21 corporations sole are false and fraudulent.

22 30. The effect of defendants' corporation sole promotion is that the
23 participant lives in the same residence and operates the same business activity, as
24 he did prior to joining the program. All living expenses of the participant and his
25 family are paid from compensation earned from the business activity, the same as
26 it was prior to the creation of the corporation sole. The participant receives the
27 full benefit of, and has full control over, all corporation sole funds. The only

1 substantive change in the participants' regular business and lifestyle activities is
2 the alleged benefit of no taxation.

3 31. The corporations sole that defendants market are not operated for any
4 church purpose, are devoid of economic substance and are shams for federal tax
5 purposes. The program constitutes an improper assignment of income and a
6 fraudulent transfer of assets.

7 *The 1040X/Claim of Right Package*

8 32. Defendants' 1040X/Claim of Right promotion involves filing frivolous
9 income tax returns or claims for refund purportedly relying on I.R.C. § 1341.

10 33. The cost of the 1040X/Claim of Right package to participants is \$1,095
11 for the first year and \$250 for additional years, plus 25% of each refund above the
12 first \$1,000 received.

13 34. Defendants falsely assert that taxpayers have an alleged common-law
14 and constitutional right (under the Fourteenth Amendment to the United States
15 Constitution) to exclude from taxation all compensation for personal services or
16 labor rendered.

17 35. Defendants falsely state that I.R.C. § 1341 codifies this so-called
18 common-law or constitutional right and entitles participants to take a deduction in
19 the amount of compensation earned, which in most cases eliminates a participant's
20 tax liability. The defendants state that this can be done by claiming an itemized
21 deduction to offset wages reported on W-2 forms, or by taking a Schedule C
22 deduction to offset any net income from self-employment.

23 36. The FPC website states that persons who "are looking for tax relief and
24 wish to get back all the taxes you paid in over the last three years," should
25 consider the FPC 1040X/Claim of Right package.

1 37. Defendants falsely state that participants in the FPC 1040X/Claim of
2 Right scheme are able to recover all of their withheld income and social security
3 taxes, and also to eliminate any self-employment tax.

4 38. FPC promotional materials state that FPC “will assist clients correct
5 their 1040 (1040X) returns for new and existing members in such a way that they
6 may receive back all federal withholding taxes and social security/medicare
7 overpayments.” That is, if customers enroll in the claim or right program, the
8 defendants assist them in filing false or fraudulent tax returns.

9 39. FPC promotional material falsely states that “the IRS is accepting the
10 claim of right [program] and no litigation has been necessary.”

11 40. In order to join the 1040X/claim of right program, participants are
12 required to give Saladino power of attorney to represent them before the Internal
13 Revenue Service for the tax years in which they take part in the program.

14 *Harm to the Public*

15 41. Defendants’ customers have been harmed by defendants’ abusive
16 promotions and by defendants’ preparing false and fraudulent tax returns, because
17 the customers have paid defendants significant sums to establish worthless legal
18 entities and/or to prepare tax returns that understate their income tax liabilities.

19 42. The United States is harmed because defendants’ customers are not
20 paying their fair share of taxes to the United States Treasury. Moreover, given the
21 IRS’s limited resources, identifying and recovering all revenues lost from
22 defendants’ abusive schemes may be impossible, resulting in a permanent loss to
23 the United States Treasury.

24 43. The public is harmed because the IRS is forced to devote some of its
25 limited resources to identifying and attempting to recover revenue lost as a result
26 of defendants’ schemes, thereby reducing the level of service that the IRS can give
27 to honest taxpayers.

1 tax benefits associated with participation in the scheme that they know are false or
2 fraudulent as to material matters within the meaning of I.R.C. § 6700.

3 51. Defendants, and each of them, aid or assist in, or advise with respect to,
4 the preparation of tax returns or other documents, knowing (or having reason to
5 believe) that such documents would be used in connection with a material matter
6 arising under the internal revenue laws.

7 52. Defendants know that the documents, if so used, will result in
8 understating the participants' tax liability.

9 53. Defendants have persisted in promoting these fraudulent tax schemes,
10 and have aided or assisted in preparing tax returns or other documents based on
11 those schemes, after being advised that their conduct was subject to penalty under
12 I.R.C. §§ 6700 and 6701, and subject to injunction under I.R.C. § 7408.

13 54. Unless enjoined by this Court, the defendants are likely to continue to
14 engage in this conduct. Injunctive relief is appropriate under I.R.C. § 7408.

15 **Count II**

16 **Injunction under I.R.C. § 7402**

17 55. The United States incorporates by reference the allegations contained in
18 paragraphs 1 through 54.

19 56. I.R.C. § 7402 authorizes courts to issue injunctions as may be necessary
20 or appropriate for the enforcement of the internal revenue laws.

21 57. Defendants, through the actions described above, have engaged in
22 conduct that interferes substantially with the administration and enforcement of
23 the internal revenue laws.

24 58. If defendants are not enjoined, they likely will continue to engage in
25 conduct that interferes with the enforcement of the internal revenue laws. The
26 United States is entitled to injunctive relief under I.R.C. § 7402(a) to prevent such
27 conduct.

1 **Relief Sought**

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

3 A. That the Court find that each of the defendants has engaged in conduct
4 subject to penalty under I.R.C. §§ 6700 and 6701, and that injunctive relief is
5 appropriate under I.R.C. § 7408 to prevent the defendants, and any business or
6 entity through which they operate, and anyone acting in concert with them, from
7 engaging in further such conduct;

8 B. That the Court find that each of the defendants has engaged in conduct
9 that interferes with the enforcement of the internal revenue laws, and that
10 injunctive relief against the defendants, and any business or entity through which
11 they operate, and anyone acting in concert with them, is appropriate to prevent the
12 recurrence of that conduct pursuant to the Court's powers under I.R.C. § 7402(a);

13 C. That the Court, pursuant to I.R.C. §§ 7402 and 7408, enter a permanent
14 injunction prohibiting the defendants, individually and doing business as Freedom
15 & Privacy Committee and through their websites, including
16 www.freedomcommittee.com, or as any other entity, and their representatives,
17 agents, servants, employees, attorneys, and those persons in active concert or
18 participation with them, including their distributors, from directly or indirectly:

- 19 (1) Organizing, promoting, marketing, or selling any abusive tax shelter,
20 plan or arrangement that advises or encourages taxpayers to attempt
21 to violate the internal revenue laws or unlawfully evade the
22 assessment or collection of their federal tax liabilities;
- 23 (2) Making false statements about the allowability of any deduction or
24 credit, the excludability of any income, or the securing of any tax
25 benefit by the reason of participating in such tax shelters, plans or
26 arrangements;
- 27

- 1 (3) Encouraging, instructing, advising or assisting others to violate the
2 tax laws, including to evade the payment of taxes;
- 3 (4) Engaging in conduct subject to penalty under I.R.C. § 6700, *i.e.*, by
4 making or furnishing, in connection with the organization or sale of
5 an abusive shelter, plan, or arrangement, a statement the defendants
6 know or have reason to know to be false or fraudulent as to any
7 material matter;
- 8 (5) Engaging in conduct subject to penalty under I.R.C. § 6701, *i.e.*,
9 preparing or assisting others in the preparation of any tax forms or
10 other documents to be used in connection with any material matter
11 arising under the internal revenue laws and which the defendant
12 knows will (if so used) result in the understatement of tax liability;
- 13 (6) Engaging in any conduct that interferes with the administration and
14 enforcement of the internal revenue laws by the Internal Revenue
15 Service.

16 D. That the Court, pursuant to I.R.C. § 7402, enter an injunction requiring
17 defendants to produce to the United States any records in their possession or
18 control, or to which they have access, identifying the persons who have purchased
19 their abusive tax plans, arrangements or programs (purchased directly from them
20 or from their associates, representatives, distributors or related entities);

21 E. That the Court, pursuant to I.R.C. § 7402, enter an injunction requiring
22 defendants to contact by mail (or by e-mail, if an address is unknown) all
23 individuals who have previously purchased their abusive tax shelters, plans,
24 arrangements or programs, including the corporation sole program and the
25 1040X/claim of right program, or any other tax shelter, plan or program in which
26 defendants have been involved either individually or through any dba, or business
27 entity, and inform those individuals of the Court's findings concerning the falsity

1 of the defendants' prior representations and attach a copy of the permanent
2 injunction against the defendants and their associates and related entities, and to
3 file with the Court, within 30 days of the date the permanent injunction is entered,
4 a certification that they have done so;

5 F. That the Court, pursuant to I.R.C. § 7402, enter an injunction requiring
6 defendants and their representative, agents, servants, employees, attorneys, and
7 those persons in active concert or participation with them, including their
8 distributors, to remove from their websites, including
9 www.freedomcommittee.com, all abusive tax scheme promotional materials, false
10 commercial speech, and materials designed to incite others imminently to violate
11 the law (including the tax laws), to display prominently on the first page of those
12 websites a complete copy of the Court's permanent injunction, and to maintain the
13 websites for one year with a complete copy of the Court's permanent injunction so
14 displayed throughout that time;

15 G. That the Court order that the United States is permitted to engage in
16 post-judgment discovery to ensure compliance with the permanent injunction;

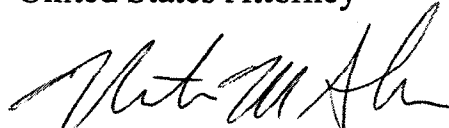
17 H. That the Court, pursuant to I.R.C. § 7402, enter an injunction prohibiting
18 Saladino from representing before the Internal Revenue Service any persons to
19 whom he has given or sold, directly or indirectly, these or other abusive tax
20 packages, and to enjoin him from encouraging or abetting noncompliance with the
21 Internal Revenue Service during the examination of those persons' tax returns;

22 I. That the Court retain jurisdiction over this action for purposes of
23 implementing and enforcing the final judgment and any additional orders
24
25
26
27

1 necessary and appropriate to the public interest; and

2 J. For such other and further relief as the Court may deem proper and just.

3
4 DEBRA W. YANG
United States Attorney

5
6 

7 MARTIN M. SHOEMAKER
8 Ga. Bar # 001340
9 Trial Attorney, Tax Division
10 U.S. Department of Justice
11 P.O. Box 7238
12 Washington, D.C. 20044
13 (202) 514-6491 phone
14 (202) 514-6770 fax