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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
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**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH
CENTRAL DIVISION**

UNITED STATES OF AMERICA)

Plaintiffs,)

v.)

JOHN JUSTICE individually and d/b/a)
ACCOUNTING TECHNOLOGY and)
DYNAMIC BUSINESS SOLUTIONS,)
SANDRA JUSTICE, JUDITH)
SHAKESPEARE, BYRON SHAKESPEARE,)
and BARBARA JUSTICE,)

Defendants.)

Judge Ted Stewart
DECK TYPE: Civil
DATE STAMP: 09/30/2005 @ 14:43:06
CASE NUMBER: 2:05CV00820 TS

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

Nature of Action

1. This is a civil action brought by the United States of America pursuant to §§ 7402, 7407 and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) to enjoin the defendants,

John Justice, individually, and d/b/a Accounting Technology and Dynamic Business

Solutions; Sandra Justice; Judith Shakespeare; Byron Shakespeare; Barbara Justice; and

all those in active concert or participation with them from:

- a. Organizing, selling, or participating in tax shelters, plans, or programs that advise or encourage taxpayers to attempt to evade the assessment of their correct federal tax obligations;
- b. Causing other persons and entities to understate their federal tax liabilities and avoid paying federal taxes;
- c. Making false or fraudulent statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by reason of participating in any business, partnership, tax shelter, plan or other arrangement;
- d. Engaging in any other conduct subject to penalty under I.R.C. § 6700; *i.e.*, by making or furnishing, in connection with the organization or sale of a partnership, subchapter S corporation, tax shelter, plan or arrangement, a statement the defendants know or have reason to know to be false or fraudulent as to any material matter under the federal tax laws;
- e. Engaging in any conduct subject to penalty under I.R.C. § 6701, *i.e.*, aiding, assisting, or advising with respect to the preparation or presentation of any portion of a return or other document knowing that such document will result in the understatement of another person's tax liability;
- f. Engaging in any conduct subject to penalty under I.R.C. §§ 6694 and 6695, *i.e.*, preparing tax returns for customers with unrealistic positions, and failing to sign returns, failure to provide correct tax identification number, failure to be diligent in determining earned income credit, or any other behavior that results in incorrectly preparing federal income tax returns;
- g. Promoting the false and frivolous position that federal income taxes can be legally reduced or eliminated by creating sham business partnerships and Subchapter S corporations to shelter income;
- h. Further engaging in any conduct subject to any penalty under the I.R.C. or that otherwise interferes with the administration and enforcement of the internal revenue laws;
- i. Acting as income-tax-return preparers.

Jurisdiction

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to the provisions of I.R.C. §§ 7402, 7407 and 7408.
3. Jurisdiction exists under 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§ 7402(a) and 7408.
4. Venue is proper in the United States District Court for the District of Utah under 28 U.S.C. § 1391.

Defendants

5. John Justice conducts business through the unregistered entities Accounting Technologies and Dynamic Business Solutions. John Justice resides at 410 W. Main, Clawson, Utah 84516. He had offices in Rock Springs, Wyoming and Price, Utah.
6. Sandra Justice is married to John Justice. She resides at 410 W. Main, Clawson, Utah 84516.
7. Barbara Justice is the daughter of John Justice. She resides at 3311 E. Coal Creek Road, Clawson, Utah 84516.
8. Judith Shakespeare is also a daughter of John Justice. She resides at 410 W. Main, Clawson, Utah 84516.
9. Byron Shakespeare is married to Judith Shakespeare and is the son-in-law of John Justice. He resides at 410 W. Main, Clawson, Utah 84516.

Defendants' Fraudulent Schemes

10. John Justice has prepared fraudulent federal income tax returns for customers since 2001.

11. John Justice organizes and promotes a tax scheme that uses fraudulent personal businesses, partnerships and Subchapter S corporations in an attempt to evade customers' income and employment taxes.
12. John Justice advises and assists customers to claim non-deductible personal expenses as deductions through the use of fraudulent businesses, partnerships, and Subchapter S corporations.
13. John Justice falsely advises his customers that once a business is established the customer is able to deduct all personal expenses as business related.
14. John Justice's scheme results in his customers reporting significant losses under the newly-created fictitious business. These losses are reported on the customers' individual federal income tax return. These fraudulent losses offset wages and other income, resulting in the customers underreporting their tax liabilities and improperly claiming large tax refunds.
15. John Justice prepares and files fraudulent Forms 1065 (partnership returns) for customers in reporting the fictitious businesses to the IRS. John Justice uses invalid IRS Employer Identification Numbers, no Employer Identification Number, or an Employer Identification Number which is registered with another business on the Forms 1065 to conceal the fictitious businesses he creates from the IRS.
16. John Justice also prepares and files many returns for his customers as head of household, even though those customers were married and thus ineligible for head-of-household status.
17. In an attempt to obstruct ongoing IRS investigations of his misconduct, John Justice has used his family members to sign and file returns. Defendants Sandra Justice, Judith

Justice, Barbara Shakespeare, and Byron Shakespeare have all aided and abetted John Justice's tax-fraud schemes by assisting in preparing customers' returns, signing customers' returns as preparers, and filing customers' returns.

18. John Justice has also prepared tax returns for customers that improperly failed to identify him as a paid preparer.
19. John Justice primarily markets his scheme through word-of-mouth referrals.
20. John Justice's history and behavior evidences his knowledge of the illegality of his scheme. Justice is a self-proclaimed "tax expert" who has been in the business of tax advising, consulting, and preparation for many years. Justice's creation and distribution of a mailing entitled "How to Deduct Your Hobby" indicates a knowledge of tax law and the appropriate standards that must be met to claim deductions as business expenses.
21. Despite numerous IRS audits of customers' tax returns John Justice has continued to prepare fraudulent returns and has changed his preparer identification in order to conceal his tax preparation business and mislead the IRS.
22. John Justice pled guilty to one count of preparation of false tax returns in violation of I.R.C. § 7206(2) in the United States District Court for the District of Wyoming. He was sentenced on or about July 19, 2005, to a prison term of 21 months, one year of supervised release and \$107,653 in restitution.

Harm to the Government

23. IRS examinations of 35 returns prepared by Justice indicate tax understatements totaling \$391,000, or an average of \$11,171 per return.

24. John Justice and the other defendants have prepared and filed over 1,100 tax returns from tax years 2001 through 2003. The IRS estimates that resulting losses to the Treasury for the years 2001-2003 alone could exceed \$12 million.
25. This figure does not include tax returns for tax year 2004 or returns not yet identified as prepared by defendants.
26. Some of these losses may never be recovered.
27. The defendants will not cease this illegal activity unless they are enjoined.

Count I: Injunction under I.R.C. § 7408 for violations of §§ 6700 and 6701

28. The United States incorporates by reference the allegations contained in paragraphs 1 through 27.
29. Section 7408, I.R.C., authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under I.R.C. §§ 6700 or 6701 or that is subject to any other penalty under the I.R.C. from engaging in further such conduct or any other conduct subject to penalty under the I.R.C. if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct.
30. Section 6700, I.R.C., imposes a penalty on any person who organizes or participates in the sale of a plan or arrangement and in so doing makes a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by participating in the plan or arrangement which that person knows or has reason to know is false or fraudulent as to any material matter.
31. Section 6701 penalizes a person who aids, assists, or advises with respect to the preparation or presentation of any portion of a return or other document, knowing or having reason to believe that such document will be used in connection with any material

matter under the tax laws, and knowing that such portion, if used, would result in an understatement of another person's tax liability.

32. The defendants organize, promote, and market a tax-fraud scheme involving the use of sham corporations in an attempt to evade income and employment tax, and to thwart the IRS's ability to collect their customers' federal tax liabilities.
33. In promoting their scheme, the defendants have made false and fraudulent statements regarding the tax benefits available to their customers. The defendants know or have reason to know that their statements are false or fraudulent.

Count II: Injunction Under I.R.C. § 7407

34. The United States incorporates by reference the allegations in paragraphs 1 through 27.
35. Section 7407, I.R.C., authorizes a court to enjoin a person from, among other things,
 1. engaging in conduct subject to penalty under 26 U.S.C. § 6694 (which penalizes a return preparer who prepares or submits a return that contains an unrealistic position), and 26 U.S.C. § 6695(b-c) (which penalizes a return preparer who fails to sign returns and furnish an identification number).
 2. engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

If the return preparer's conduct is continual or repeated and the Court finds that a narrower injunction (*i.e.*, prohibiting only the specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of federal tax laws, the Court may enjoin the person from further acting as a return preparer.

36. The defendants have continually and repeatedly prepared or submitted federal tax returns that contain unrealistic positions subject to penalty under I.R.C. § 6694. They have continually and repeatedly failed to sign returns they prepared and failed to furnish their

correct tax identification number on returns they prepared, conduct that is subject to penalty under I.R.C. § 6695.

37. The defendants have continually and repeatedly engaged in fraudulent and deceptive conduct that interferes with the proper administration of the internal revenue laws.

Count III: Injunction Under I.R.C. § 7402

38. The United States incorporates by reference the allegations contained in paragraphs 1 through 27.
39. Unless enjoined by this Court, the defendants are likely to continue to engage in such conduct. Their conduct results in irreparable harm to the United States for which the United States has no adequate remedy at law. The United States is entitled to injunctive relief under I.R.C. § 7402(a).

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

- A. That pursuant to I.R.C. §§ 7402(a) and 7408, defendants John Justice, individually, and d/b/a Accounting Technology and Dynamic Business Solutions, Sandra Justice, Judith Shakespeare, Byron Shakespeare, Barbara Justice and anyone acting in concert with them, be enjoined and restrained from, directly or indirectly, by use of any means or instrumentalities:

1. Organizing, promoting, marketing, or selling any trust, tax shelter, plan or arrangement (including any type of so-called asset-protection device, or similar arrangement) that advises, encourages, or assists taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment of their federal tax liabilities;
2. Causing other persons and entities to understate their federal tax liabilities and avoid paying federal taxes;
3. Making false statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by

reason of participating in such trust, tax shelter, plan or arrangement, including any type of so-called asset-protection device, or similar arrangement;

4. Engaging in any other conduct subject to penalty under I.R.C. § 6700; *i.e.*, by making or furnishing, in connection with the organization or sale of a trust, tax shelter, entity, plan, or arrangement (including any type of so-called asset-protection device, or similar arrangement) a statement the defendants know or have reason to know to be false or fraudulent as to any material matter under the federal tax laws;
 5. Further engaging in any conduct subject to penalty under I.R.C. § 6701, *i.e.*, aiding, assisting, or advising with respect to the preparation or presentation of any portion of a return or other document knowing that such document will result in the understatement of another person's tax liability, if used;
 6. Promoting the false and frivolous position that federal-income taxes can be legally reduced or eliminated by creating fraudulent business partnerships and Subchapter S corporations to shelter income;
 7. Further engaging in any conduct subject to any penalty under the I.R.C. or any other conduct that otherwise interferes with the administration and enforcement of the internal revenue laws.
- B. That pursuant to I.R.C. §§ 7402 and 7407 defendants and anyone acting in concert with them be enjoined and restrained from, directly or indirectly, by use of any means or instrumentalities, preparing or assisting or advising in preparing federal tax returns for others, or, alternatively, from engaging in any conduct subject to penalty under I.R.C. §§ 6694 and 6695, *i.e.*, preparing tax returns for customers with unrealistic positions, and failing to sign returns, failure to provide correct tax identification number, failure to be diligent in determining earned income credit, or any other behavior that results in incorrectly preparing federal income tax returns.

- C. Pursuant to I.R.C. § 7402, that defendants be required within eleven days of entry of an injunction, to file with the Court and serve upon plaintiff's counsel a complete list of customers (including names, addresses, phone numbers, e-mail addresses, and social security numbers or employer identification numbers) who have had returns prepared by, or sought or received any tax advice from defendants since January 1, 2001;
- D. Pursuant to I.R.C. § 7402, that defendants, at their own expense and as a corrective measure, be required to provide a copy of the complaint and injunction to each of their customers, current and former, within eleven days of entry of the injunction. That defendants each be required to file sworn certificates of compliance stating that they have complied with this portion of the Order, within twelve days of the date of this Order, and be required to attach a copy of all correspondence sent with the complaint and injunction;
- E. Pursuant to I.R.C. §§ 7402 and 7408, that defendants within eleven days of entry of an injunction order be required to file with the court and serve on plaintiff's counsel a complete list of defendants' former and current employees and associates; and
- F. That the United States be permitted to engage in post-injunction discovery to monitor defendants' compliance with this and any other order entered by this Court.

G. That the Court grant the United States such other and further relief as the Court deems appropriate.

Dated this 30th day of September, 2005.

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