

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

ORIGINAL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CLERK, U.S. DISTRICT COURT  
SEP 2 2004  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

UNITED STATES OF AMERICA,  
Plaintiff,

Case No. CV04-02100 FMC (JWJx)

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

PRELIMINARY INJUNCTION  
ORDER AGAINST JOSEPH O.  
SALADINO

CLERK US DISTRICT COURT  
FILED  
OCT 18 2004  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

Defendants.

SEND

Upon motion by the plaintiff, United States of America, and based on the evidence presented in that motion and at the hearing held on this matter, a preliminary injunction is hereby entered against defendant Joseph O. Saladino. The Court finds and orders as follows.

Standards for Preliminary Injunction

In order to obtain a preliminary injunction pursuant to 26 U.S.C. (Internal Revenue Code, "IRC") § 7408, the United States must show that (1) defendant either engaged in conduct subject to penalty under IRC §§ 6700 or 6701; and (2) injunctive relief is appropriate to prevent the recurrence of such conduct. The Court may issue a preliminary injunction under IRC § 7402 "as may be necessary or appropriate for the enforcement of the internal revenue laws." IRC § 7402(a).

Findings of Fact

1. This Court has jurisdiction over the parties and subject matter of this case.
2. Joseph O. Saladino, a self-professed tax expert, promotes abusive tax shelters, referred to herein as the "corporation sole" program and the "claim of

Preliminary Injunction Order

DOCKETED ON  
-1-  
OCT 19 2004  
BY [Signature] 005

U.S.A. v. Joseph Saladino, et al.  
Case No. 04-cv-2100 FMC (JWJx)

34

1 right” program. He conducts his business through Freedom & Privacy Committee  
2 (“FPC”).

3 3. According to its promotional material, FPC “is an educational  
4 organization dedicated to helping you reclaim 100% of your FREEDOM and  
5 PRIVACY. You may think you are free, but anyone who has been hoodwinked by  
6 the legal system (i.e., traffic tickets, IRS confiscations, etc.) knows in their heart  
7 that something is seriously wrong with the system and the government.” Further,  
8 FPC markets its products to those persons “convinced that you are NOT required  
9 to pay Federal Income Tax and [] need help getting free from the IRS. We fully  
10 support legal taxes but not direct taxes which are prohibited by the Constitution of  
11 the United States.”

12 4. Saladino’s tax promotion involves a multi-level marketing organization  
13 that relies on management and subpromoters. Wholesale packages of the tax  
14 programs are purchased by subpromoters directly through Saladino and FPC. The  
15 subpromoters (or salesmen) then sell the packages to the participants. Saladino  
16 and FPC are involved in each transaction and have complete participant  
17 information, although the actual sale transactions may occur between the  
18 participant and the FPC subpromoter. Participants or purchasers are encouraged  
19 to become FPC subpromoters and further market the scheme.

20 5. Saladino markets the abusive FPC tax program nationwide through  
21 internet websites, including the FPC website www.freedomcommittee.com,  
22 conference calls, and seminars. Subpromoters receive their own internet web  
23 page, which is linked directly to the FPC main website. Membership in the FPC  
24 organization costs \$200, with a \$100 annual renewal fee. FPC advertises that  
25 membership “can eliminate your personal income taxes” and permits participants  
26 to “operate a business tax free and still enjoy limited liabilities.”

SCANNED

1 6. There are hundreds of participants located nationwide in Saladino's  
2 promotion.

3 *The Corporation Sole Package*

4 7. Saladino markets the FPC "corporation sole" arrangement as a means to  
5 evade the reporting and payment of federal income taxes, as well as a means to  
6 conceal assets and thereby evade estate and inheritance taxes and IRS collection  
7 efforts. Saladino markets the corporation sole package for \$2,295. After  
8 receiving a customer's application and payment, Saladino instructs participants  
9 how to form a corporation sole, including how to conceal assets and taxable  
10 income by transferring assets and income to their corporations sole.

11 8. Saladino falsely or fraudulently advises participants that they can treat  
12 their corporations sole as a "church" with no tax return filing requirement, and yet  
13 can control and use the assets and income of the corporation sole for their own  
14 personal benefit. FPC promotional material states that "this product will position  
15 you to have full-time ministry which is tax free." Saladino advises participants  
16 that corporations sole that are used for the participants' personal benefit are tax  
17 exempt, do not need to file tax returns of any kind, and do not need to keep  
18 records. Saladino also falsely states that a corporation sole's church status cannot  
19 be challenged by the Government.

20 9. Saladino further falsely states that participants can make donations to  
21 their corporations sole and then deduct the donations on the participants' federal  
22 income tax returns (in the event returns are filed), even though the entities are  
23 owned and controlled by the participants.

24 10. Saladino falsely or fraudulently advises that a participant who becomes  
25 the "minister" or "overseer" of the corporation sole and takes a vow of poverty,  
26 can assign his income to the corporation sole and thereby transform taxable  
27

1 individual income into nontaxable income of the corporation sole. According to  
2 Saladino, "Once you declare your pauper status, your income is tax-free to you and  
3 your assets cannot be encumbered with a property tax."

4 11. Saladino falsely or fraudulently states that a corporation sole can be  
5 engaged in any occupation, business or profession, and that all earnings therefrom  
6 are tax exempt, and that no tax return need be filed. Saladino also advises that if  
7 the participant's residence or real estate is titled in the name of the corporation  
8 sole, then the individual can use and maintain it as a tax-exempt parsonage, and  
9 that the corporation sole can provide the participant housing or a housing  
10 allowance that is tax exempt.

11 12. Saladino falsely or fraudulently touts participating in the corporation  
12 sole program as a mechanism that enables participants to drop out of the federal  
13 tax system entirely. The effect of Saladino's scheme is that the participant lives in  
14 the same residence and operates the same business activity as he did prior to  
15 joining the program. All living expenses of the participant and his family are paid  
16 from compensation earned from the business activity, just as before the creation of  
17 the corporation sole. The participant receives the full benefit of, and has full  
18 control over, all corporation sole funds. The only substantive change in the  
19 participants' regular business and lifestyle activities is the alleged benefit of no  
20 taxation.

21 The Claim of Right Package

22 13. The claim of right promotion involves filing erroneous income tax  
23 returns or claims for refund. The cost of the claim of right package to participants  
24 is \$1,095 for the first year and \$250 for additional years, plus 25% of each refund  
25 above the first \$1,000 received.

26  
27  
28

SECRET

1           14. Saladino asserts that taxpayers have an alleged common-law and  
2 constitutional right to exclude from taxation all compensation for personal  
3 services or labor rendered. According to Saladino, the claim of right package “is  
4 used to claim that ‘compensation for personal labor’ may be excluded from  
5 taxation.” Saladino falsely states that the program “allows most people who work  
6 for wages and do not have profits from sources that are not directly attributable to  
7 their labor to reduce their taxable income to zero, which results in no taxes due in  
8 most cases.” He falsely asserts that either IRC § 183, 212 or 1341 or codifies this  
9 so-called common-law or constitutional right and entitles participants to take a  
10 deduction in the amount of compensation earned, which in most cases eliminates a  
11 participant’s tax liability. According to Saladino, this can be done by claiming an  
12 itemized deduction to offset wages reported on W-2 forms, or by taking a  
13 Schedule C deduction to offset any net income from self-employment.

14           15. Saladino falsely states that participants in the FPC claim of right  
15 scheme are able to recover all of their withheld income and social security taxes,  
16 and also to eliminate any self-employment tax. Also, “[t]his program allows one  
17 to get a refund of all taxes (including Social Security, Medicare, etc.) withheld  
18 from paychecks. This is the only lawful approach to eliminating the IRS from  
19 your life.” According to promotional materials, FPC “will assist clients correct  
20 their 1040 (1040X) returns for new and existing members in such a way that they  
21 may receive back all federal withholding taxes and social security/medicare  
22 overpayments.” Saladino has signed numerous federal income tax returns as a  
23 return preparer for persons taking fraudulent claim of right deductions.

24           16. FPC promotional material further falsely asserts that “[t]his program is  
25 in strict adherence to IRC Code,” and “this program is in compliance with IRC  
26 rules and regulations.” Saladino makes these claims even though the IRS has  
27

SCANNED

1 disallowed the claim of right deductions on his own income tax returns for the  
2 years 1998 through 2001. The IRS has assessed frivolous return penalties against  
3 Saladino for each of those returns. In addition, as Saladino is aware, the  
4 Government is vigorously opposing his customers' claim of right deductions in  
5 Court of Federal Claims litigation.

6 17. Saladino requests that participants in the claim of right program furnish  
7 him with their personal tax information, including tax returns, so that he can  
8 modify the returns to conform to his tax program. In order to join the claim of  
9 right program, participants are required to give Saladino power of attorney to  
10 represent them before the Internal Revenue Service for the tax years in which they  
11 take part in the program. Saladino is supporting his claim of right program in  
12 litigation in the United States Court of Federal Claims, either by supervising his  
13 customers' cases or by having the customers assign their alleged refund rights to  
14 him. Saladino has not been successful in that forum.

15 18. Both the corporation sole and the claim of right programs are identified  
16 in the IRS's annual consumer alert of tax scams.

17 19. Saladino has substantially interfered with the administration and  
18 enforcement of the nation's tax laws. Participation in Saladino's abusive program  
19 results in customers failing to file federal income tax returns, failing to file proper  
20 and accurate returns, and/or failing to pay their federal tax liabilities. This results  
21 in irreparable harm to the United States.

22 20. Saladino's corporation sole and claim of right programs are frivolous  
23 and without merit. Saladino knew or should have known that his representations  
24 regarding the tax benefits of the programs are false or fraudulent. Furthermore,  
25 Saladino aids in or assists in the preparation of federal tax returns or claims for  
26 refund that he knows, if used, would result in an understatement of tax liability.

1 Conclusions of Law

2 1. Based upon the factual findings and evidence presented by the parties,  
3 the Court finds that Saladino is engaging in conduct in violation of IRC §§ 6700  
4 and 6701, and that injunctive relief is appropriate to prevent the recurrence of that  
5 conduct.

6 2. Accordingly, the Court finds that Saladino, and any business or entity  
7 through which he operates, and anyone acting in concert with him, should be  
8 preliminarily enjoined under IRC § 7408.

9 3. The Court also finds that Saladino is engaging in conduct that interferes  
10 with the enforcement of the internal revenue laws, and that the United States and  
11 the public will suffer irreparable harm in the absence of a preliminary injunction.  
12 Based on the evidence and argument presented, the United States has a high  
13 likelihood of success on the merits and Saladino's position is frivolous. The  
14 public interest will be served by granting a preliminary injunction.

15 4. Also, it is evident that Saladino will continue to violate the Internal  
16 Revenue Code absent an injunction.

17 5. Accordingly, the Court finds that Saladino, and any business or entity  
18 through which he operates, and anyone acting in concert with him, should be  
19 preliminarily enjoined under IRC § 7402(a).

20 Order

21 Based on the foregoing factual findings and for good cause shown, entry of  
22 a preliminary injunction is appropriate. Therefore, it is hereby

23 ORDERED that Defendant Joseph O. Saladino, individually and doing  
24 business as Freedom & Privacy Committee, or as any other entity, and his  
25 representatives, agents, servants, employees, attorneys, and those persons in active  
26  
27

SCANNED

1 concert or participation with him, including his distributors, is preliminarily  
2 enjoined from directly or indirectly:

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



SCANNED

(7) Representing any persons or entities before the Internal Revenue Service in any manner, directly or indirectly.

~~Further, IT IS HEREBY ORDERED that Saladino produce to the United States any records in his possession or control, or to which he has access, identifying the persons who have purchased his abusive tax plans, arrangements or programs, including the corporation sole and claim of right programs, and to file with the Court, within 15 days of the date of this Order, a certification that he has~~

Further, IT IS HEREBY ORDERED that Saladino, at his own expense, contact by mail (or by e-mail, if an address is unknown) all individuals who have previously purchased his abusive tax shelters, plans, arrangements or programs, including the corporation sole program and the claim of right program, and inform those individuals of the Court's findings concerning the falsity of the defendant's prior representations and provide a copy of this Preliminary Injunction Order to those persons, and to file with the Court, within 15 days of the date of this Order, a certification that he has done so;

Further, IT IS HEREBY ORDERED that Saladino and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, including his distributors, remove from their websites, including www.freedomcommittee.com, all abusive tax scheme promotional materials, false commercial speech, and materials designed to incite others imminently to violate the law (including the tax laws), to display prominently on

SCANNED

1 the first page of those websites a complete copy of this Order, and to maintain the  
2 websites, at their own expense, for one year with a complete copy of the Court's  
3 preliminary injunction so displayed throughout that time; and to file with the  
4 Court, within 15 days of the date of this Order, a certification that he has done so.

5  
6 Dated: Oct. 18, 2004

  
7 FLORENCE-MARIE COOPER  
8 United States District Judge

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28