

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
ROBERT L. SCHULZ;)	COMPLAINT FOR PERMANENT
WE THE PEOPLE FOUNDATION FOR)	INJUNCTION AND OTHER
CONSTITUTIONAL EDUCATION, INC.; and)	EQUITABLE RELIEF
WE THE PEOPLE CONGRESS, INC.,)	
)	
Defendants.)	

Plaintiff, the United States of America, complains as follows against defendants Robert L. Schulz; We the People Foundation for Constitutional Education, Inc.; and We the People Congress, Inc.:

Jurisdiction and Venue

1. This action has been requested by a delegate of the Secretary of the Treasury and commenced at the direction of a delegate of the Attorney General pursuant to Internal Revenue Code (IRC) (26 U.S.C.) §§ 7402(a) and 7408.

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and IRC §§ 7402(a) and 7408.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because defendants reside within this judicial district.

4. We the People Foundation for Constitutional Education, Inc., and We the People Congress, Inc., conduct business through offices located at 2458 Ridge Road, Queensbury, New York, within this judicial district.

Defendants' Activities

5. In 1997, Schulz organized We the People Foundation for Constitutional Education, Inc., and We the People Congress, Inc., ostensibly for educational purposes.

6. Despite the organizations' stated purpose, Schulz has used the two We the People entities (collectively referred to as "We The People") to market a nationwide tax-fraud scheme designed to help customers evade their federal tax liabilities and to interfere with the administration of the internal revenue laws.

7. As chairman of We The People, on March 15, 2003, Schulz started marketing a tax-fraud scheme called the "Tax Termination Package" as part of what he called "Operation Stop Withholding."

8. Schulz said on September 15, 2004, that "Operation Stop Withholding" was "a national campaign to instruct company officials, workers and independent contractors on how to legally stop withholding, filing and paying the income taxes." In fact it is a campaign to help customers *illegally* stop withholding, filing, and paying federal taxes.

9. Defendants' Tax Termination Package is a how-to method for evading payment of federal employment taxes by using false and misleading forms in place of IRS Forms W-2, W-4, and 1099 in order to "terminate payment [of] all federal and states taxes."

10. Defendants' Tax Termination tax-fraud scheme is based on several false premises, including that the federal income tax system is voluntary, that the 16th Amendment to the U.S. Constitution was not properly ratified, and that the federal income tax does not apply to wages. These arguments have been repeatedly rejected by the federal courts as legally frivolous.

11. Defendants know or have reason to know that their claims made to prospective

customers regarding the legality of the "Tax Termination Package" are false.

12. Despite many unequivocal statements from courts that his tax theories are frivolous, Defendants continue to market the Tax Termination tax-fraud scheme at seminars and on the websites www.givemeliberty.org, www.wethepeoplecongress.org, and www.wethepeoplefoundation.org.

13. In 2003 Schulz wrote to the Commissioner of Internal Revenue and to United States Attorneys in thirty-seven cities across the country to advise that he would start instructing employers and employees to stop withholding and paying federal taxes.

Conduct Sought to be Enjoined:

I. Defendants' Fraudulent "Tax Termination Package" for Employees

14. As part of the Tax Termination scheme, Defendants give customers (both employers and employees) step-by-step instructions on how to fraudulently terminate withholding of federal income and employment taxes.

15. The Tax Termination Package instructions direct customers to complete and file with their employers a "WTP Form #1," titled "Worker's Verified Statement and Notice to Terminate Form W-4 Agreement."

16. The WTP Form #1 states that the customer has ended "consenting to have amounts taken from [their] pay without [their] explicit, voluntary authorization" and demands that their employers cease withholding federal and state taxes.

17. Defendants' scheme bases the fraudulent request to stop withholding on a laundry list of frivolous arguments attached to the WTP Form #1. For example, the form says that the customer's "remuneration does not constitute wages" and that the customer did not earn income

from a source defined in 26 CFR § 1.861-1(f)(i). As Defendants know or have reason to know, these shopworn arguments have been rejected as frivolous by every federal court that has considered them.

18. Defendants include with the Tax Termination Package that they furnish to customers a document that they call a “Statement of Facts and Beliefs Regarding the Individual Income Tax.” In that document Defendants falsely tell customers:

- “The Income Tax is a Tax on Labor Prohibited by the 13th Amendment.”
- “When an employer pays the employee the amount agreed upon by their contract, there is no excess amount realized over the adjusted basis, and thus no [taxable] gain under Section 1001.”
- “Congress lacks the authority to legislate an income tax . . . except in the District of Columbia . . .”
- “The 16th Amendment did not come close to being ratified . . .”
- “Unless one is a foreigner working here or a citizen of the U.S.A. working and earning his money abroad he is not liable for the income tax.”

19. Defendants’ claims to customers about the tax benefits of participating in his Tax Termination scheme, as set forth in the WTP Form #1 and the “Statement of Facts and Beliefs,” are false and fraudulent.

20. Recognizing that their tax-evasion scheme is illegal, Defendants direct customers using the WTP Form #1 to conceal their identity from the IRS by demanding that their employers stop using their social security number, which Defendants explain is the principal method the IRS uses to detect false tax forms.

21. Defendants provide to Tax Termination customers a “WTP Form #3,” which Defendants tell customers to complete and file with their employer.” The WTP Form #3 is titled

“Declaration of Protected Individual and Work Eligibility Verification.”

22. Defendants tell customers that the WTP Form #3 should be filed with the employer in compliance with 8 U.S.C. § 1324a(b)(2), in order to attest that employment in the United States is authorized.

23. Defendants’ instructions to customers about the WTP Form #3 contain numerous misrepresentations. First, Defendants’ forms cannot be used to comply with 8 U.S.C. § 1324a(b) because that statute requires that the form be approved by the Attorney General. Second, Defendants reiterate the fraudulent claim that withholding federal taxes is unnecessary because customers earned no income from a source listed in 26 CFR § 1.861-1(f)(i). Courts have repeatedly rejected this frivolous “§ 861 Argument.”

24. Defendants instruct customers to attach to the WTP Form #3 a “WTP Form #8,” which is an altered U.S. Department of Justice Form I-9, and submit the documents to their employer to stop the withholding of federal taxes.

25. In order to assist the customer in evading IRS collection efforts, Defendants write “optional” in the box requesting the customer’s social security number on the altered Form I-9, so as to conceal the customer’s participation in the scheme. Defendants falsely advise customers that they are no longer required to pay federal or state taxes (or have them withheld) after they submit the WTP Form #3 and WTP Form #8 to their employer.

26. Defendants further falsely advise customers that any employer requiring a customer’s social security number has committed “misfeasance,” and Defendants falsely tell customers that an employer that continues to withhold taxes after the customer stops “volunteering” to pay taxes is stealing from the customer.

27. Defendants falsely tell customers using the Tax Termination scheme that they are entitled to 100% of their pay without having any tax withheld. Defendants direct customers to file "WTP Forms #9-10," demanding repayment of taxes withheld, to any employer who fails to accede to the customers' demands to stop tax withholding.

28. Defendants' claims regarding the tax benefits associated with their Tax Termination tax-fraud scheme are false, as Defendants know or have reason to know. Numerous courts have recognized that the payment of the income tax is not voluntary. Moreover, promoters of schemes based on that argument and the "§ 861 Argument" have been enjoined for marketing those frivolous theories.

II. Defendants' Fraudulent "Tax Termination Package" for Employers

29. Defendants also market and sell the Tax Termination Package for employers with the documents and instructions provided to employees.

30. In their promotional materials for employers, Defendants make the following false and fraudulent claims regarding the tax benefits associated with participation in the Tax Termination scheme:

- An employer can "minimize company income tax reporting requirements to almost nothing."
- An employer can "instantly increase all of your workers' take home pay without affecting cash flow or profits."
- An employer can "eliminate payment of 'matching' employment taxes [contributions.]"
- An employer can "enjoy a significant competitive cost advantage over your

competitors in direct labor & overhead costs.”

31. The mechanics of Defendants’ fraudulent Tax Termination scheme for employers is nearly identical to the plan for employees. Both plans falsely purport to confer the benefit of no taxation, but under the employer plan Defendants direct employers to sign several fraudulent affirmations in carrying out the scheme.

32. First, Defendants instruct employers to secure a completed “WTP Form #1” from their employee—requiring that the employees declare that they are unwilling to provide their social security number and are not subject to federal taxation.

33. Next, Defendants instruct employers to file the completed WTP Form #1 along with WTP Form #2. The instructions accompanying the WTP Form #2 tell the employer to sign the form falsely declaring that the employer “made a reasonable effort to obtain [the worker’s] social security number” by “request[ing] the worker (more than once) to disclose a Social Security number . . .”

34. By providing these instructions, Defendants are knowingly directing customers to sign false statements. Defendants know that any statement signed by the employer that a reasonable effort was made to obtain an employee’s social security number after providing the WTP Form #1 to the employee is false.

35. In addition, Defendants’ WTP Form #2 falsely claims that the employer is not required to withhold income and employment taxes because the employer “does not provide taxable income . . . from a source defined in . . . 26 CFR § 1.861-1(f)(i).”

36. Defendants reiterate the fraudulent § 861 Argument in other forms provided to Tax termination scheme customers. Defendants instruct employers to obtain completed WTP Form

#3 from their employees, which requires the employees to falsely declare that they earned no taxable income because their wages were not derived from a source “defined in . . . 26 CFR § 1.861-1(f)(i).” Defendants advise employers participating in the scheme that, after completing these forms, they are no longer required to withhold taxes from employees’ wages.

37. Defendants’ promotional statements regarding the tax benefits associated with the Tax Termination scheme for employers are false. Employers are required to withhold income and employment taxes from an employee’s wages. Moreover, neither employees nor employers can “legally opt out” of paying taxes, based on the fraudulent “§ 861 Argument” or any of the other frivolous reasons advanced by the Defendants.

Defendants’ Knowledge of the Falsity of Their Statements

38. Defendant knows or have reason to know that the purported tax benefits they advertise for their Tax Termination Package are false and fraudulent. Defendants know that Dick Simkanin was convicted of federal tax crimes for following a plan similar to Defendants’. *See United States v. Simkanin*, 420 F.3d 397 (5th Cir. 2005) (noting that Schulz testified at Simkanin’s trial).

Harm to the Government

39. Defendants’ tax-fraud scheme causes significant harm to the Government by helping customers evade taxes and obstruct IRS efforts to administer the federal tax laws.

40. The Internal Revenue Service is harmed because it must dedicate scarce resources to detecting and examining inaccurate returns filed by Defendants’ customers, to preparing substitute returns for customers failing to file tax returns, and to attempting to assess and collect unpaid taxes.

41. The Internal Revenue Service has thus far identified 997 of Defendants' customers that have not filed federal tax returns for a period of three years or more. The IRS estimates that defendants' scheme has cost the United States Treasury more than \$21 million.

42. Defendants' tax-fraud scheme undermines public confidence in the administration of the federal tax system and incites violations of the internal revenue laws.

Count I: Injunction under IRC § 7408

43. The United States incorporates by reference the allegations in paragraphs 1-42.

44. IRC § 7408 authorizes a district court to enjoin any person from engaging in conduct subject to penalty under IRC §§ 6700 or 6701 if the person has engaged in such conduct and injunctive relief is appropriate to prevent recurrence of that conduct.

45. Section 6700 penalizes any person who organizes or participates in the sale of a plan or arrangement and, in connection with the organization or sale, makes or furnishes a statement regarding any tax benefit that the person knows or has reason to know is false or fraudulent as to any material matter.

46. Section 6701 penalizes any person who prepares a document that he has reason to believe will be used in connection with any material matter arising under the internal revenue laws and who knows that the document, if so used, would result in an understatement of another person's tax liability.

47. Defendants organize and sell the Tax Termination Scheme, and in connection with such organization and sales make false and fraudulent statements regarding the excludibility of income and the securing of other tax benefits.

48. Defendants know or have reason to know that their promotional statements made in

connection with the Tax Termination scheme are false and fraudulent.

49. As described above, Defendants prepare, assist in preparing, or advise with respect to preparing documents for customers to use in connection with federal tax reporting and withholding.

50. Defendants know or have reason to know that those documents are likely to be used in connection with material matters arising under the internal revenue laws.

51. Defendants know that if those documents are so used they will result in understatements of their customers and customers' employees' federal tax liabilities.

52. If Defendants are not enjoined, they are likely to continue to organize and sell the Tax Termination scheme and other tax-fraud plans, and to assist in or advise with respect to preparing documents understating customers' tax liabilities.

Count II: Injunction under IRC § 7402(a) and the Appropriateness of Injunctive Relief

53. The United States incorporates by reference the allegations in paragraphs 1-52.

54. IRC § 7402(a) authorizes a court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

55. Defendants substantially interfere with the enforcement of the internal revenue laws by promoting tax-fraud plans that falsely advise that customers can legally stop paying federal taxes and filing federal tax returns, and that assist customers in carrying out the Defendants' illegal schemes.

56. The United States is irreparably harmed by Defendants' tax-fraud scheme because customers implementing their plan or following their advice fail to pay federal taxes, fail to file

federal tax returns, and obstruct IRS examination and collection efforts.

57. Unless Defendants are enjoined, the IRS will have to devote substantial time and resources to identify and recover lost tax revenue from their customers who implement their illegal scheme.

58. While the United States will suffer irreparable harm if Defendants are not enjoined, they will not be harmed by being ordered to stop helping customers violate federal tax laws.

59. The public interest will be advanced by enjoining Defendants because an injunction will stop their illegal conduct and the harm it is causing.

60. In the absence of an injunction backed by the Court's contempt powers, Defendants are likely to continue to obstruct and interfere with the enforcement of the internal revenue laws.

WHEREFORE, plaintiff the United States of America respectfully prays for the following relief:

A. That the Court find that Defendants have engaged in conduct subject to penalty under IRC §§ 6700 and 6701 and that injunctive relief under IRC § 7408 is necessary and appropriate to prevent Defendants, and anyone acting in concert with them, from further engaging in such conduct or any other conduct subject to penalty under the Internal Revenue Code;

B. That the Court find that Defendants have interfered with the enforcement of the internal revenue laws and that injunctive relief pursuant to IRC § 7402(a) and the Court's inherent equity powers is appropriate to prevent him, and any business or entity through which they operate, and anyone acting in concert with them, from further engaging in such conduct;

C. That this Court, pursuant to IRC § 7408, enter a permanent injunction prohibiting Defendants, and their representatives, agents, servants, employees, attorneys, and anyone in

active concert or participation with them, from directly or indirectly:

1. Engaging in activity subject to penalty under IRC § 6700, including organizing or participating in the sale of a plan or arrangement and making a statement regarding the securing of any tax benefit that they know or have reason to know is false or fraudulent as to any material matter;
2. Engaging in activity subject to penalty under IRC § 6701, including preparing or assisting in the preparation of, or advising with respect to a document related to a matter material to the internal revenue laws that includes a position that they know will, if used, result in an understatement of tax liability;
3. Promoting, marketing, organizing, selling, or receiving payment for any plan or arrangement regarding the securing of any tax benefit that they know or have reason to know is false or fraudulent as to any material matter; and
4. Engaging in any other activity subject to penalty under IRC §§ 6700 or 6701 or any other penalty provision in the Internal Revenue Code;

D. That this Court, pursuant to IRC §§ 7408 and 7402(a), enter a permanent injunction prohibiting Defendants and anyone in active concert or participation with them, from directly or indirectly:

1. Advising anyone that they are not required to file federal tax returns or pay federal taxes;
2. Selling or furnishing any document purporting to enable customers to discontinue or stop withholding or payment of federal taxes;
3. Instructing, advising, or assisting anyone to stop withholding or paying of federal

employment or income taxes;

4. Obstructing or advising or assisting anyone to obstruct IRS examinations, collections, or other IRS proceedings;
5. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws;

E. That this Court, pursuant to IRC § 7402(a), order Defendants, at their own expense, to notify all customers who have purchased his tax plans, arrangements, and materials of the permanent injunction against him and to provide them with a copy of the permanent injunction against him;

F. That this Court, pursuant to IRC § 7402(a), order Defendants to produce to counsel for the United States a list identifying by name, address, e-mail address, telephone number, and Social Security number, all persons and entities who have been provided Defendants' Tax Termination materials or any other similar materials;

G. That this Court, pursuant to IRC § 7402(a), order Defendants and anyone in active concert or participation with them, to remove from their websites and all other websites over which they have control, all tax-fraud scheme promotional materials, false commercial speech regarding the internal revenue laws, and speech likely to incite others imminently to violate of the internal revenue laws; to display prominently at the top of the first page of those websites a complete copy of the permanent injunction; and to maintain it on those websites for one year;

H. That this Court, pursuant to IRC § 7402(a) and the Court's inherent equitable powers, order Defendants to complete the requirements of paragraphs E through G, *supra*, within 11 days of the entry of the permanent injunction and file a certification of compliance with those

requirements within 12 days of the entry of the permanent injunction;

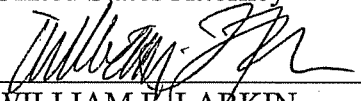
I. That this Court permit the United States to conduct post-judgment discovery to ensure Defendants' compliance with the permanent injunction; and


J. That this Court grant the United States such other relief, including costs, as is just and equitable.

Dated: April 2, 2007

Respectfully submitted,

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