

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA

Plaintiffs,

v.

DAVID CARROLL STEPHENSON
individually and d/b/a AMERICAN
BUSINESS ESTATE & TAX PLANNING
SERVICE and ADVOCATE AND
ASSOCIATES, INC.; A-1 CREDIT & CO.;
AMERICAN BUSINESS LAW, INC.;
and AMERICAN BUSINESS AND ESTATE
PLANNING

Defendants.

Civil No.

COS - 5712 RBL

**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 and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) to enjoin the defendants, David Carroll Stephenson, individually and d/b/a American Business Estate & Tax Planning Service and Advocate and Associates, Inc.; Advocate NW & Co., Inc.; A-1 Credit & Co.; American Business Law, Inc.; and American Business & Estate Planning, and all those in active concert or participation with them from:

COMPLAINT
(Civ. No.)

U.S. Department of Justice
P.O. Box 7238, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-0564

- a. Organizing, selling, or participating in abusive tax shelters, plans, or programs that advise or encourage taxpayers to attempt to evade the assessment of their correct federal tax obligations;
- b. Making false statements about the legality of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of participating in such tax shelters, plans, or programs;
- c. Instructing or advising taxpayers to understate their federal-income-tax liabilities;
- d. Instructing or advising taxpayers to not file federal-income-tax returns;
- e. Promoting the false and frivolous position that federal-income taxes can be legally reduced or eliminated by using "Contract Trusts" to shelter income;
- f. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through promotion of false tax schemes;
- g. Engaging in any activity subject to penalty under I.R.C. §§ 6700 and 6701.

Jurisdiction

2. This action has been authorized and requested by the Acting 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 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 Western District of Washington under 28 U.S.C. § 1391.

Defendants

5. David Carroll Stephenson, a convicted felon, has engaged in conduct in this district and elsewhere subject to penalty under I.R.C. §§ 6700 and 6701, and has engaged in conduct that interferes with the enforcement of the internal revenue laws. Stephenson conducts business through the unregistered business entities American Business Estate & Tax Planning Service and Advocate and Associates, Inc., and through Advocate NW & Co.,

1 Inc.; A-1 Credit & Co.; American Business Law, Inc.; and American Business & Estate
2 Planning.

3 6. Advocate NW & Company, Inc. is a corporation registered with the Washington
4 Secretary of State. David Carroll Stephenson is its registered agent. Advocate NW &
5 Company, Inc., through Stephenson, has engaged in conduct subject to penalty under
6 I.R.C. § 6700, and has engaged in conduct that interferes with the enforcement of the
7 internal revenue laws.

8 7. American Business & Estate Planning is a “Massachusetts Trust” registered with the
9 Washington Secretary of State. Advocate NW & Company is its registered agent.
10 American Business & Estate Planning, through Stephenson, has engaged in conduct
11 subject to penalty under I.R.C. § 6700, and has engaged in conduct that interferes with the
12 enforcement of the internal revenue laws.

13 8. American Business Law, Inc. is a corporation registered with the Washington Secretary of
14 State. Advocate NW & Company is its registered agent. American Business Law, Inc.,
15 through Stephenson, has engaged in conduct subject to penalty under I.R.C. § 6700, and
16 has engaged in conduct that interferes with the enforcement of the internal revenue laws.

17 9. A-1 Credit & Company is a “Massachusetts Trust” registered with the Washington
18 Secretary of State. Advocate NW & Company is its registered agent. A-1 Credit &
19 Company, through Stephenson, has engaged in conduct subject to penalty under I.R.C. §
20 6700, and has engaged in conduct that interferes with the enforcement of the internal
21 revenue laws.

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

23 10. I.R.C. § 7408 authorizes this Court to enjoin persons who have engaged in conduct
24 subject to penalty under I.R.C. §§ 6700 or 6701 from engaging in further such conduct if
25 the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct.

1 11. Section 6700 imposes a penalty on any person who organizes or participates in the sale of
2 a plan or arrangement and in so doing makes a statement with respect to the allowability
3 of any deduction or credit, the excludability of any income, or the securing of any tax
4 benefit by participating in the plan or arrangement and that person knows or has reason to
5 know is false or fraudulent as to any material matter.

6 12. Section 6701 penalizes a promoter who aids, assists, or advises with respect to the
7 preparation or presentation of any portion of a return or other document, knowing or
8 having reason to believe that such advice will be used in connection with any material
9 matter, and who knows that such portion, if used, would result in an understatement of
10 tax.

11 13. The defendants organize and promote an abusive tax scheme whereby they assist
12 customers in evading federal tax liabilities and IRS collection efforts through the
13 fraudulent use of trusts and business entities. In promoting their scheme, the defendants
14 have made false and fraudulent statements regarding the tax benefits available to
15 purchasers of their program. The defendants know or have reason to know that their
16 statements are fraudulent in violation of I.R.C. § 6700.

17 14. Stephenson organizes, promotes, and markets an abusive tax avoidance scheme,
18 advocating the use of a series of sham trust and business entities in a fraudulent attempt to
19 avoid income, estate, and employment tax, and to thwart the IRS's ability to collect his
20 customers' unpaid federal tax liabilities. Stephenson's promotions are tailored toward
21 self-employed persons and medical professionals, such as chiropractors and dentists, who
22 earn substantial incomes but rarely receive W-2 statements or 1099 Information Reports.

23 15. The defendants organize, promote, and market their abusive scheme through the
24 following entities:

- 25 a. **American Business Estate & Tax Planning Service:** the "author" of some of
26 Stephenson's promotional and instructional materials;

- b. **Advocate and Associates, Inc.:** a name Stephenson uses in marketing and promoting his trust scheme;
- c. **Advocate NW & Co., Inc.:** the registered agent for trusts and other entities that Stephenson sells to his customers;
- d. **A-1 Credit & Co.:** the banking entity that receives customer payments;
- e. **American Business Law, Inc.:** an entity Stephenson uses in marketing and promoting his trust scheme; and
- f. **American Business & Estate Planning:** another entity Stephenson uses in promoting and marketing his scheme.

16. Stephenson promotes the use of "Pure Contract Trusts" and advises customers to transfer their personal assets into four different trusts, each intended to perform a unique function within the scheme, with the ultimate goal of shielding income from tax and assets from IRS collection efforts.

17. Stephenson serves as the "Executive Trustee" of these trusts, while the customer acts as the "Managing Director." This arrangement is intended to present the appearance of an independent trustee. In fact, the customer maintains exclusive control over all trust property; the customers' relationships to their income and assets is not altered by participation in Stephenson's scheme.

18. Stephenson advises participants to deposit their business income, typically from a sole proprietorship, into a trust checking account. He advises customers that their trusts are not obligated to pay tax on this income under the false notion that trust income is not taxable income until it is disbursed to an individual.

19. Stephenson advises customers to draw minimal salaries from their trusts, and to use this income to pay for food and certain other personal items. Stephenson calculates this salary to be equal to his customers' combined personal exemption and standard deduction amounts, so that nominal amounts of income, if any, are subject to tax. Also, no employment tax is withheld from this salary, in violation of internal revenue laws.

1 20. Stephenson advises customers to pay for certain personal assets and expenses directly
2 from their trust accounts. He falsely advises customers that they can purchase vehicles,
3 household furniture, jewelry, watches, and pay for car insurance and upkeep for personal
4 vehicles using non-taxed trust income.

5 21. Stephenson advises customers that because their businesses are operated as trusts, they
6 cannot have employees, and instructs customers to rehire their employees as independent
7 contractors. Stephenson advises customers to not provide their independent contractors
8 with Forms W-2 or 1099 unless they request these documents. As a result, many of the
9 customers' employees stop filing income tax returns.

10 22. The relationship of Stephenson's customers to their income and assets is not altered by
11 participation in Stephenson's scheme. Participants, typically self-employed persons,
12 operate their businesses in virtually the same manner under Stephenson's program as they
13 did before using his program. The major difference is that payments from third parties
14 (such as insurance companies or other businesses) are no longer made to the customer
15 personally; instead they are made directly to customers' purported trusts.

16 23. Stephenson targets medical professionals and other self-employed people in promoting
17 his illegal scheme. A significant number of Stephenson's customers are chiropractors,
18 dentists, naturopaths, psychiatrists, and psychologists. As with Stephenson's other
19 customers, using Stephenson's program has virtually no impact on the manner in which
20 they conduct their business. Patient services and billing invoices are completed in the
21 same manner. At Stephenson's direction, and with Stephenson's assistance, his
22 customers instruct insurance companies and other third-party payors to make payments
23 directly to the customers' trusts, bypassing any bank accounts linked directly to the
24 customers.

1 24. This arrangement allows Stephenson's customers to hide their income from the IRS yet
2 receive all of the income they received before using his program. This is because
3 information reporting requirements under the Internal Revenue Code generally apply only
4 to payments made to individuals, and not to trusts and corporations.

5 25. The "trusts" that defendants create for their customers are shams, devoid of economic
6 substance. Alternatively, the "trusts" are grantor trusts that may be disregarded for
7 federal-income-tax purposes.

8 **Promoting the Scheme: False Statements about the Internal Revenue Laws**

9 26. Defendants market this scheme though word of mouth, through seminars held in the State
10 of Washington, and through their written materials, titled *Real Solutions to Real Every*
11 *Day Problems* and *Business Engineering, Estate Planning, and Asset Protection*.

12 27. In promoting the scheme, defendants falsely claim that the following benefits are
13 available to participants:

- 14 a. "RETAIN *\$\$Thousands of Dollars\$\$* of Annual Earnings WHILE
15 MINIMIZING THE LIABILITY OF ...*Estate Taxes, Excessive Taxes, Property*
16 *Seizures and Tax Liens...* Through BUSINESS ENGINEERING, ESTATE &
17 TAX PLANNING;"
- 18 b. Avoid probate, estate tax, and IRS seizures;
- 19 c. Reduce or eliminate income taxes;
- 20 d. Eliminate capital gains taxes; and
- 21 e. Become artificially poor without giving up your assets in order to qualify for
22 Medicaid.

23 28. Defendants have made the following false claims about their scheme:

- 24 a. Plato used these types of trusts to "finance his university in ancient Greece;"
- 25 b. William Waldorf Astor used these types of trusts to save his heirs millions of
26 dollars in estate tax;
- 27 c. The Rockefeller family may have used over 250 trusts of this type to protect as
28 much as one billion dollars in assets;

- 1 d. Countless others such as Henry Ford II, H.L. Hunt, and Ronald Reagan have all
2 used these types of trusts to shield their assets; and
- 3 e. Arranging one's personal and business affairs according to the directions of the
4 IRS and the government... could leave a citizen in a deadly trap, a sitting duck if
5 you will, for the IRS and other looting marauders.

6 29. In marketing the scheme, Stephenson has made numerous false statements about the
7 internal revenue laws:

- 8 a. Trust income is not subject to tax;
- 9 b. Filing tax returns is voluntary;
- 10 c. Only those individuals or businesses that voluntarily disclose personal
11 information on a tax return are subject to tax;
- 12 d. Participants' trusts cannot be compelled to turn over books or records to the IRS;
- 13 e. Property held by a contract trust is exempt from IRS seizure;
- 14 f. Only licensed business organizations have employees for employment tax
15 purposes; all other business organizations have independent contractors;
- 16 g. Income to a trust can be used to purchase personal assets without first being
17 subject to tax;
- 18 h. Participating businesses should use the following statement instead of disclosing
19 an EIN: "Exempt as per U.S.C. 26 section 501(a); 645(b); 6109 and 7701(a)(31);"
20 and
- 21 i. Estate tax can be avoided by naming your heir as your successor managing
22 director, and upon your death, your heir takes control of your assets tax free.

23 30. The defendants' false and fraudulent statements have induced hundreds of customers to
24 participate in their illegal scheme.

25 31. Stephenson charges between \$2,500 and \$8,000 for his trust package. In exchange,
26 customers generally receive a set of four trusts or other entities, pre-registered with
27 different states, complete with pre-selected names, and valid IRS employer identification
28 numbers. Customers also receive the *Executive Trustee Operations Manual*, an
instructional guide for transferring assets out of the customers' names and into the trusts,
setting up trust bank accounts in the trusts' names, and setting up mailing addresses at

1 locations other than the customers' residence. The ultimate object of this instructional
2 guide is to shield income and assets from collection efforts, including the IRS.

3 **Defendants' Knowledge of the Illegality of Their Scheme and the Likelihood of Recurrence**

4 32. Stephenson claims to be "autogenous of constitutional law and common law." He also
5 claims to have educated himself "in the relationship of the citizen to various levels of
6 state and federal government provided for in the constitution and statutes."

7 33. Stephenson claims to have a "Doctorate of Common Law," and describes himself as a
8 "lawyer," a "counsel," and "an advocate of the law," despite admitting that he is not a
9 member of nor affiliated with any state bar association.

10 34. Stephenson falsely claims to be a member of the Federal Bar Association. His office
11 window bears the inscription "American Business Law, Inc.," "David Carroll Stephenson,
12 FBA #8830," "Member of the Federal Bar Association."

13 35. Stephenson has continued to actively market his fraudulent scheme even after learning
14 that the IRS was investigating him.

15 36. Despite numerous IRS examinations of his clients, Stephenson has continued to actively
16 market his scheme.

17 37. Stephenson has at least 472 clients in 22 states and in Canada.

18 **Harm to the Government**

19 38. Civil examinations of 21 of Stephenson's customers resulted in a tax loss per participant
20 of over \$96,000. Assuming that 450 of the 472 participants as of March 2000 utilized
21 Stephenson's fraudulent tax package, the tax loss as a result of this promotion could
22 exceed \$43 million for these customers. Additionally, because Stephenson continued to
23 promote his program after March 2000, this \$43 million estimate, based on known clients
24 as of March 2000, could be substantially understated, due to additional customers
25
26

1 recruited in the subsequent three years. Many of these deficiencies may never be
2 recovered.

3 39. Stephenson's actions have caused former Stephenson employees to promote schemes
4 similar to Stephenson's scheme, thereby broadening the harm Stephenson's promotion
5 has caused.

6 40. The defendants will not cease this illegal activity unless they are enjoined.

7 **Count II: Injunction Under I.R.C. § 7402**

8 41. The United States incorporates by reference the allegations contained in paragraphs 1
9 through 40 above.

10 42. The defendants have engaged in conduct that interferes substantially with the
11 administration and enforcement of the internal revenue laws. Unless enjoined by this
12 Court, the defendants are likely to continue to engage in such conduct. Their conduct
13 results in irreparable harm to the United States for which the United States has no
14 adequate remedy at law. The United States is entitled to injunctive relief under I.R.C
15 § 7402(a).

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

- 17 A. That the Court find that defendants David Carroll Stephenson, individually and d/b/a
18 American Business Estate & Tax Planning Service and Advocate and Associates, Inc.;
19 Advocate NW & Co., Inc., A-1 Credit & Co.; American Business Law, Inc.; and
20 American Business & Estate Planning, and all those in active concert or participation
21 with them engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701, and that
22 injunctive relief is appropriate under I.R.C. § 7408 to prevent the defendants from
23 engaging in further such conduct;
- 24 B. That the Court find that the defendants engaged in conduct that interferes with the
25 enforcement of the internal revenue laws, and that injunctive relief is appropriate pursuant

1 to the Court's inherent equity powers and I.R.C. § 7402(a) to prevent recurrence of that
2 conduct;

3 C. That the Court, pursuant to I.R.C. §§ 7402 and 7408, enter a permanent injunction
4 prohibiting the defendants and prohibiting their representatives, agents, servants,
5 employees, attorneys, and those persons in active concert with them, from directly or
6 indirectly by means of false, deceptive, or misleading commercial speech from:

- 7 1. Organizing, promoting, marketing, or selling any abusive tax shelter, plan or
8 arrangement that helps customers attempt to violate the internal revenue laws or
9 unlawfully evade the assessment of their federal tax liabilities;
- 10 2. Causing other persons and entities to understate their federal tax liabilities and
11 avoid paying federal taxes;
- 12 3. Further engaging in any conduct subject to penalty under I.R.C. § 6700, *i.e.*,
13 making or furnishing, in connection with the organization or sale of an abusive
14 shelter, plan, or arrangement, a statement defendants know or have reason to
15 know is false or fraudulent as to any material matter;
- 16 4. Further engaging in any conduct subject to penalty under I.R.C. § 6701, *i.e.*,
17 aiding, assisting, or advising with respect to the preparation or presentation of any
18 portion of a return or other document knowing that such assistance or advice will
19 result in the understatement of another person's income tax liability; and
- 20 5. Further engaging in any conduct that interferes with the administration and
21 enforcement of the internal revenue laws.

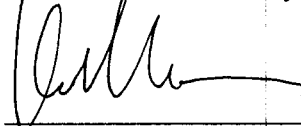
22 D. That this Court, pursuant to I.R.C. §§ 7402 and 7408, enter an injunction requiring the
23 defendants, at their own expense and as a corrective measure, to provide a copy of the
24 complaint and injunction to each of their customers, current and former, within ten days
25 of entry of the injunction. Defendant David Carroll Stephenson must file a sworn
26 certificate of compliance stating that the defendants have complied with this requirement,
27 and must attach a copy of all correspondence sent with the complaint and injunction;

28 E. That this Court, pursuant to IRC §§ 7402 and 7408, enter an injunction requiring the
defendants to file with the court and serve on the government, within ten days of entry of
this order, a complete customer list, including both current and former customers;

- 1 F. That this Court, pursuant to IRC §§ 7402 and 7408, enter an injunction requiring the
2 defendants to prominently display a copy of the injunction in the front window of their
3 business office, located at 7406 27th Street West, Suite 17, Tacoma, Washington 98466,
4 or any other location at which they maintain an office or conduct business. This shall be
5 maintained for one year from the date of the injunction;
- 6 G. That this Court, pursuant to IRC §§ 7402 and 7408, enter an injunction requiring the
7 defendants to file with the court and serve on the Government, within ten days of entry of
8 this order, a complete list of defendants former and current employees and associates.
- 9 H. That the Court grant the United States such other and further relief as the Court deems
10 appropriate.

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13 Dated this 19th day of December, 2003

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16 JOHN MCKAY
United States Attorney

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19 KARI M. LARSON
20 Trial Attorney, Tax Division
21 U.S. Department of Justice
22 Post Office Box 7238
23 Ben Franklin Station
24 Washington, D.C. 20044
25 Telephone: (202) 514-0564
26 Email: Kari.M.Larson@usdoj.gov

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28 COMPLAINT
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