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**LODGED**

JUL 23 2003

**FILED**  
SEP 12 2003  
CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
DEPUTY CLERK

8 Attorneys for the United States  
CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY [Signature]

9 IN THE UNITED STATES DISTRICT COURT FOR THE  
10 EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

11 UNITED STATES OF AMERICA, )  
12 Plaintiff, )  
13 v. )  
14 WALTER THOMPSON, a/k/a )  
15 AL THOMPSON, d/b/a )  
16 CENCAL SALES COMPANY, d/b/a )  
17 CENCAL AVIATION PRODUCTS, )  
Defendant. )

Civil No. 03-1532 FCD GGU  
[proposed]  
**Preliminary Injunction**

18 Upon motion by plaintiff, the United States of America, the Court makes the following  
19 findings of fact and conclusions of law and enters this preliminary injunction:

20 **Standards for Preliminary Injunction**

21 In order to obtain a preliminary injunction under Section 7402(a) of the Internal Revenue  
22 Code (I.R.C.), 26 U.S.C., the United States must show that an injunction is necessary or  
23 appropriate for the enforcement of the internal revenue laws. Alternatively, this Court will issue  
24 a preliminary injunction upon a showing of either (1) a combination of probable success on the  
25 merits and the possibility of irreparable harm, or (2) that serious questions are raised and the  
26 balance of hardship tips in its favor.

27 **Findings of Fact**

28 Based on the evidence and the parties' arguments, the Court finds as follows:

1 1. Defendant Walter Thompson, also known as Al Thompson, doing business as Cencal  
2 Salcs Co. and Cencal Aviation Products ("Cencal"), employs approximately 25 people and pays  
3 them wages and other compensation.

4 2. Thompson is failing to withhold federal employment taxes from employee wages, to  
5 make federal employment tax deposits, to file his employment and unemployment tax returns,  
6 and to file and issue wage and tax statements (IRS Forms W-2). He bases his refusal to meet  
7 these legal obligations on a patently frivolous interpretation of the internal revenue laws, known  
8 as the § 861 argument, that posits that income earned from sources within the United States is  
9 not subject to taxation.

10 3. Thompson's conduct has cost the United States as of June 30, 2003, an estimated  
11 \$429,399.73, with additional harm accruing at more than \$31,000 in federal income and Federal  
12 Insurance Contributions Act (FICA) taxes per quarter and \$21,000 in Federal Unemployment  
13 Tax Act (FUTA) taxes per year. His mounting employment tax liabilities will be unrecoverable  
14 if they surpass his ability to pay.

#### 15 **Conclusions of Law**

16 The Court finds that Thompson is interfering with the administration of the internal  
17 revenue laws. He is violating I.R.C. §§ 3102, 3111, 3301, 3402, 6011, and 6041. The United  
18 States is likely to succeed on the merits in this case and will suffer irreparable harm if Thompson  
19 is not enjoined now. Accordingly, the Court finds that a preliminary injunction under I.R.C. §  
20 7402(a) is necessary and appropriate for the enforcement of the internal revenue laws.

#### 21 **Security**

22 The United States is not required to give security for an injunction under Federal Rule of  
23 Civil Procedure 65(c).

#### 24 **Order**

25 A. The Court ORDERS that Thompson is enjoined from violating I.R.C. §§ 3102, 3111,  
26 3301, 3402, 6011, 6041.

1 B. Further, the Court ORDERS that Thompson (individually and doing business as  
2 Cencal Sales Co. or Cencal Aviation Products or under any other name or using any other entity),  
3 and his representatives, agents, servants, employees, attorneys, and those persons in active  
4 concert or participation with him, are enjoined from failing to withhold and pay over to the IRS  
5 all employment taxes, including federal income, FICA, and FUTA taxes, required by law.

6 C. Further, the Court ORDERS that Thompson file timely employment tax returns,  
7 including Forms 940 and 941, with the IRS, and file timely Forms W-2 with the Social Security  
8 Administration (SSA) and send copies of such returns and Forms W-2 to counsel for the United  
9 States at the same time that he files the originals.

10 D. Further, the Court ORDERS that, effective immediately, within three days of each  
11 Cencal payroll Thompson make employment tax deposits with his bank and send by fax to IRS  
12 Revenue Officer Paul Enjalran at (707) 642-8938, a receipt for each employment tax deposit and  
13 a completed worksheet in the form attached hereto.

14 E. Further, the Court ORDERS that Thompson amend and correct his Form 941 for the  
15 third quarter of 2000, file a complete and accurate Form 941 for the first and second quarters of  
16 2003, and pay the taxes and interest lawfully owing within 30 days of the entry of this Order.

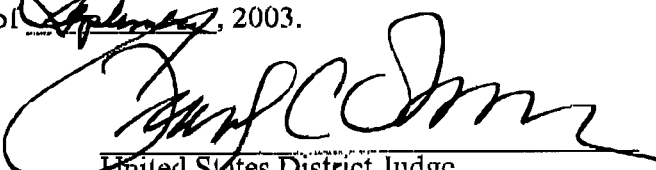
17 F. Further, the Court ORDERS that Thompson file with the SSA and issue to his  
18 employees amended Forms W-2 for 2000 and accurate Forms W-2 for 2001 through 2002 within  
19 30 days of the entry of this Order and send copies of these Forms W-2 to counsel for the United  
20 States at the same time that he files the originals.

21 G. Further, the Court ORDERS that within ten days of the date of this Order Thompson  
22 deliver to all of his current employees, and any former employees employed at any time since  
23 July 1, 2000, a copy of this Court's findings and preliminary injunction. Thompson shall bear all  
24 expenses associated with this mailing. He must file a sworn certificate of compliance, swearing  
25 that he has complied with this portion of the Order, within twelve days of the date of this Order.

26 H. Further, the Court ORDERS that within ten days of the date of this Order Thompson  
27 post and keep posted in one or more conspicuous places on his business premises where notices  
28

1 to employees are customarily posted, a copy of this Court's findings and preliminary injunction.  
2 Thompson shall bear all expenses associated with this posting. Thompson must file a sworn  
3 certificate of compliance, swearing that he has complied with this portion of the Order, within  
4 twelve days of the date of this Order.

5 SO ORDERED this 12<sup>th</sup> day of September, 2003.

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8 United States District Judge

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via Facsimile

IRS Revenue Officer Paul Enjalran  
Fax: (707) 642-8938

**FEDERAL EMPLOYMENT TAX DEPOSIT VERIFICATION**

**CENCAL SALES CO.**  
**EIN 68-0347333**

- 1. For payroll period \_\_\_\_\_ to \_\_\_\_\_
- 2. Date wages paid to employees: \_\_\_\_\_.
- 3. Total gross wages paid: \$ \_\_\_\_\_
- 4. Total federal income tax withheld: \$ \_\_\_\_\_
- 5. Total Social Security taxes withheld: \$ \_\_\_\_\_ x 2 = \$ \_\_\_\_\_
- 6. Total Medicare taxes withheld: \$ \_\_\_\_\_ x 2 = \$ \_\_\_\_\_
- 7. Total of lines 4, 5, and 6: \$ \_\_\_\_\_
- 8. Deposit dated \_\_\_\_\_ (receipt attached) for: \$ \_\_\_\_\_

I, Walter Thompson, hereby certify under penalty of perjury that the foregoing information is true and accurate.

Signature: WALTER THOMPSON Date: \_\_\_\_\_

**ATTACH COPY OF DEPOSIT RECEIPT**

**or, if Electronic Funds Transfer used, provide confirmation # \_\_\_\_\_**

1 Prepared and submitted by:

2 MCGREGOR W. SCOTT  
3 United States Attorney

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