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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

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

15 UNITED STATES OF AMERICA,  
16 Plaintiff,

17 v.

18 ARNE R. RISTOL, Individually and  
19 d/b/a Kismet Trust,  
20 Defendant.

LACV03-7015 MMM

Civil No.

Complaint for Permanent  
Injunction

(CTx)

21 Plaintiff, the United States of America, complains and alleges against the  
22 defendant, Arne R. Ristol, as follows:

23 Jurisdiction

24 1. This Court has jurisdiction over this action to enjoin Ristol from  
25 violating the Internal Revenue Code (I.R.C.), 26 U.S.C., pursuant to 28 U.S.C.  
26 §§ 1340 and 1345 and I.R.C. §§ 7402(a), 7407 and 7408.

1 **Venue**

2 2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396  
3 because Ristol resides in this judicial district.

4 **Nature of Action**

5 3. This action has been requested by the Chief Counsel of the Internal  
6 Revenue Service (IRS), a delegate of the Secretary of the Treasury, and  
7 commenced at the direction of a delegate of the Attorney General, pursuant to  
8 I.R.C. §§ 7402, 7407 and 7408.

9 4. The United States is bringing this complaint to permanently enjoin Ristol  
10 from the following actions:

- 11 (a) acting as an income tax return preparer (as defined in I.R.C.  
12 § 7701(a)(36));
- 13 (b) organizing or selling abusive tax shelters, plans, or arrangements that  
14 advise or encourage taxpayers to attempt to evade the assessment or  
15 collection of their correct federal tax;
- 16 (c) engaging in any activity subject to penalty under I.R.C. §§ 6700, 6701,  
17 or 6694; and
- 18 (d) engaging in conduct that substantially interferes with the enforcement  
19 of the internal revenue laws and from promoting any false tax scheme.

20 **Defendant**

21 5. Defendant Arne R. Ristol resides in Riverside County, California. He  
22 owns and operates a tax planning and return preparation service under the name of  
23 the Kismet Trust.

24 **Defendant's Activities**

25 6. Ristol sells "Private, Non-Statutory Associated Unincorporated Business  
26 Trust Organizations" ("UBTOs"), and prepares federal income tax returns for the  
27 trusts and trust purchasers.

1           7. Ristol advises his customers to transfer their personal and business assets  
2 to UBTOs established with Ristol's assistance.

3           8. Ristol advises his customers to obtain an IRS Employer Identification  
4 Number (EIN) for each trust and complete a form which is entitled "Trust  
5 Organization Indenture, Contract and Declaration of Trust" for each trust the  
6 customer desires to create.

7           9. As part of the trust arrangements, a purported UBTO is established to  
8 hold the taxpayer's principal business activity. The taxpayer's business equipment  
9 and other business assets are purportedly transferred to that trust in exchange for  
10 "Trust Certificate Units," which are also known as "Units of Beneficial Interest"  
11 ("UBI").

12           10. The trust recognizes no gain on the transfer described in the preceding  
13 paragraph because the equipment and assets are improperly valued using a  
14 "stepped-up" basis, *i.e.*, the fair market value of the assets on the transfer date.

15           11. Ristol advises his customers to appoint as trustees of the UBTOs  
16 persons other than themselves, such as a close friend or family member. Ristol is  
17 the trustee for the majority of the trusts which he creates.

18           12. The taxpayer who purchases the UBTOs from Ristol then contracts  
19 with the UBTO to act as the trust's "General Trust Manager." Ristol advises the  
20 manager to accept little or no compensation in order to reduce or eliminate the  
21 Manager's federal income and social security tax liability.

22           13. The "Manager's Agreement" expressly states that the Manager has the  
23 power to: (1) buy, sell, lease, or rent property; (2) make improvements or  
24 alterations to property; (3) subdivide property; (4) seek zoning, rezoning, or  
25 variance for property use; (5) hire employees, consultants, caretakers, property  
26 managers, etc.; and (6) open and be signatories on checking and savings bank  
27 accounts, and hold safety deposit boxes for the trust.

1           14. The beneficiaries of the UBTOs promoted and sold by Ristol are the  
2 “holders of the Trust Certificate Units in the Trust Organization.”

3           15. The taxpayers who transfer their assets to UBTOs continue to use all of  
4 their personal and business property as their own. For example, the taxpayers  
5 continue to exercise sole signature authority and control over their businesses’  
6 bank accounts and other property.

7           16. Thereafter, at defendant’s direction, the taxpayers’ personal living  
8 expenses are deducted on federal income tax returns filed by the trusts (IRS Forms  
9 1041). These personal living expenses include many items that individual  
10 taxpayers are not entitled to deduct, such costs of maintaining the customer’s  
11 personal residence, utility bills, and the like.

12           17. Additionally, the federal income tax returns (IRS Forms 1040) filed by  
13 the defendant’s customers report as income only the relatively nominal amounts  
14 purportedly received in connection with their “duties” as “General Trust Manager”  
15 of the “unincorporated business trust organizations.”

16           18. By reporting these much smaller amounts, rather than the much greater  
17 income that the taxpayers actually receive from the operation of their businesses,  
18 the taxpayers who purchase UBTOs from the defendant underreport and underpay  
19 their true liability for federal income and self-employment taxes.

20           19. Ristol has made false or fraudulent statements regarding the tax  
21 advantages available to purchasers of these UBTOs. Some of these false or  
22 fraudulent statements are contained in the informational material included in the  
23 trust packages that the defendant sells. Examples of defendant’s false or fraudulent  
24 statements in such materials includes the following:

- 1 • That customers could transfer their residences to trusts and  
2 deduct all expenses relating to the upkeep of those residences,  
3 including utilities, repairs, maintenance and depreciation;
- 4 • A taxpayer can obtain an “income-splitting advantage” by  
5 assigning the income from his business to a UBTO and  
6 remaining in a lower income tax bracket;
- 7 • That federal income and self-employment taxes could be  
8 reduced or eliminated by placing the customer’s business and  
9 real property in a UBTO;
- 10 • That the assets transferred to their UBTOs would receive a  
11 stepped-up basis;
- 12 • “One of the most useful advantages of a trust is the reduction or  
13 elimination of income and estate taxes.”
- 14 • That customers could exchange, tax-free, their assets for “Trust  
15 Certificate Units”;
- 16 • The use of “Trust Certificate Units” or “Certificates of Capital  
17 Unit” eliminates the application of the gift tax; and
- 18 • That customers using the defendant’s trusts could properly  
19 claim deductions for their personal medical expenses, personal  
20 automobile liability insurance, as well as other personal living  
21 expenses.

22 20. Ristol charges his clients a fee of approximately \$5,000.00 for the trust  
23 package. His promotional materials advise potential clients and trust purchasers  
24 not to cooperate with the IRS, and the “trust” documents which he prepares  
25 impose substantial penalties on trustees who do so.

26 21. Ristol has prepared Form 1041 income tax returns for trusts that  
27 improperly claimed deductions and failed to report income based on his abusive

1 trust scheme. He has also underreported the capital gains realized by individual  
2 taxpayers by improperly increasing the basis of assets transferred by trust  
3 purchasers to their trusts.

4 22. Defendant has engaged in the preparation or presentation of a portion of  
5 a tax return or other document in connection with a matter arising under the  
6 internal revenue laws, knowing that such portion will be used in connection with a  
7 material matter arising under the internal revenue laws, and knowing that such  
8 portion (if so used), would result in an understatement of the liability for tax of  
9 another person. The defendant's conduct is thus subject to penalty under I.R.C. §  
10 6701.

#### 11 **Harm to the Public**

12 23. Ristol's customers have been harmed by his promoting abusive trusts  
13 and preparing false and fraudulent tax returns because his customers have paid  
14 him significant sums to establish worthless trusts and to prepare tax returns that  
15 understate their income tax liabilities.

16 24. The United States is harmed because Ristol's customers are not paying  
17 their fair share of taxes to the United States Treasury. To date, Ristol is known to  
18 have prepared a total of 319 federal income tax returns for the 2000 and 2001 tax  
19 years. Based upon the IRS audits to date, the Internal Revenue Service has  
20 projected a loss of more than \$9 million in tax revenue to the Treasury. Moreover,  
21 some of those audit deficiencies may never be collected, resulting in a permanent  
22 loss to the United States Treasury.

23 25. The United States is also harmed because the IRS is forced to devote  
24 some of its limited resources to identifying and recovering this lost revenue from  
25 Ristol's customers, thereby reducing the level of service that the IRS can give to  
26 honest taxpayers. Moreover, given the IRS's limited resources, identifying and  
27 recovering all revenues lost from Ristol's scheme may be impossible.



1           29. Ristol has prepared more than 150 Form 1041 income tax returns  
2 claiming deductions (on behalf of trusts that he created for customers) for the  
3 nondeductible personal expenses of the customers who established the trusts.

4           30. Also, Ristol has prepared Form 1041 income tax returns for sham or  
5 grantor trusts which report the income that was actually earned by, or attributable  
6 to, the trust purchaser. In so doing, defendant asserted positions which he knew or  
7 should have known were unrealistic within the meaning of I.R.C. § 6694.

8           31. Specific examples of the unrealistic positions asserted by Ristol include  
9 (but are not limited to) the following:

10           a. Taxpayers in Colorado agreed to IRS proposed adjustments which  
11 increased their gross income by more than \$140,000.00. Their Form 1040  
12 income tax return, which was prepared by Ristol, understated the taxpayers'  
13 capital gains because the taxpayers' assets were improperly valued at their  
14 fair market value at the time they were transferred to " trusts" which the  
15 taxpayers purchased from Ristol.

16           b. Ristol sold four trusts and a limited partnership to Washington  
17 taxpayers and prepared returns for them which reduced their gross income  
18 from more than \$800,000.00 to approximately \$11,000.00 apiece. The total  
19 IRS proposed adjustments for one tax year exceeded \$840,000.

20           32. Ristol has attempted to delay or obstruct the IRS investigation into his  
21 abusive trust scheme and the IRS audits of the Form 1041 income tax returns that  
22 he prepared, by refusing to provide financial records and information for the  
23 individual taxpayers who purchased his trusts, and by advising his clients not to  
24 provide the requested records and information to the IRS.

25           33. Ristol's actions, as described above, fall within I.R.C. §§ 7407(b)(1)(A)  
26 and (D), and are thus subject to injunction under Section 7407.







1           50. If Ristol is not enjoined, he is likely to continue to interfere with the  
2 enforcement of the internal revenue laws.

3  
4           WHEREFORE, plaintiff, the United States of America, respectfully prays  
5 for the following:

6           A. That the Court find that Ristol has engaged in conduct subject to penalty  
7 under I.R.C. §§ 6700, 6701 and 6694, and that injunctive relief under I.R.C.  
8 §§ 7407 and 7408 is necessary and appropriate to prevent a recurrence of that  
9 conduct;

10           B. That the Court find that Ristol has engaged in conduct interfering with  
11 the enforcement of the internal revenue laws, and that injunctive relief is  
12 appropriate to prevent the recurrence of that conduct pursuant to the Court's  
13 inherent equity powers and under I.R.C. § 7402(a);

14           C. That this Court, pursuant to I.R.C. § 7407, enter a permanent injunction  
15 prohibiting Ristol from acting as a federal income tax return preparer;

16           D. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter a  
17 permanent injunction prohibiting Ristol, individually and doing business under  
18 any other name or using any other entity, and his representatives, agents, servants,  
19 employees, attorneys, and those persons in active concert or participation with  
20 him, from directly or indirectly, by means of false, deceptive, or misleading  
21 commercial speech:

22           a. Engaging in activity subject to penalty under I.R.C. § 6700, including  
23 organizing or selling a plan or arrangement and making a statement  
24 regarding the excludibility of income that he knows or has reason to  
25 know is false or fraudulent as to any material matter;

26           b. Engaging in activity subject to penalty under I.R.C. § 6701, including  
27 preparing and/or assisting in the preparation of a document related to

1 a matter material to the internal revenue laws that includes a position  
2 that he knows will result in an understatement of tax liability;

- 3 c. Selling any type of asset protection device, including trusts, limited  
4 liability corporations, or similar arrangements, advocating  
5 noncompliance with the income tax laws or tax evasion,  
6 misrepresenting the tax savings realized by using the arrangement, or  
7 concealing the receipt of income or location of assets from the IRS;
- 8 d. Engaging in any other activity subject to penalty under I.R.C. §§ 6700  
9 or 6701; and
- 10 e. Engaging in other conduct interfering with the enforcement of the  
11 internal revenue laws;

12 E. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an  
13 injunction requiring Ristol to contact by mail all individuals who have purchased  
14 his abusive tax shelters, plans, arrangements, or programs, or any other shelter,  
15 plan, or program in which Ristol has been involved, and inform those individuals  
16 of the Court's findings concerning the falsity of Ristol's representations and attach  
17 a copy of the permanent injunction against Ristol;

18 F. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an  
19 injunction requiring Ristol to produce to the United States any records in his  
20 possession or to which he has access, identifying by name, Social Security  
21 Number, address, and telephone number all individuals who have purchased his  
22 abusive tax plans, arrangements, or programs, or any other shelter, plan, or  
23 program in which Ristol has been involved;

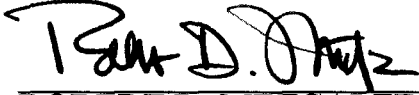
24 G. That this Court retain jurisdiction over the defendant, Arne R. Ristol,  
25 individually and doing business as Kismet Trust, and this action for the purpose of  
26 enforcing any permanent injunction entered against defendant;

1 H. That the United States be entitled to conduct all discovery permitted  
2 under the Federal Rules of Civil Procedure for the purpose of monitoring  
3 defendant's compliance with the terms of any permanent injunction entered  
4 against defendant; and.

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

7 Dated this 26th day of September, 2003.

8  
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