

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 3:16-cv-01485-PG
)	
v.)	
)	
COLEGIO TITI FE, INC.;)	
JOSE T. ONATE;)	
FE ONATE; and)	
GUILLERMO ONATE HERMINA,)	
)	
Defendants.)	
_____)	

CONSENT JUDGEMENT AND ORDER FOR PERMANENT INJUNCTION

The Plaintiff, the United States of America, commenced this action in order to (i) collect the defendants’ unpaid federal tax liabilities, penalties, and interest; (ii) enjoin the defendants from further violating and interfering with the enforcement of the internal revenue laws; and (iii) compel the defendants to timely withhold, collect, and pay over to the Internal Revenue Service the accruing federal tax liabilities of Colegio Titi Fe, Inc. (“Colegio Titi Fe”).

The Court, having considered the parties’ Motion for Entry of a Consent Judgment and Permanent Injunction, hereby GRANTS the parties’ motion, and IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

Count I: Federal Employment Tax Assessments Made Against Colegio Titi Fe, Inc.

As alleged in Count I of the complaint (¶¶ 16-20), Colegio Titi Fe filed with the IRS Employer’s Quarterly Federal Tax Returns (IRS Form 941PR) and Employer’s Federal Unemployment Tax Returns (IRS Form 940PR) that reported its federal employment and unemployment tax liabilities for the taxable periods indicated in the chart below. On the dates,

in the amounts, and for the taxable periods set forth below, a delegate of the Secretary of the Treasury assessed against Colegio Titi Fe the following federal employment and unemployment taxes and statutory additions to tax:

Type of Tax	Tax Period	Assessment Date	Assessment Amount	Outstanding Balance (as of 3/14/2016)
WT-FICA (Form 941PR)	03/31/2011	11/07/2011	\$12,095.32	\$6,531.00
WT-FICA (Form 941PR)	06/30/2011	09/19/2011	\$10,465.89	\$5,463.60
WT-FICA (Form 941PR)	09/30/2011	01/02/2012	\$9,356.32	\$9,312.31
WT-FICA (Form 941PR)	12/31/2011	03/19/2012	\$11,629.58	\$4,842.37
WT-FICA (Form 941PR)	03/31/2012	11/19/2012	\$13,105.02	\$12,210.56
WT-FICA (Form 941PR)	06/30/2012	11/12/2012	\$7,760.17	\$7,294.01
WT-FICA (Form 941PR)	09/30/2012	12/24/2012	\$6,068.79	\$11,825.99
WT-FICA (Form 941PR)	12/31/2012	03/25/2013	\$10,617.66	\$6,669.40
WT-FICA (Form 941PR)	03/31/2013	06/16/2014	\$17,718.82	\$13,844.41
WT-FICA (Form 941PR)	06/30/2013	09/23/2013	\$8,730.82	\$6,963.31
WT-FICA (Form 941PR)	09/30/2013	12/09/2013	\$3,789.64	\$1,510.51
WT-FICA (Form 941PR)	12/31/2013	06/30/2014	\$14,294.29	\$11,843.08
WT-FICA (Form 941PR)	03/31/2014	12/01/2014	\$13,738.84	\$13,972.28
WT-FICA (Form 941PR)	06/30/2014	03/02/2015	\$8,828.87	\$10,219.30
WT-FICA (Form 941PR)	09/30/2014	03/02/2015	\$6,199.18	\$7,258.37
WT-FICA (Form 941PR)	12/31/2014	12/14/2015	\$12,382.90	\$13,135.44
WT-FICA (Form 941PR)	3/31/2015	09/21/2015	\$10,250.07	\$10,568.98
WT-FICA (Form 941PR)	6/30/2015	9/21/2015	\$6,386.07	\$7,060.30

WT-FICA (Form 941PR)	09/30/2015	02/22/2016	\$2,873.60	\$2,942.24
FUTA (Form 940PR)	12/31/2010	03/07/2011 07/08/2013	\$4,647.80	\$2,860.42
FUTA (Form 940PR)	12/31/2013	07/07/2014	\$869.12	\$654.23
FUTA (Form 940PR)	12/31/2014	01/04/2016	\$829.87	\$844.15

Despite notice and demand for payment by the Internal Revenue Service of the foregoing federal tax liabilities, Colegio Titi Fe failed or refused to fully pay the outstanding assessments. As a result, Colegio Titi Fe is indebted to the United States in the amount of \$167,826.26 as of March 14, 2016, for the unpaid federal employment and unemployment taxes set forth in the chart above, plus interest and other statutory additions to tax that continue to accrue as provided by law after that date.

IT IS ORDERED that judgment is hereby entered against Colegio Titi Fe for the unpaid federal employment taxes and statutory additions to tax in the amount of \$167,826.26 as of March 14, 2016, plus statutory interest according to law after that date until paid. Pursuant to the parties' settlement agreement, this judgment shall be marked as satisfied in the event that Colegio Titi Fe makes monthly payments totaling \$150,000 in keeping with the consent installment payment order entered in this case.

**Count II: Trust Fund Recovery Penalties Assessed Against
Jose Onate and Guillermo Onate Hermina**

As alleged in Count II of the complaint (¶¶ 21-29), on the dates, in the amounts, and for the taxable periods set forth below, a delegate of the Secretary of the Treasury properly and timely assessed the Trust Fund Recovery Penalty ("TFRP") against Jose Oñate and Guillermo Onate Hermina under 26 U.S.C. §6672:

Tax Period Ending	TFRP Assessment Date	Assessment Amount	Outstanding Balance (as of 3/14/2016)
3/31/2014	2/29/2016	\$4,392.56	\$4,397.60
6/30/2014	2/29/2016	\$3,183.01	\$3,186.66
9/30/2014	2/29/2016	\$2,437.68	\$2,440.48
3/31/2015	2/29/2016	\$4,231.22	\$4,236.08
6/30/2015	2/29/2016	\$2,753.86	\$2,757.02

Despite notice and demand for payment by the Internal Revenue Service of the foregoing federal tax liabilities, Jose Onate and Guillermo Onate Hermina failed or refused to fully pay the outstanding TFRPs. As a result, Jose Onate and Guillermo Onate Hermina are indebted to the United States for unpaid TFRPs in the amount of \$17,017.84, as of March 14, 2016, plus statutory interest and other statutory additions that will accrue thereafter until the date of payment.

IT IS ORDERED that judgment is hereby entered against Jose Onate and Guillermo Onate Hermina for the unpaid TFRPs in the amount of \$17,017.84, as of March 14, 2016, plus statutory interest and other statutory additions that will accrue thereafter until the date of payment. Pursuant to the parties' settlement agreement, this judgment shall be marked as satisfied in the event that Colegio Titi Fe makes monthly payments totaling \$150,000, pursuant to the judgment in Count I above, in keeping with the consent installment payment order entered in this case.

Count III: Injunction Pursuant to 26 U.S.C. § 7402(a)

It is adjudged, determined and decreed that the Defendants have engaged and are engaging in conduct that interferes with the administration of the internal revenue laws, and that

injunctive relief under 26 U.S.C. § 7402(a) and the Court's inherent equity powers is necessary and appropriate to stop that conduct.

IT IS THEREFORE ORDERED that this injunction is issued to prevent the Defendants from further accruing or "pyramiding" employment and unemployment tax liabilities by accruing such liabilities beyond the defendant's ability to pay over the liabilities as they become due. This injunction order authorizes enforceable injunctive relief and, if any provision of this permanent injunction is violated, the injunction can be enforced through the mechanisms set forth below.

An injunction shall issue as follows from the date of this Order:

a. Parties Covered by Injunction: This injunction binds Colegio Titi Fe, Inc. ("Colegio Titi Fe"); Jose T. Onate; Fe Onate; and Guillermo Onate Hermina (the "Defendants"), as well as the agents, employees, and all persons acting in concert or participation with the Defendants.

b. Withholding Requirement: The Defendants shall cause Colegio Titi Fe to withhold federal FICA taxes from the wages of Colegio Titi Fe's employees (or the employees of any successor entity controlled by the Defendants and engaged in the same line of business) when those wages are paid, shall keep the withheld funds in a bank account separate from any operating account or other accounts, and shall pay the withheld taxes to the Internal Revenue Service as they become due and payable. The Defendants shall also cause Colegio Titi Fe to withhold federal income taxes from the wages of Colegio Titi Fe's employees to the extent required by law.

c. Deposit Requirements: In accordance with federal deposit regulations, the Defendants shall cause Colegio Titi Fe to make timely deposits of withheld federal income and

FICA taxes, and the defendant employer's share of FICA, and Federal Unemployment Tax Act (FUTA) taxes, in an appropriate federal depository bank each quarter, in accordance with the federal deposit regulations. Within 30 days of the date of this order, the Defendants shall cause Colegio Titi Fe to become current on all FUTA, FICA, and income tax federal deposit requirements for tax year 2016.

d. Reporting Requirements: The defendants shall cause Colegio Titi Fe to provide reports of all deposits made pursuant to paragraph (c) to the Internal Revenue Service at City View Plaza II Bldg., 48 Carr 165, km.1.2, Guaynabo, PR 00968-8000 (Attn: Carmelo Gonzalez, Revenue Officer), or at such other locations as the Service may deem appropriate, no later than the 20th day of each month;

e. Return Requirements: The Defendants shall cause Colegio Titi Fe to timely file with the IRS all of its employment (Form 941) and unemployment (Form 940) tax returns. Each return shall be considered to be timely filed if it is filed before the date it is due or within three days after the return is due. The defendants shall pay any balance due on those returns upon filing. Within 30 days of this order, the defendants file all delinquent employment, unemployment, and income tax returns.

f. Transfer Prohibition: The Defendants are prohibited after the date of this permanent injunction from assigning any property or making any disbursements until all income, FICA, and FUT taxes required to be withheld from employees' wages, together with the employer's liability for FICA taxes and FUTA taxes, accrued after the date of this injunction, are in fact paid to the IRS.

g. Notification of New Business: For the next five years, the Defendants shall notify the Internal Revenue Service at the address specified in paragraph d, above, of any

new or presently operating company or entity with which the defendant becomes involved in relation to federal employment tax withholding, depositing, or reporting and shall also inform the IRS if the defendant assumes a new name or transfers his employees or business operations to another entity. The defendant shall notify the Internal Revenue Service within 10 days after the aforementioned actions.

h. Failure to Comply: If anyone subject to this injunction violates any part of this injunction, the United States and/or the Internal Revenue Service may take all actions allowed by law to collect unpaid sums, including but not limited to the following:

i. the IRS may seize the business property of Colegio Titi Fe and may sell the seized property to satisfy the outstanding tax liabilities of Colegio Titi Fe; and

ii. the United States may ask the Court to hold the defendants in civil or criminal contempt of this Court and punish the violator with a fine, incarceration, or both.

i. Enforcement of Injunction: The United States shall be permitted to issue discovery requests during the pendency of the injunction to assure that the Defendants are in compliance with the injunction. The Court shall retain jurisdiction of this action for the purposes of implementing and enforcing this injunction and entering all additional decrees and orders necessary and appropriate for the public interest.

j. Notice to Employees: To the extent that any employees or agents of Colegio Titi Fe have duties or responsibilities that may relate to compliance with this Injunction Order, the Defendants shall inform such employees or agents of the terms of this order and shall cause them to comply with such order.

k. Notice to Defendants: The United States may provide notice of the entry of this permanent injunction under Fed. R. Civ. P. 65 by mailing a true and correct copy thereof by certified or registered mail to each of the Defendants.

i. Appraisal Requirement: Within 90 days of the date of this order, the Defendants shall deliver to the address listed above in Paragraph (d), or such other place as the IRS may notify them in writing, an appraisal report from a licensed appraiser setting forth the value of the property known as 300 Calle Manuel F. Rossy, San Juan, PR 00918.

m. 433-A Requirement: Within 30 days of the date of this order, each of the the Defendants shall complete and execute IRS Form 433-A and provide it to the IRS. This consent judgment and order for permanent injunction is premised on the defendants' representations regarding their inability to pay the amount due and owing. To the extent that the Defendants possess or control assets not previously disclosed to the IRS, the IRS may take all lawful actions to collect such assets in order to pay amounts due and owing under the judgment contained herein.

n. Abstract of Judgment: The United States may record an abstract of this judgment to the extent allowed by law.

The Clerk of Court is instructed to enter judgment against the Defendants and in favor of the United States consistent with this Order.

AGREED AND CONSENTED TO:

For Plaintiff:

| ROSA E. RODRIGUEZ-VELEZ
United States Attorney


| CAROLINE D. CIRAOLO
Principal Deputy Assistant
Attorney General

| /s/ Nelson Wagner

NELSON WAGNER
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 227
Ben Franklin Station
Washington, DC 20044
Telephone: 202-616-3369
Email: nelson.wagner@usdoj.gov
PR gov't attorney #: G02212

For Defendant Colegio Titi Fe: 

Defendant José Onate: 

Defendant Guillermo Onate: 



EDUARDO F. GONZALEZ, ESQ.
402B Rodrigo de Triana St
San Juan, PR 00918
Ph: 787-245-1707 Fax: 787-620 6025
edgonzale@gmail.com
PRDC Bar No. 224813

IT IS SO ORDERED.

In San Juan, Puerto Rico, March 3, 2017.

S/ JUAN M. PEREZ-GIMENEZ
JUAN M. PEREZ-GIMENEZ
SENIOR U.S. DISTRICT JUDGE