

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-07507

WOODBIDGE ASSISTED LIVING LLC, et al.,

Defendant.

JUDGMENT AND ORDER OF PERMANENT INJUNCTION

The United States of America commenced this civil action to obtain a permanent injunction requiring the defendants Woodridge Assisted Living, LLC¹ (“Woodridge”) and Sharon Weinheimer (collectively, “Defendants”), to comply with their legal obligations to withhold, collect, and pay over to the Internal Revenue Service the federal employment and unemployment taxes of Woodridge, and to make all federal tax depositions, including the employer's share of Federal Insurance Contributions Act taxes, according to law.

Defendants, without admitting or denying the allegations in the complaint (except as to jurisdiction), waive the entry of findings of fact and conclusions of law under Federal Rule of Civil Procedure 52, and consent to the entry of the following judgment and injunction under Federal Rule of Civil Procedure 65 and 26 U.S.C. § 7402(a). Defendants further waive any right to appeal

¹ In Defendants’ Answer to the Complaint, it states that the Complaint misidentified Defendant Woodridge Assisted Living LLC as “Woodbridge Assisted Living, LLC.” (ECF No. 6 at 1 n.1.) Thus, for purposes of this Judgment and Order of Permanent Injunction, the Court will refer to the corporate Defendant as “Woodridge.”

from this Judgment and Order of Permanent Injunction. The parties agree the entry of this injunction constitutes the final judgment in this case.

The parties agree that the entry of this permanent injunction does not preclude the Internal Revenue Service (“IRS”) in any way from assessing or collecting taxes, penalties, and interest against the Defendants.

The parties further agree that the entry of the injunction is appropriate for the enforcement of the internal revenue laws.

Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. This Court has jurisdiction over this action and each of the Defendants pursuant to 28 U.S.C. §§ 1340 and 1345, as well as 26 U.S.C. §7402(a).

2. As to Count I of the Complaint, Woodridge is indebted to the United States in the amount of \$190,423.17 as of May 31, 2016, plus statutory additions and interest accruing after that date, less payments and credits applied after that date, for employment taxes for the period ending June 30, 2009; September 30, 2009; December 31, 2009; March 31, 2010; June 30, 2010; September 30, 2010; December 31, 2010; March 31, 2011; June 30, 2011; September 30, 2011; March 31, 2012; September 30, 2012; December 31, 2012; June 30, 2013; September 30, 2013; December 31, 2013; March 31, 2014; June 30, 2014; September 30, 2014; December 31, 2014; March 31, 2015; and September 30, 2015; and unemployment taxes for the tax periods ending December 31, 2010; December 31, 2011; December 31, 2012; December 31, 2013; and December 31, 2014; and failure to file penalties for the period ending December 31, 2011.

3. As to Count II, Defendants have represented that all operations of Woodridge have ceased on or about November 1, 2016, and that both Woodridge and Weinheimer will cease to

employ individuals in the conduct of a business. If Defendants or anyone acting in concert with them do continue to incur employment or unemployment tax liabilities related to the operation of Woodridge or any other business, they shall:

- i. Withhold Federal income, Social Security, and Medicare taxes from the wages of their employees when such wages are paid and pay those taxes to the IRS as they become due;
- ii. Establish a bank account in a bank (as defined pursuant to 26 U.S.C. § 581) designed as “Sharon Weinheimer, Trustee; Special Fund in Trust for the United States” under 26 U.S.C. § 7512, and provide to counsel for the United States (or its designate) proof of establishment of such an account within seven business days of the establishment of the account;
- iii. In accordance with federal deposit regulations, make timely deposits of all taxes imposed by the Federal Unemployment Tax Act (FUTA taxes) as they become due into the account opened in accordance with paragraph ii, above;
- iv. Within two business days of each payroll date, make payroll deposits of withheld federal income, Social Security, and Medicare taxes into the account opened in accordance with paragraph ii, above;
- v. Provide proof to the United States no later than the 20th day of each month, that all withheld income, Social Security, and Medicare taxes and all FUTA taxes were deposited timely into the account opened in accordance with paragraph ii, above;

- vi. File all federal employment (Form 940) and unemployment (Form 941) tax returns with the IRS correctly and within the time periods prescribed by law;
 - vii. Pay all outstanding liabilities reported on each return required to be filed within the time periods prescribed by law;
4. As to Count II, Defendants shall also:
- i. File any and all unfiled employment tax returns within 30 days of the entry of this Order;
 - ii. Be prohibited from assigning any property or making any disbursements after the date of the injunction until amounts required to be withheld from wages after the date of the injunction are paid to the IRS;
 - iii. Be prohibited from the acceptance of any additional patients or clients into the care of Woodridge or Weinheimer on or after the date on which the Defendants have committed any act or omission that would constitute a default upon any of the preceding terms of the injunction until such a default has been cured to the satisfaction of the Court;
 - iv. Notify the United States of any future employment tax conduct with respect to any new or presently unknown company that any of the Defendants may become involved with, including the imposition of an affirmative duty upon all of the Defendants to notify the IRS or a designated revenue officer of any new business they may come to own, manage or work for in the next ten (10) years; and

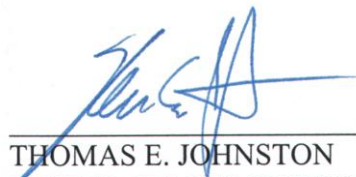
v. Deliver to all of Woodridge's and Weinheimer's current employees a copy of the Court's findings and permanent injunction.

5. This Court shall retain jurisdiction over this case for the purposes of monitoring and enforcing the Defendants' compliance with the Judgment and Order of Permanent Injunction.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 18, 2017

A handwritten signature in blue ink, appearing to read 'Thomas E. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE