

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

United States of America,

Civil No. 17-1802 (DWF/TNL)

Plaintiff,

**ORDER GRANTING UNITED  
STATES' MOTION FOR  
DEFAULT JUDGMENTS**

v.

**AGAINST MACPHERSON –  
TOWNE COMPANY AND MARK  
MACPHERSON AND ORDER OF  
PERMANENT INJUNCTION**

Macpherson – Towne Company and Mark  
Macpherson,

Defendants.

This matter comes before the Court upon the motion for default judgment against Macpherson – Towne Company (“MTC”) submitted by Plaintiff, the United States. (Doc. No. 11.) Defendants MTC and Mark Macpherson each were properly served with a summons and complaint. They did not file any answer or other defense, and the time within which they may respond to the complaint has expired. Mark Macpherson is over the age of 18, not incompetent, and not on active military duty. The Clerk of Court entered defaults against Defendants MTC and Mark Macpherson. (Doc. No. 10.) Defendants MTC and Mark Macpherson are in default and the United States is entitled to default judgment in its favor and against the Defendants. Accordingly, it is hereby:

**ORDERED** that the motion (Doc. No. [11]) is **GRANTED**; and it is further

**ORDERED AND ADJUDGED** that Judgment is entered on count I of the Complaint in favor of the United States and against MTC in the amount of \$653,889.61

plus such statutory additions that have accrued and will continue to accrue from September 18, 2017, for the following liabilities:

<b>Tax Period Ending</b>	<b>Assessment Date</b>	<b>Assessed Tax</b>	<b>Assessed Penalties &amp; Interest</b>	<b>Unpaid Balance as of September 18, 2017</b>
09/30/2013	12/23/2013 11/16/2015	\$141,025.76	\$22,502.33 \$48,341.08	\$160,817.15
06/30/2014	10/6/2014	\$29,663.77	\$1,223.58	\$73.05
09/30/2014	12/22/2014 11/9/2015	\$80,998.83	\$3,695.79 \$90.70	\$49.96
03/31/2015	7/6/2015 8/10/2015	\$14,616.90	\$1,761.63 \$851.11	\$22,024.52
06/30/2015	9/14/2015 10/19/2015	\$71,514.94	\$11,461.70 \$4,172.07	\$110,043.88
09/30/2015	1/4/2016 2/8/2016	\$89,627.86	\$14,840.79 \$5,229.65	\$133,889.74
12/31/2015	4/4/2016 5/9/2016	\$37,752.54	\$6,247.89 \$2,249.36	\$54,723.35
03/31/2016	7/11/2016 8/15/2016	\$8,366.54	\$1,407.71 \$497.62	\$11,818.17
06/30/2016	1/9/2017 2/13/2017	24,720.97	\$4,757.66 \$1,457.93	\$33,287.90
09/30/2016	1/2/2017	\$70,499.63		\$77,586.56
12/31/2016	3/13/2017 4/17/2017	\$40,676.78	\$4,657.62 \$2,411.43	\$49,575.33
<b>TOTAL:</b>				<b>\$653,889.61</b>

**AND IT IS FURTHER ORDERED** that Judgment is entered on count II of the Complaint in favor of the United States and against MTC and Mark Macpherson such that a permanent injunction is issued as follows:

1. This judgment of permanent injunction is issued to prevent MTC from “pyramiding” its employment taxes by accruing federal tax liabilities beyond MTC’s ability to pay the liabilities as they become due. This injunction is warranted under

26 U.S.C. § 7402(a) as necessary or appropriate for the enforcement of the internal revenue laws.

2. This judgment authorizes enforceable injunctive relief, and if any provision of this injunction is violated, the injunction may be enforced by the United States or the Court through the mechanisms set forth in paragraphs 5 and 6, below.

3. The injunction provided for in this judgment is effective from the date that this judgment is entered on the Court's docket by the Clerk of Court as set forth below.

a. Parties Covered by Injunction: This injunction binds MTC and Mark Macpherson as well as MTC's officers, shareholders, agents, employees, and persons in concert or participation with them, in whatever form they continue to carry on MTC's masonry work under the name "Macpherson – Towne Company" or any other name. Where the terms of this injunction require MTC to take action, such requirement shall apply equally to Mark Macpherson insofar as he shall be required to ensure that MTC takes the required actions.

b. Deposit Requirements: MTC shall timely, in accordance with federal deposit regulations, deposit withheld federal income taxes and Federal Insurance Contributions Act ("FICA") (Social Security and Medicare) taxes, as well as MTC's share of FICA taxes, in an appropriate federal depository bank in accordance with federal deposit regulations.

c. Reporting Requirements: MTC shall sign and deliver an affidavit to a designated IRS revenue officer, or to such other specific

location as the IRS may deem appropriate, on the first day of each month, stating that Mark Macpherson has personally ensured that, for each pay period during the prior month, the required federal income taxes and FICA taxes were fully deposited and the deposits were timely made. IRS Revenue Officer Cynthia Vaughn can be reached by mail at 1550 American Blvd. East, Suite 500, Bloomington, Minnesota 55425 or by phone at (651) 726-1462.

d. Return Requirement: MTC shall timely file IRS Form 941 employment tax returns with IRS Revenue Officer Cynthia Vaughn or with such other person or at such other location as the IRS may deem appropriate.

e. Timely Payment Requirement: MTC shall timely pay all required outstanding liabilities due on each return required to be filed herein.

f. Employment Tax Priority and Transfer Prohibition: MTC shall be prohibited from paying other creditors or transferring, disbursing, or assigning any money, property, or assets after the date of the injunction order if the required employment tax deposits have not been fully made for any tax period after the date of the injunction.

g. Notification of New Business: MTC shall notify the IRS within ten (10) days if Mark Macpherson comes to own, manage, or work for any new company.

h. Accounting Requirement: MTC shall send to IRS Revenue Officer Cynthia Vaughn at 1550 American Blvd. East, Suite 500, Bloomington, Minnesota 55425, or to such other specific location as the IRS may deem appropriate, within fifteen (15) days of the end of each taxable quarter, quarterly profit and loss statements for MTC, which include any draws taken, and the applicable bank records (e.g., bank statements and cancelled checks).

4. Term of Injunction: If MTC and Mark Macpherson comply with the terms of this injunction for five years from the date the injunction is issued, MTC and Mark Macpherson may move this Court to dissolve the injunction order at a hearing to be set in 2022.

5. Enforcement of the Injunction: The United States shall be permitted to issue discovery requests during the term of the injunction to assure MTC complies with this injunction. The Court shall retrain jurisdiction over this action for the purpose of implementing and enforcing this injunction and entering all additional decrees and orders necessary and appropriate for the public interest.

**AND IT IS FURTHER ORDERED** that the Clerk of Court is instructed to enter judgments consistent with this order forthwith since there is no just reason for delay.

**AND IT IS FURTHER ORDERED** that, pursuant to Fed. R. Civ. P. 4.1, the following individuals are specially appointed to personally serve this Order on MTC and

Mark Macpherson: (i) IRS Revenue Office Cynthia Vaughn: (ii) any employee of the IRS; and (iii) any process server hired by the United States.

Dated: November 3, 2017

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge