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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:16-CV-08755-MAS-DEA
)	
)	
MASTER FIRE PROTECTION, INC., et al.)	
)	
Defendant.)	

ORDER FOR PERMANENT INJUNCTION

The plaintiff, the United States of America, commenced this civil action under 26 U.S.C. § 7402(a) to collect the federal employment and unemployment taxes, penalties and statutory interest assessed against the defendant Master Fire Protection Inc., for the taxable periods between 2004 and 2015, and to permanently enjoin the defendants Master Fire Protection, Inc. and Drew Zarpentine from violating and interfering with the administration of the internal revenue laws, and compelling them to: (1) timely file employment and unemployment tax returns; and (2) timely collect and pay over to the

Internal Revenue Service accruing federal employment and unemployment taxes.

Defendants Master Fire Protection Inc. and Drew Zarpentine failed to file an answer or otherwise defend in this action, and the Clerk entered the default of the defendants on March 17, 2017.

The United States moved for the entry of default judgment against Defendants Master Fire Protection Inc. and Drew Zarpentine for a permanent injunction and for other equitable relief. By order dated January 17, 2018, the Court required the parties to show cause as to whether the Court should grant a permanent injunction against the defendants. The United States was required to serve the order to show cause on the defendants on or before January 26, 2018 and the defendants were ordered to make a responsive motion by February 2, 2018. The Court specified that if the defendants failed to respond, the United States' motion would be deemed unopposed.

The United States personally served the defendants with the Court's order on January 17, 2018. Defendants failed to respond. By order dated August 6, 2018, the Court deemed the United States' motion for a permanent injunction unopposed.

The Court, having considered the United States' motion for a default judgment for the entry of a permanent injunction under 26 U.S.C. § 7402 requiring them to comply with the internal revenue laws by timely reporting, depositing, and paying over its federal employment and unemployment taxes, the Declaration of Revenue Officer Tara Ogilby, and the entire record in this matter, hereby **GRANTS** the United States' motion, and **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** as follows:

1. This Court has jurisdiction over the subject matter of this case and the defendants Master Fire Protection, Inc. and Drew Zarpentine pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1340 and 1345.

2. Master Fire Protection, Inc. and Drew Zarpentine have interfered with the proper administration of the internal revenue laws by:

- (a) failing to make sufficient tax deposits for employment and unemployment tax liabilities as required by law;
- (b) failing to file timely federal employment and unemployment tax returns;
- (c) failing to issue and file Forms W2 and W3; and
- (d) requiring the Internal Revenue Service to expend considerable resources to induce them to comply with the federal tax laws by filing notices of federal tax lien and attempting to administratively to collect the unpaid federal tax liabilities.

3. A permanent injunction is necessary and appropriate under section 7402(a) because Master Fire Protection and Drew Zarpentine have violated, and will continue to violate the tax laws by refusing to withhold and deposit the taxes and comply with the filing requirements that apply to employers. An injunction is necessary to prevent future violations of the law, as the Internal Revenue Service's attempts to bring it into compliance have been unsuccessful.

4. The United States lacks an adequate remedy at law to coerce the defendants' compliance with the internal revenue laws, as evidenced by their continual

failure to pay over the withheld federal employment taxes along with the employer's share of FICA and FUTA taxes to the Internal Revenue Service.

5. The United States would suffer irreparable injury in the absence of an injunction in this case if the defendants were allowed to continue to refuse to pay over to the IRS the lawful tax revenues due the government. When statutory interest and penalties are taken into consideration, the defendants have deprived the United States of more than \$1,000,000. The defendants should not be allowed to continue on their present path of converting the government's lawful tax revenue to their own use.

6. Additionally, the United States is being harmed because it is being required to devote considerable IRS resources to the tasks of persuading the defendants to comply with the tax laws, and attempting to collect the federal taxes that they should have deposited.

7. The balance of harms tips sharply in favor of the issuance of an injunction. If Master Fire Protection and Drew Zarpentine are not restrained from continuing to violate the federal tax laws, the government will experience irreparable harm in the form of the permanent loss of its tax revenue. If an injunction is issued, Master Fire Protection and Drew Zarpentine will not be harmed because they will merely be required to obey the same laws as other employers.

8. An injunction would serve the public interest. The tax system relies on employers to collect employment and unemployment taxes and to pay those taxes over to the United States. Master Fire Protection and Drew Zarpentine undermine this system by continuing to accrue or "pyramid" his tax liabilities. Enjoining them will

protect the public's interest in the fair administration of the internal revenue laws and in fair competition by halting these wrongful practices.

9. Accordingly, 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 Code section 7402(a) and the Court's inherent equity powers is necessary and appropriate to stop that conduct.

10. This injunction is issued to prevent the defendants Master Fire Protection and Drew Zarpentine from further accruing or "pyramiding" employment and unemployment tax liabilities beyond the defendants' ability to pay over those tax liabilities as they become due.

11. This injunction order authorizes enforceable injunctive relief and, if any provision of this permanent injunction is violated, the injunction can be enforced by the United States or the Court through the mechanisms set forth below.

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

- a. Parties Covered by Injunction: This injunction binds Master Fire Protection and Drew Zarpentine as well as their agents, employees, and persons acting in concert or participation with them, in whatever form they continue to carry on their business.
- b. Withholding Requirement: The defendants Master Fire Protection and Drew Zarpentine shall withhold federal income and FICA taxes from the wages of their employees 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.

- c. Deposit Requirements: In accordance with federal deposit regulations, Master Fire Protection and Drew Zarpentine shall make timely deposits of withheld federal income and FICA taxes and his share of FICA and FUTA taxes in an appropriate federal depository bank each quarter, in accordance with the federal deposit regulations.
- d. Reporting Requirements: Within three days after Master Fire Protection and Drew Zarpentine make a federal tax deposit as required by paragraph (c), Master Fire Protection and Drew Zarpentine shall provide proof to the Internal Revenue Service at 1 Kalisa Way, Paramus, New Jersey 07652 or such other location as the Internal Revenue Service may deem appropriate, that the requisite withheld federal income taxes, FICA taxes (both the employees' withheld portion and the employer's portion), and unemployment tax deposits were timely made.
- e. Return Requirements: Master Fire Protection and Drew Zarpentine shall timely file with the IRS all of the outstanding 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.

- 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 taxes and FICA taxes required to be withheld from employees' wages (together with the employer's liability for FICA taxes and FUTA taxes) are in fact paid to the IRS.
- g. Notification of New Business: For the next five years, the defendants Master Fire Protection and Drew Zarpentine 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 he becomes involved in relation to federal employment tax withholding, depositing, or reporting and shall also inform the IRS if the he assumes a new name or transfers its employees or business operations to another entity. The defendants shall notify the Internal Revenue Service within 10 days after the aforementioned actions.
- h. Failure to Comply: If defendants Master Fire Protection and Drew Zarpentine or anyone subject to this injunction violates any part of this injunction, the following enforcement mechanisms may be taken:

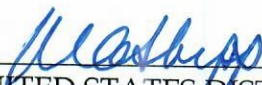
- i. the IRS may seize Master Fire Protection's business property or any other entity that Master Fire Protection may use, direct, or control as part of its business, and may sell the seized property to satisfy outstanding tax liabilities; and
- ii. the Court may find defendants Master Fire Protection and Drew Zarpentine to be in civil contempt and punish them 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 ensure 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.

13. The defendants shall deliver to all of their current employees a copy of this Permanent Injunction Order.

14. The United States may provide notice of the entry of this injunction under Fed. R. Civ. P. 65 by mailing a true and correct copy thereof by certified or registered mail to the defendants.

IT IS SO ORDERED this 23rd day of August, 20 18.


UNITED STATES DISTRICT JUDGE