

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOBIAS H. ELSASS, et al.,

Defendants.

Case No. 2:10-cv-336

Judge Peter C. Economus

Magistrate Judge Norah McCann King

**JUDGMENT AND PERMANENT
INJUNCTION**

Pursuant to 26 U.S.C. §§ 7402, 7407, and 7408 and for the reasons set forth in the Court's Memorandum Opinion and Order of October 17, 2013 (Doc. 239) ("Order"), Defendants Tobias Elsass, Fraud Recovery Group, Inc., and Sensible Tax Services, Inc. ("Defendants") are hereby permanently enjoined as follows:

1) The Defendants, including their representatives, agents, servants, employees, attorneys, contractors, and any related, affiliated, or successor entities are enjoined: a) from serving as tax return preparers as that term is defined by 26 U.S.C. § 7701(a)(36)(A), b) from preparing tax returns (other than their own) in whole and in part, and c) from otherwise advising or assisting any person or entity regarding any tax related matter. The Court notes that it has concluded as a matter of law that FRG's business model renders it a tax return preparer. Accordingly, FRG must be closed and its operations terminated pursuant to this Judgment and Permanent Injunction. However, the Defendants may, subject to the provisions of this judgment, meet their obligations under any active contracts entered into with customers as of the date of this judgment—provided that the Defendants shall furnish electronic copies of this Judgment and Permanent Injunction and the Order to such customers. The Defendants shall provide copies of the Order and this Judgment and Permanent Injunction to their current customers within forty-

five (45) days and shall file with the Court a certification, signed under penalty of perjury, that they have done so.

2) The Defendants are enjoined from engaging in any conduct subject to penalty under the Internal Revenue Code, including, but not limited to, 26 U.S.C. §§ 6694, 6695(f), 6700, 6701, 7407(b)(1)(B), 7407(b)(1)(D), and 7408(c)(2), or any conduct that substantially interferes with the proper administration of the internal revenue laws;

3) With the exception of customers currently under contract as specified in Paragraph 1 *supra*, the Defendants are enjoined in any way, either directly or indirectly, from promoting the availability of or assisting or advising taxpayers with 26 U.S.C. § 165 theft-loss deductions and/or any other tax matters;

4) The Defendants are enjoined from owning any interest in, operating, incorporating, establishing, employment with, associating with, advising, and/or investing in any entity, business, corporation, partnership, or association involved in the business of promoting the availability of or assisting or advising taxpayers with 26 U.S.C. § 165 theft-loss deductions and/or any tax matters. The Defendants must immediately divest any ownership interest in any such company or entity and/or cause such company or entity to cease operations;

5) The Defendants are enjoined from employment with, associating with, and advising, any person involved in the business of promoting the availability of or assisting or advising taxpayers with 26 U.S.C. § 165 theft-loss deductions and/or any tax matters;

6) The Defendants are enjoined from representing anyone before the Internal Revenue Service; and

7) The Defendants shall, within forty-five (45) days, provide to counsel for the United States complete customer lists, including the names, addresses, email addresses, telephone

numbers, and social security or tax identification numbers, of all persons and entities who have, since January 1, 2006, previously paid or otherwise retained any of them to (a) prepare original or amended income tax returns, or (b) assist them with claiming theft-loss deductions. The Defendants shall file with the Court a certification, signed under penalty of perjury, that they have done so.

The United States may engage in post-judgment discovery to ensure compliance with the terms of this Judgment and Permanent Injunction. The Court will retain jurisdiction over this action for purposes of implementing and enforcing this Judgment and Permanent Injunction.¹

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE

¹ The Defendants are cautioned that, should there be any doubt as to the legality of contemplated actions that may fall within the scope of this Judgment and Permanent Injunction, they should confer with the Government before proceeding. The Parties should then approach the Court for clarification as needed.