UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Civil Action No.: 11-2096 (RC)
	:	
v.	:	Re Document No.: 130
	:	
LATNEY'S FUNERAL HOME, INC., *et al*,	:	
	:	
Defendants.	:	

PERMANENT INJUNCTION

The United States has moved for a permanent injunction in this case. The defendants have failed to file any opposition. Accordingly, the Court makes the following findings of fact and conclusions of law and enters this permanent injunction.

Standards for Permanent Injunction

In order to obtain a permanent injunction under section 7402(a) of the Internal Revenue Code (26 U.S.C.), the United States must show that an injunction is "necessary or appropriate for the enforcement of the internal revenue laws." 26 U.S.C. § 7402(a). Alternatively, this Court will issue a permanent injunction based upon the traditional equity criteria of: (1) whether the United States has a strong likelihood of success on the merits: (2) whether the United States would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of the injunction.

Findings of Fact

Based upon the evidence presented in this case, the Court finds as follows:

1. Defendants Carol Latney-Solmon and John Latney operated a funeral home located at 3831 Georgia Ave. NW, Washington DC under the name Latney's Funeral Home, Inc.
2. Latney's Funeral Home, Inc. ("LFHI") has been incorporated in the District of Columbia since 1988.
3. LFHI failed to timely file IRS Form 940 and 941 tax returns with the Internal Revenue Service starting in the third quarter of 1999 and continuing until a limited receiver was appointed to oversee the finances of LFHI in 2014.
4. LFHI filed these tax returns ranging from two months to nearly seven years late.
5. LFHI "pyramided" its employment and other tax liabilities since the third quarter of 1999 and continuing until a limited receiver was appointed to oversee the finances of LFHI in 2014.
6. The Internal Revenue Service mailed IRS Letter 903 to LHI, Carol Latney-Solomon, and John Latney on May 21, 2008; informing them of possible civil and criminal penalties if they continued to fail to comply with the internal revenue laws.
7. Despite issuance of the letter, LFHI continued to incur new and additional employment tax liabilities even though it failed to pay over to the United States tax obligations owed for prior tax periods.
8. As LFHI continued to pyramid its tax liabilities, its delinquent federal employment and unemployment tax liabilities continued to increase.
9. LFHI's delinquent payroll tax liabilities (including penalties and interest) owed to the United States were at one point in excess of $1 million.

10. It is reasonably likely that, if LFHI continues to operate as a funeral home (in its current form or a successor in interest), it will continue to pyramid its tax liabilities in the future.

11. The Internal Revenue Service expended significant efforts to attempt administrative collection of LFHI's tax liabilities, but had little success. It was not until the Court appointed a limited receiver to oversee the finances of LFHI that LFHI ceased to accrue additional unpaid tax liabilities. Now that the limited receiver's duties have been terminated, the Court has no reason to believe that LFHI will operate within the applicable tax laws absent such oversight.

12. Further administrative collection efforts by the Internal Revenue Service will not resolve LFHI's large outstanding tax liability and continued pyramiding of its tax obligations.

Conclusions of Law

13. LFHI, Latney-Solomon, and Latney have interfered with the administration of the internal revenue laws. LFHI has violated 26 U.S.C. §§ 3102, 3111, 3301, 3402, 6011(a), & 6041 by failing to timely file its employment and unemployment tax returns as required by law, and by failing to pay over to the Internal Revenue Service the full amounts of the federal employment and unemployment taxes shown as due and owing on those tax returns.

14. Without the oversight of a limited receiver, LFHI will likely continue to pyramid its tax liabilities and continue to violate internal revenue laws, a permanent injunction is "necessary or appropriate for the enforcement of the internal revenue laws" and therefore appropriate under 26 U.S.C. § 7402(a).

15. The United States is also entitled to injunctive relief under traditional equitable principles.

16. The United States lacks an adequate remedy at law because LFHI has evaded the United States' previous collection efforts and further collection efforts will not prevent it from continuing to pyramid federal tax liabilities.

17. The United States will suffer irreparable harm if LFHI fails to comply with the federal payroll and income tax laws and continues to pyramid its federal tax liabilities.

18. The injury to the United States outweighs any potential injury to LFHI, Latney-Solomon, and Latney. If an injunction is imposed, LFHI simply will have to conduct its business like every other tax-paying business in the country. Thus, while failing to enjoin defendants will permanently harm the United States, enjoining defendants will cause them no injury and will place them on a level playing field with other similarly situated businesses.

19. An injunction will also serve the public interest. The efficacy of the federal tax system relies upon employers to collect payroll taxes and to pay over those payroll taxes to the United States. LFHI's failure to file payroll tax returns, failure to pay over payroll taxes, and pyramiding of payroll tax obligations all undermine this system. LFHI's failure to pay its payroll taxes gives it an unfair advantage over its competitors who comply with the law. Enjoining LFHI, Latney-Solomon, and Latney will protect the public's interest in the fair administration of the tax laws and in fair competition by halting their wrongful practices.

20. The United States is not required to give security for an injunction under Federal Rule of Civil Procedure 65(c).

Order and Permanent Injunction

21. The Court hereby **ORDERS** and issues this **PERMANENT INJUNCTION** as follows. With respect to defendants' operation of a funeral home (as LFHI or a successor in interest):

    a. LFHI, Latney-Solomon, and Latney must not violate Internal Revenue Code Sections 3102, 3111, 3301, 3402, 6011(a) and 6041;

    b. LFHI, Latney-Solomon, and Latney are henceforth required to withhold and to pay over to the Internal Revenue Service all employment taxes, including federal income, FICA, and FUTA taxes, as required by law;

    c. LFHI, Latney-Solomon and Latney must make timely (no later than the 15th day of the following month) deposits of federal payroll taxes, *e.g.*, withheld federal income tax, withheld FICA tax as well as defendant's share of FICA tax, as they become due in an appropriate federal depository bank in accordance with the federal deposit regulations;

    d. LFHI is ordered to timely file with the Internal Revenue Service all federal employment (Form 941) and unemployment (Form 940) tax returns and to pay any balance due on those returns upon filing;

    e. LFHI shall within 30 calendar days of the date of this permanent injunction, file with the Internal Revenue Service and the United States Social Security Administration, and issue to any employee, accurate IRS Form W-2s.

f. LFHI is enjoined from transferring, disbursing, or assigning any money, property, or assets until the required federal tax deposits have been fully made for the given payroll period;

g. LFHI shall not pay other creditors before paying their current federal employment and other tax liabilities;

h. LFHI must file all unfiled and past-due federal tax returns with the Internal Revenue Service within 60 days of the entry of this permanent injunction;

i. Latney-Solomon and Latney are required to notify the Internal Revenue Service within 10 business days if they begin operating any new business enterprise providing funeral services, and must identify the new business by name, address, and employer identification number;

j. LFHI, Latney-Solomon, and Latney are directed to post and keep posted in one or more conspicuous places on LFHI's business premises where notices to employees are customarily posted, a copy of this Court's findings and permanent injunction.

k. If a defendant violates any part of this permanent injunction, plaintiff United States of America shall send written notification of the violation to the defendant's address on file with the IRS. If the violation is not cured within 10 calendar days after the notification is sent, the defendant is deemed to be in default of the permanent injunction. Proper "cures" include making a late tax deposit, paying delinquent tax shown on a return, filing a delinquent tax return, or providing a delinquent notification. If a defendant violates this permanent injunction more than three times, plaintiff United States of

America will no longer be obligated to send written notification of a violation. After the third notification, the defendant will be in default of this permanent injunction immediately upon an additional violation.

l. If a defendant violates any part of this permanent injunction, the court may find the defendant to be in civil contempt.

Dated: December 15, 2016

RUDOLPH CONTRERAS
United States District Judge