

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

|                            |   |                               |
|----------------------------|---|-------------------------------|
| <b>UNITED STATES,</b>      | : | <b>CIVIL NO. 1:CV-01-2159</b> |
|                            | : |                               |
| <b>Plaintiff</b>           | : | <b>(Judge Conner)</b>         |
|                            | : |                               |
| <b>v.</b>                  | : |                               |
|                            | : |                               |
| <b>THURSTON PAUL BELL,</b> | : |                               |
|                            | : |                               |
| <b>Defendant</b>           | : |                               |

**ORDER**

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

By Order dated January 10, 2003, the court preliminarily enjoined defendant Thurston Bell (“Bell”) from promoting the frivolous “U.S. Sources” argument. (See Docs. 90, 91). Presently before the court is the plaintiff’s motion to convert the preliminary injunction into a permanent injunction. (Doc. 94).

The court received extensive oral and documentary evidence in connection with the motion for preliminary injunction. (See, e.g., Doc. 83). Bell now asserts that “[t]here exists a dispute as to material fact, given Defendant’s reliance on the guarantees of his First and Fifth Amendment rights, interests and entitlements.” (Doc. 177 at 3). However, Bell has failed to identify a single issue of *fact* that stands to be resolved; he simply disagrees with the legal conclusions of the preliminary injunction memorandum and order.

The court is not required to hold a separate evidentiary hearing on a motion to convert when no triable issues of fact exist. See United States v. McGee, 714 F.2d 607, 613 (6th Cir. 1983). It appearing that the parties have no additional evidence to present, the court hereby reaffirms the findings of fact and conclusions of law set forth in the preliminary injunction opinion and order. See United States v. Bell, 238 F.Supp.2d 696, 698-99 (M.D. Pa. 2003).

The Internal Revenue Code, 26 U.S.C. §§ 1-9833, provides district courts with jurisdiction “to make and issue in civil actions, writs and orders of injunction . . . as may be necessary or appropriate for the enforcement of the internal revenue laws.” Id. § 7402(a). A permanent injunction pursuant to Section 7402(a)(2) requires findings of irreparable injury and inadequacy of legal remedies. United States v. Hollar, 885 F.Supp. 822, 824-25 (M.D.N.C. 1995) (citing Weinberger v. Romero-Barcelo, 456 U.S. 305, 312 (1982); United States v. Ernst & Whinney, 735 F.2d 1296, 1301 (11th Cir. 1984)). For the reasons stated in the court’s memorandum opinion of January 10, 2003 (see Doc. 90), the court finds that (1) the following permanent injunction is necessary and appropriate for the enforcement of the internal revenue laws, (2) the balance of harms favors issuance of a permanent injunction, and (3) no other adequate remedy exists at law.

AND NOW, this 29th day of January, 2004, it is hereby ORDERED that the plaintiff’s motion for conversion of the preliminary injunction into a permanent injunction (Doc. 94) is GRANTED. It is further ORDERED that:

1. Thurston Bell and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, are permanently enjoined from directly or indirectly, by means of false, deceptive, or misleading commercial speech:
  - a. Organizing, promoting, marketing, or selling (or assisting therein) the tax shelter, plan, or arrangement known as “the U.S. Sources argument” (also known as “the section 861 argument”) or any other abusive tax shelter, plan or arrangement that incites taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities or unlawfully claim improper tax refunds;
  - b. Further engaging in any conduct subject to penalty under 26 U.S.C. § 6700, *i.e.* making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement they know or have reason to know is false or fraudulent as to any material part;
  - c. Further engaging in any conduct subject to penalty under 26 U.S.C. § 6701, *i.e.* assisting others in the preparation of any tax forms or other documents to be used in connection with any material matter arising under the internal revenue laws and which they know will (if so used) result in the understatement of income tax liability; and
  - d. Further engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws.
2. Bell may, at his discretion, discontinue the NITE website (<http://www.nite.org>). However, if he chooses to continue this website, or another website referencing NITE, he shall permanently display this order and the court’s memorandum of law dated January 10, 2003 (Doc. 90), on said website.
3. Bell shall mail to counsel for the United States, at the address listed on the docket of this matter, one copy of every federal tax return, amended return, or other document intended for the IRS that he prepares, or assists in the preparation of, on behalf of any other person or entity. The mailing shall be made on the same date the document is mailed to or filed with the IRS.

4. The United States shall be entitled to conduct reasonable discovery, including depositions, to monitor Bell's compliance with this order of permanent injunction.
5. The court finds that Bell has now discharged his obligations pursuant to paragraph two of the preliminary injunction order (Doc. 91 ¶ 2; see also Doc. 120) and the discovery order dated July 15, 2003 (Doc. 119). Accordingly, Bell is hereby purged of the findings of contempt for previously failing to comply with these orders. (See Doc. 151).
6. The Clerk of Court shall close this file.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge