



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

KEVIN HARDY,

Defendant.

05 Civ. 3847 (KMW)

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISMISSAL**

WHEREAS, on April 15, 2005, the United States filed a Complaint against defendant Kevin Hardy under sections 7402, 7407 and 7408 of the Internal Revenue Code (the "Code"), 26 U.S.C. §§ 7402, 7407 and 7408, seeking to enjoin defendant from preparing federal income tax returns for other persons that claim reparations for African-Americans for past slavery and mistreatment through the assertion of a false and fraudulent tax credit on these tax returns (the "slavery reparations tax credit"), and to prevent defendant from working as a tax preparer in the future because of his unlawful conduct in preparing returns with this fabricated credit, and for other relief;

WHEREAS, in the Complaint the United States alleged that defendant had prepared federal income tax returns for other persons that claimed the false and fraudulent slavery reparations tax credit and, based on this purported credit, that these persons were entitled to over \$1.8 million in refunds;

WHEREAS, on or about April 15, 2005, this Court entered a Temporary Restraining Order (the "TRO") restraining defendant

from, among other things, engaging in any conduct subject to penalty under sections 6694, 6695, 6700 and 6701 of the Code, 26 U.S.C. §§ 6694, 6695, 6700 and 6701, including preparing federal income tax returns asserting a slavery reparations tax credit, acting as an income tax preparer, and from engaging in any fraudulent or deceptive conduct that interferes with the administration and enforcement of the Internal Revenue laws;

WHEREAS, this Court, at the request of the parties to this action, subsequently extended the TRO on a number of occasions;

WHEREAS, since the date of the entry of the TRO, defendant has not prepared any federal income tax returns for other persons, and has not operated his part-time federal income tax return preparation business;

WHEREAS, since the date of the entry of the TRO, the parties have engaged in settlement discussions, and defendant has produced documents to the United States concerning his federal income tax return preparation business, including his preparation of federal income tax returns for other persons;

WHEREAS, since the date of the entry of the TRO, defendant has informed the clients of his federal income tax return preparation business that he is no longer in that business and could not assist them with the preparation of their federal income tax returns and, as to clients for whom defendant had

previously prepared federal income tax returns asserting the slavery reparations tax credit, that this purported tax credit was not allowed under the Code and the clients should file amended returns with the Internal Revenue Service ("IRS") if the IRS had granted the credit;

WHEREAS, pursuant to section 6701 of the Code, the IRS has assessed penalties against defendant under section 6701 of the Code, 26 U.S.C. § 6701, for the tax years ending December 31, 1999, December 31, 2000, and December 31, 2001, in the total amount of sixty-five thousand dollars (\$65,000) (the "penalty amount");

WHEREAS, pursuant to section 6701 of the Code, the IRS assessed the penalty amount based on defendant's preparation of federal income tax returns for other persons with the knowledge that the returns would be used to claim tax refunds and would result in understatements of these individuals' tax liabilities because of defendant's assertion of the bogus slavery reparations tax credit on the returns;

WHEREAS, pursuant to section 7121 of the Code, 26 U.S.C. § 7121, the IRS has, simultaneous with the parties' execution of this Stipulation and Order of Settlement and Dismissal ("Stipulation and Order"), entered into a Closing Agreement with defendant in which defendant has agreed to pay the

sum of fifty thousand dollars (\$50,000) to the IRS on a payment schedule, in full satisfaction of the penalty amount; and

WHEREAS, to avoid further litigation, the United States and defendant desire to reach a full and final settlement and compromise of this action;

NOW, THEREFORE, the parties hereto, do hereby agree as follows:

1. Defendant hereby agrees to refrain from, and is hereby permanently enjoined from:

- (a) Acting as an income-tax return preparer, including, but not limited to, operating his federal income tax return preparation business;
- (b) Engaging in any conduct subject to penalty under I.R.C. § 6694, including, but not limited to, preparing any part of a federal income tax return or claim for refund that includes an unrealistic position, including, but not limited to, any claim for a purported slavery reparations tax credit or any other fabricated credit or refund;
- (c) Engaging in any conduct subject to penalty under I.R.C. § 6700, including, but not limited to, advising and encouraging other persons to claim a purported slavery reparations tax credit, or any other fabricated credit or refund;

- (d) Engaging in any conduct subject to penalty under I.R.C. § 6701, including, but not limited to, preparing or assisting others in the preparation of any documents which are to be used in connection with any material matter arising under the Internal Revenue laws and which defendant knows will, if so used, result in understating the federal income tax liability of other persons;
- (e) Engaging in any fraudulent or deceptive conduct that interferes with the proper administration and enforcement of the Internal Revenue laws, including, but not limited to, preparing or assisting in preparing any federal income tax return, amended return, or other document to be filed with the IRS claiming a purported slavery reparations tax credit, or any other fabricated tax credit or refund claim, and disseminating, in any way, information that such a fabricated credit or refund claim exists and is available to any persons; and
- (f) Engaging in any other similar conduct that substantially interferes with the proper administration and enforcement of the Internal Revenue laws.

2. Defendant further agrees that, if he is contacted in any manner (i.e., in correspondence, by personal or telephone conversations, or through electronic means) by any person regarding the slavery reparations tax credit or any related matter, he will inform such person that the slavery reparations tax credit is not allowed under the Code, that any prior federal tax returns asserting such credit are false, that the IRS may impose frivolous-return penalties and other civil or criminal penalties against any persons who claim a slavery reparations tax credit, and that the United States may seek to recover any erroneous payment such persons may have received based on the slavery reparations tax credit, and give such person a copy of this Stipulation and Order.

3. This Stipulation and Order is intended to be for the benefit of the parties to this Stipulation and Order only, and by this Stipulation and Order the United States does not release or resolve any claims against any other person or entity other than defendant.

4. This action is hereby dismissed with prejudice, without costs or attorney's fees to either party. This Court retains jurisdiction over any matters arising under this Stipulation and Order, including any failure by defendant to adhere to the requirements of the permanent injunctive relief set forth in paragraphs 1 and 2 herein.

5. This Stipulation and Order constitutes the complete agreement between the parties, and any prior agreements or understandings are of no further force or effect.

6. This Stipulation and Order may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

Dated: New York, New York
~~March 23,~~ 2007
 April 12,

MICHAEL J. GARCIA
 United States Attorney for the
 Southern District of New York
 Attorney for United States of
 America

By: Ross Morrison
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Dated: New York, New York
~~March~~ April 3, 2007

Kevin Hardy
 KEVIN HARDY
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Robert Plautz April 11, 2007
 ROBERT PLAUTZ, ESO (RP-4426)
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4-13-07
 SO ORDERED, N.Y., N.Y.
Kimba M. Wood
 KIMBA M. WOOD
 U.S.D.J.

**The Clerk of Court is directed
 to close this case. Any pending
 motions are moot.**