

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

FILED  
U.S. DISTRICT COURT  
2006 APR -4 A 9:52

DISTRICT OF UTAH

BY: DEPT. CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-cv-00820-TS

JOHN JUSTICE, individually and d/b/a  
ACCOUNTING TECHNOLOGY and  
DYNAMIC BUSINESS SOLUTIONS,  
SANDRA JUSTICE, JUDITH SHAKESPEARE,  
BYRON SHAKESPEARE, and BARBARA  
JUSTICE,

Defendants.

**ORDER OF DEFAULT JUDGMENT AND PERMANENT INJUNCTION**

Before the Court is the United States' Motion for Default Judgment and Permanent Injunction and suggestions in support thereof. Upon due consideration, the Court makes the following findings of fact and conclusions of law and enters this permanent injunction against defendants John Justice, individually, and d/b/a Accounting Technology and Dynamic Business Solutions; Sandra Justice; Judith Shakespeare; Byron Shakespeare; Barbara Justice.

**Standards for Default Judgment and Permanent Injunction**

The entry of default judgment is committed to the sound discretion of this Court. *Olcott v. Delaware Flood Co.*, 327 F.3d 1115, 1124 (10th Cir. 2003); *Dennis Garberg & Assocs. v. Pack-Tech Int'l Corp.*, 115 F.3d 767, 771 (10th Cir. 1997). "If the court determines that defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true." 10A Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, *Federal*

*Practice & Procedure* § 2688 (3d ed. 1998). In this action, the United States is seeking injunctive relief under 26 U.S.C. (I.R.C.) §§ 7402, 7407, and 7408. In order to obtain relief in a statutory-injunction action such as this, the plaintiff must demonstrate that the defendant has violated a statute and that a reasonable likelihood of future violations exists. *SEC v. Comserv Corp.*, 908 F.2d 1407, 1412 (8th Cir. 1990); *United States v. Kaun*, 827 F.2d 1144, 1148 (7th Cir. 1987). Because I.R.C. §§ 7407 and 7408 set forth specific criteria for injunctive relief, the United States need only meet those statutory criteria, without reference to traditional equitable factors, for this Court to issue an injunction under those sections. *United States v. Estate Pres. Servs.*, 202 F.3d 1093, 1098 (9th Cir. 2000).

To obtain an injunction under I.R.C. § 7407, the United States may show, among other things, that the defendants (1) engaged in conduct subject to penalty under I.R.C. §§ 6694 or 6695, or engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, and (2) that injunctive relief is appropriate to prevent the recurrence of such conduct. To obtain an injunction under I.R.C. § 7407 preventing the defendants from acting as an income-tax-return preparer, the United States must additionally show that the defendants engaged in this conduct continually or repeatedly and that a narrower injunction would be insufficient to prevent the defendants from interfering with the proper administration of the internal revenue laws. *United States v. Bailey*, 789 F. Supp. 788, 816 (N.D. Tex. 1992). To obtain an injunction under I.R.C. § 7408, the United States may show, among other things, that the defendants engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief is appropriate to prevent the recurrence of such conduct. Finally,

to obtain an injunction under I.R.C. § 7402(a), the United States must show that an injunction is necessary or appropriate to enforce the internal revenue laws.

### **Findings of Fact**

The Court finds that Defendants have failed to answer or otherwise respond to the complaint and are therefore in default. Taking the allegations in the complaint as true, the Court additionally finds as follows:

1. John Justice conducts business through the unregistered entities Accounting Technologies and Dynamic Business Solutions. John Justice resides at 410 W. Main, Clawson, Utah 84516. He had offices in Rock Springs, Wyoming and Price, Utah.
2. Sandra Justice is married to John Justice; Barbara Justice and Judith Shakespeare his daughters, and Byron Justice is his son-in-law.
3. John Justice has prepared fraudulent federal income tax returns for customers since 2001.
4. John Justice organizes and promotes a tax scheme that uses fraudulent personal businesses, partnerships and Subchapter S corporations in an attempt to evade customers' income and employment taxes.
5. Justice advises and assists customers to claim non-deductible personal expenses as deductions through the use of fraudulent businesses, partnerships, and Subchapter S corporations. He falsely advises his customers that once a business is established the customer is able to deduct all personal expenses as business related.
6. John Justice's scheme results in his customers reporting significant losses under the newly-created fictitious business. These losses are reported on the customers' individual federal

income tax return. These fraudulent losses offset wages and other income, resulting in the customers underreporting their tax liabilities and improperly claiming large tax refunds.

7. John Justice prepares and files fraudulent Forms 1065 (partnership returns) for customers in reporting the fictitious businesses to the IRS. John Justice uses invalid IRS Employer Identification Numbers, no Employer Identification Number, or an Employer Identification Number which is registered with another business on the Forms 1065 to conceal the fictitious businesses he creates from the IRS.

8. John Justice also prepares and files many returns for his customers as head of household, even though those customers were married and thus ineligible for head-of-household status.

9. In an attempt to obstruct ongoing IRS investigations of his misconduct, John Justice has used his family members to sign and file returns. Defendants Sandra Justice, Judith Justice, Barbara Shakespeare, and Byron Shakespeare have all aided and abetted John Justice's tax-fraud schemes by assisting in preparing customers' returns, signing customers' returns as preparers, and filing customers' returns.

10. John Justice has also prepared tax returns for customers that improperly failed to identify him as a paid preparer.

11. John Justice's history and behavior evidences his knowledge of the illegality of his scheme. Justice is a self-proclaimed "tax expert" who has been in the business of tax advising, consulting, and preparation for many years. Justice's creation and distribution of a mailing entitled "How to Deduct Your Hobby" indicates a knowledge of tax law and the appropriate standards that must be met to claim deductions as business expenses.

12. Despite numerous IRS audits of customers' tax returns John Justice has continued to prepare fraudulent returns and has changed his preparer identification in order to conceal his tax preparation business and mislead the IRS.

13. John Justice pled guilty to one count of preparation of false tax returns in violation of I.R.C. § 7206(2) in the United States District Court for the District of Wyoming. He was sentenced on or about July 19, 2005, to a prison term of 21 months, one year of supervised release and \$107,653 in restitution.

14. IRS examinations of 35 returns prepared by Justice indicate tax understatements totaling \$391,000, or an average of \$11,171 per return. John Justice and the other defendants have prepared and filed over 1,100 tax returns from tax years 2001 through 2003. The IRS estimates that resulting losses to the Treasury for the years 2001-2003 alone could exceed \$12 million.

15. This figure does not include tax returns for tax year 2004 or returns not yet identified as prepared by defendants. Some of these losses may never be recovered.

16. The defendants will not cease this illegal activity unless they are enjoined.

#### **Conclusions of Law**

Based on the above findings of fact, the Court finds that Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694, 6695, and 6701 and in fraudulent and deceptive conduct that substantially interferes with the administration of the internal revenue laws. Moreover, the Court finds that injunctive relief is appropriate to prevent the recurrence of such conduct and that a narrow injunction only prohibiting Defendants from engaging in such conduct would be insufficient to prevent her further interference with the

administration of the internal revenue laws. The Court further finds that a permanent injunction is necessary and appropriate in this instance to enforce the internal revenue laws.

**Order**

Based on the above findings of fact and conclusions of law, the Court ORDERS that:

A. Pursuant to I.R.C. §§ 7402(a), 7407, and 7408, the Defendants John Justice, individually, and d/b/a Accounting Technology and Dynamic Business Solutions; Sandra Justice; Judith Shakespeare; Byron Shakespeare; Barbara Justice; their representatives, agents, servants, employees, attorneys, and any persons in active concert or participation with her, are permanently enjoined from directly or indirectly:

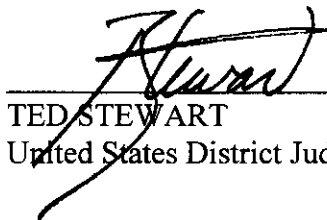
1. Organizing, promoting, marketing, or selling any tax shelter, plan or arrangement that advises, encourages, or assists taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment of their federal tax liabilities;
2. Causing other persons and entities to understate their federal tax liabilities and avoid paying federal taxes;
3. Making false statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by use of fraudulent businesses, partnerships, and Subchapter S corporations.
4. Further engaging in any conduct subject to penalty under I.R.C. § 6701, *i.e.*, aiding, assisting, or advising with respect to the preparation or presentation of any portion of a return or other document knowing that such document will result in the understatement of another person's tax liability, if used;

5. Promoting the false and frivolous position that federal-income taxes can be legally reduced or eliminated by creating fraudulent business partnerships and Subchapter S corporations to shelter income;
  6. Further engaging in any conduct subject to any penalty under the I.R.C. or any other conduct that otherwise interferes with the administration and enforcement of the internal revenue laws.
- B. That pursuant to I.R.C. §§ 7402 and 7407 defendants and anyone acting in concert with them be enjoined and restrained from, directly or indirectly, by use of any means or instrumentalities, preparing or assisting or advising in preparing federal tax returns for any person or entity other than themselves.
- C. Pursuant to I.R.C. § 7402, that defendants be required within eleven days of entry of an injunction, to file with the Court and serve upon plaintiff's counsel a complete list of customers (including names, addresses, phone numbers, e-mail addresses, and social security numbers or employer identification numbers) who have had returns prepared by, or sought or received any tax advice from defendants since January 1, 2001;
- D. Pursuant to I.R.C. § 7402, that defendants, at their own expense and as a corrective measure, be required to provide a copy of the complaint and injunction to each of their customers, current and former, within eleven days of entry of the injunction. That defendants each be required to file sworn certificates of compliance stating that they have complied with this portion of the Order, within twelve days of the date of this Order, and be required to attach a copy of all correspondence sent with the complaint and injunction;

- E. That the United States be permitted to engage in post-injunction discovery to monitor defendants' compliance with this and any other order entered by this Court.
- F. That the Court grant the United States such other and further relief as the Court deems appropriate.

IT IS SO ORDERED.

Date: 4/3, 2006

  
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TED STEWART  
United States District Judge