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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. JAMES O. MOLEN and SANDRA L. MOLEN, d/b/a/ TOUCH OF CLASS FLORIST, Defendants.	CIV-S-03-1531 DFL GGH ORDER

On October 1, 2003, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within ten days. Defendants filed objections on October 10, 2003, which were stricken by Magistrate Judge Hollows on October 16, 2003.

This court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. V. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of

fact to which no objection has been made, the court assumes its correctness and decides the motions of the applicable law. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452,454 (9th Cir. 1983).

The court has reviewed the applicable legal standards and, good cause appearing, concludes that it is appropriate to adopt the Proposed Findings and Recommendations in full. Accordingly, IT IS ORDERED that:

1. The Proposed Findings and Recommendations filed October 1, 2003, are ADOPTED; and

2. A preliminary injunction is issued in the following form:

a. That defendants fully comply with the tax payment, withholding and reporting requirements set forth in 26 U.S.C. §§ 3101, 3102, 3111, 3301, 3402, 6011 and 6041;

b. No actual past payment of taxes, interest and penalties allegedly due will be ordered paid in this preliminary injunction;

c. No security need be posted by the United States;

d. Defendants (individually and doing business as Touch of Class Florist or any other name or using any other entity), and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, are enjoined from failing to withhold and pay over to

the IRS all employment taxes, including federal income, FICA, and FUTA taxes, required by law.

e. Defendants shall file timely employment tax returns, including Forms 940 and 941, with the IRS, and file timely Forms W-2 with the Social Security Administration (SSA) and send copies of such returns and Forms W-2 to counsel for the United States at the same time that the originals are filed.

f. Effective immediately, pending final adjudication of this action, within three days of each business payroll, defendants shall make employment tax deposits with their bank and send by fax to IRS Revenue officer Charles Delao at 530-343-2438, a receipt for each employment tax deposit;

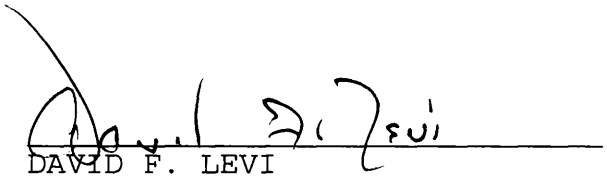
g. Defendants shall amend and correct their Form 941 for all quarters of 2000-2003.

h. Defendants shall file with the SSA and issue to their employees amended Forms W-2 for 2000 and send copies of these Forms W-2 to counsel for the United States at the same time the originals are filed.

i. Defendants shall within ten days of the date of this Order deliver to all current employees, and any former employees employed at any time since January 1, 2000, a copy of this court's findings and preliminary injunction. Defendants shall bear all expenses associated with this mailing. Defendants must file a sworn certificate of compliance, swearing compliance with this portion of the order, within twelve days of the date of this Order.

j. Defendants shall within ten days of the date of this Order post and keep posted in one or more conspicuous places on their business premises where notices to employees are customarily posted, a copy of this court's findings and preliminary injunction.

Dated: 11 December 2003.



DAVID F. LEVI
United States District Judge

ljr

United States District Court
for the
Eastern District of California
December 12, 2003

* * CERTIFICATE OF SERVICE * *

2:03-cv-01531

USA

v.

Molen

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on December 12, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

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Jack L. Wagner, Clerk

BY: _____
Deputy Clerk