

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

1 UNITED STATES)

4 Plaintiff,)

5 v.)

Civil No. 07-4762-PJH

7 CHARLES CATHCART *et al.*)

PERMANENT INJUNCTION AGAINST
DEFENDANT ROBERT NAGY

8 Defendants.)

9 **ORDER**

10 The United States of America has filed a Second Amended Complaint (“Complaint”) for
11 permanent injunction in this matter against Defendant Robert J. Nagy (“Nagy”) and others.
12 Nagy, without admitting the allegations contained in the Complaint, but in order to settle this
13 matter without further litigation, consented to the entry, without further notice, of this Stipulated
14 Injunction.

15 Nagy waived the entry of findings of fact and conclusions of law. Nagy also waived any
16 right he may have to appeal from this Stipulated Injunction.

17 NOW, THEREFORE, it is accordingly ORDERED, ADJUDGED AND DECREED that:

18 1. The Court has jurisdiction over this action pursuant to §§ 1340 and 1345 of Title
19 28 of the United States Code, and §§ 7402 and 7408 of the Internal Revenue Code of 1986, as
20 amended.

21 2. Nagy, individually and doing business as any entity, is permanently enjoined from
22 directly or indirectly:

23 (a) Organizing, promoting, marketing, selling, or implementing the “90% Loan”
24 program that is the subject of the Complaint herein. The 90% Loan program purported to
25 enable customers to contribute appreciated stocks or other securities in exchange for 90%
26 of the value of those stocks or securities without paying income tax on capital gains,
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1 because the transaction was characterized as a loan rather than a sale. The United States
2 alleges it was in actuality a sale and part of a plan or arrangement that assisted taxpayers
3 in unlawfully evading the assessment or collection of their federal tax liabilities.

4 (b) Organizing, promoting, marketing, selling, or implementing any program, plan or
5 arrangement similar to the 90% Loan program that purports to enable customers to
6 receive valuable consideration in exchange for stocks or other securities that are
7 transferred or pledged by those customers, without the need to pay tax on any gains
8 because the transaction is characterized as a loan rather than a sale.

9 (c) Engaging in any conduct subject to penalty under Code § 6700, i.e., by making or
10 furnishing, in connection with the organization or sale of a plan or arrangement, a gross
11 valuation overstatement or a statement Nagy knows or has reason to know to be false or
12 fraudulent as to any material matter under the federal tax laws. In order to obtain a
13 conviction for criminal contempt for violation of this Stipulated Injunction, the United
14 States must establish beyond a reasonable doubt that Nagy intentionally and knowingly
15 violated Code § 6700.

16 3. Nagy's stipulation to being enjoined is not an admission of liability by Nagy with
17 regard to any of the acts and/or omissions alleged in the Complaint.

18 4. The United States has agreed not to introduce this Stipulated Injunction to
19 establish Nagy's liability or otherwise admit this Stipulated Injunction into evidence in any
20 action involving Nagy including, but not limited to, *Robert J. Nagy v. United States of America*,
21 case number 2:08-CV-2555, pending in the District Court of South Carolina, Charleston
22 Division. However, the United States is not precluded from introducing this Stipulated
23 Injunction into evidence for purposes of impeaching Nagy's testimony in the event that at trial
24 he misrepresents the terms of the injunction or indicates that he never agreed to a stipulated
25 injunction related to 90% Loans.

26 5. This Court shall retain jurisdiction over this action for purposes of implementing
27 and enforcing this Stipulated Injunction.

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6. Pursuant to this Stipulated Injunction, the action that is the subject of the Second Amended Complaint is resolved as against Nagy.

PURSUANT TO STIPULATION, IT IS SO ORDERED THIS 10th day of September, 2009.

PHYLIS J. HAMILTON
United States District Judge

