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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF ARIZONA  
10 PRESCOTT DIVISION

10 UNITED STATES OF AMERICA, )  
11 Plaintiff, )  
12 v. )  
13 ELIZABETH A. GARDNER, et al., )  
14 Defendants. )

Case No. CV05-3073-PCT-EHC

**STATEMENT OF FACTS IN  
SUPPORT OF UNITED STATES'  
MOTION FOR SUMMARY  
JUDGMENT**

15 1. Elizabeth A. Gardner and Fredric A. Gardner reside in Dewey, Arizona,  
16 and are married to each other. (Answer ¶ 1 [dkt. no. 3].)

17 2. The Gardners market a program or arrangement involving the use of  
18 trusts, limited liability companies (“LLC”), and, primarily, an entity known as a  
19 “corporation sole.” (Kuxhausen Declaration ¶ 3, p. 001; Cantrell Decl., exh. A,  
20 pp. 014-015; Loyal Ritter deposition transcript [attached as Exhibit 1], depo. exh.  
21 5, p. 031; Kathy Croney deposition transcript [attached as Exhibit 2] pp. 040-  
22 042.)<sup>1</sup>

23 3. The Gardners register the corporations sole and LLCs they establish with  
24 the State of Nevada. (Elizabeth Gardner deposition transcript [attached as Exhibit  
25 3] pp. 071-072.)

26  
27 <sup>1</sup> The declarations and exhibits attached hereto have been paginated in consecutive  
28 numerical order. Unless otherwise indicated, page reference numbers cited herein are to the  
“Bates-stamped” numbers.

1           4. The Gardners' website, [www.corpssole.org](http://www.corpssole.org), is devoted to promoting  
2 corporations sole. (Kuxhausen Decl. ¶ 5, p. 001.)

3           5. Property held in the name of a corporation sole is not meant to pass to  
4 the corporation sole founder's heirs, but is supposed to pass to the corporation  
5 sole's successors to further benefit the religious entity. Rev. Rul. 2004-27, 2004-  
6 12 I.R.B. 625. The Gardners circumvent this requirement by advising persons (the  
7 corporation sole founders or officeholders) to form a trust and have the corporation  
8 sole donate its property to the trust upon the founder's death. The trust's  
9 beneficiaries are the founder's heirs. (Ritter depo. exh. 5, pp. 028 and 031; Cantrell  
10 Decl., exh. A, p. 015.)

11           6. The Gardners advise persons for whom they have established a  
12 corporation sole to title their homes under the corporation sole. The Gardners state  
13 that this offers property tax relief and provides protection from "probate systems,  
14 liens, creditors, and judgments." (Ritter depo. exh. 5, pp. 029 and 031.)

15           7. The Gardners conduct their business and promote their programs  
16 through Bethel Aram Ministries. (Kuxhausen Decl. ¶ 4, p. 001.)

17           8. The Gardners are the founders of Bethel Aram Ministries and are its two  
18 pastors. They are two of the three elders on its Council of Elders. (Elizabeth  
19 depo. pp. 055-061; Fredric Gardner deposition transcript [attached as Exhibit 4],  
20 pp. 105 and 110.)

21           9. Bethel Aram's third elder, David Bordon, has no role in the corporation  
22 sole/trust/LLC program. (Fredric depo. p. 109.)

23           10. Elizabeth's own corporation sole is the overseer or administrator of  
24 Bethel Aram. Elizabeth has the final say on Bethel Aram's affairs. (Elizabeth  
25 depo. pp. 055-057 and 061.)

26           11. Persons or customers only communicate with the Gardners when  
27 dealing with Bethel Aram Ministries. (Ritter depo. pp. 023-024; Croney depo. pp.  
28 038-039.)

1           12. The Gardners' residence is titled under Bethel Aram Ministries, and  
2 Bethel pays all of the Gardners' personal bills. (Elizabeth depo. pp. 048-049, 052-  
3 053, 062-064.) Bethel Aram and the Gardners also share phone numbers. (*Id.* at  
4 p. 048.)

5           13. Half of Bethel's income is derived from helping persons establish  
6 corporations sole. (*Id.* at p. 053.)

7           14. The Gardners tell customers that the corporations sole they establish do  
8 not have to qualify under 26 U.S.C. § 501(C)(3) in order to enjoy tax-exempt  
9 status. (*Id.* at pp. 078-080.)

10          15. The Gardners' website focuses on the purported differences between a  
11 § 501(c)(3) corporation and a corporation sole. (Cantrell Decl., exh. A, p. 007.)  
12 Elizabeth gives educational speeches on the differences between them. (Elizabeth  
13 depo. p. 065.)

14          16. The Gardners state that a person can make donations to the person's  
15 corporation sole and then deduct the donation on his or her federal income tax  
16 return. (Elizabeth depo. exh. 11, pp. 097-098.)

17          17. The Gardners advertise that a customer who has a corporation sole can  
18 assign his income to the entity and thereby transform taxable individual income  
19 into nontaxable income of the corporation sole. For instance, the Gardners advise  
20 persons who have a corporation sole and also earn income through independent  
21 businesses to form an LLC and operate the business through the LLC. The  
22 Gardners state that a trust should be created to serve as the "majority member" of  
23 the LLC, with the individual businessman holding a minority interest although  
24 serving as the LLC's "managing member." They tell persons that the business  
25 income can then be passed through to the trust, which then can donate the income  
26 to the businessman's corporation sole. According to the Gardners, the funds are  
27 transferred tax free. This results in the businessman channeling business income  
28 into a purportedly tax-exempt corporation sole. (Elizabeth depo. pp. 084-089.)

1           18. In an example given by Elizabeth at a public speaking event, Elizabeth  
2 states that if a businessman follows the advice given above and operates a business  
3 through an LLC, in which he has a 10% interest and a trust has a 90% interest,  
4 then whatever income is earned by the business will be distributed to the  
5 individual (10%) and to the trust (90%). Thus, if the business earns \$100,000 of  
6 business income, \$10,000 will go to the individual and \$90,000 to the trust.  
7 Elizabeth states that the individual can donate 50% (or \$5,000) of his share to his  
8 corporation sole and the trust can donate all of its share (\$90,000) to the  
9 corporation sole. The end result, according to Elizabeth in her presentation, is that  
10 the individual is only taxed on \$5,000 and the remaining income (\$95,000) is  
11 assigned to the corporation sole tax free. (Elizabeth depo pp. 084-089.)

12           19. Another version of this example is found in Elizabeth's book titled  
13 "Corporation Sole vs. 501(c)(3) Corporation." In this book, the Gardners contend  
14 "a benefit of the corporation sole is its ability to support the ministry with income  
15 earned outside the ministry by the corporation sole office and at the same time  
16 drastically reduces your income taxes." (Elizabeth depo. exh. 11, pp. 095-096.)

17           20. The Gardners' promotional literature lists the following purported  
18 benefits of the corporation sole program:

- 19           • No tax return filing requirements of any kind.
- 20           • The government is unable to interfere in any way and the corporation  
21           sole is not subject to any government agency, including the IRS.
- 22           • The corporation sole has complete immunity from disclosure to the  
23           government.
- 24           • The corporation sole is only subject to the "private government" of  
25           those who create it.
- 26           • There are no withholding or self-employment taxes; and all workers  
27           are no longer classified as employees, but instead as ministers of the  
28           corporation sole.
- The corporations sole can do and operate as any individual can.

(Elizabeth depo. exh. 11, p. 095; Cantrell Decl., exh. A, pp. 010, 012-013.)

1           21. The Gardners tell customers that if the IRS makes inquiries “to notify  
2 them that you are a corporation sole. This will end their inquiry.” (Ritter depo.  
3 exh. 5, p. 030.)

4           22. The Gardners market the program through conferences, phone calls,  
5 booklets and on the Internet, including at their website [www.corpsole.org](http://www.corpsole.org).  
6 (Croney depo. pp. 036-037; Ritter depo. pp. 021-022; Kuxhausen Decl. ¶ 6, p. 001;  
7 Elizabeth depo. p. 073.)

8           23. The Gardners’ website, [www.corpsole.org](http://www.corpsole.org), was started by the Gardners  
9 about four years ago. The Gardners determine what material is posted on or  
10 removed from the website. (Elizabeth depo. pp. 075-077; Fredric depo. p. 108.)

11           24. According to the defendants’ website, Elizabeth Gardner is a certified  
12 paralegal specializing in contracts, business organizations, litigation and trial  
13 practice. She is the author of several books, including *Corporation Sole vs.*  
14 *501(c)(3) Corporation* and *How to Protect Everything You Own in this Life and*  
15 *After*. (Cantrell Decl., exh. A, pp. 008-009 and 015.)

16           25. Elizabeth has attended a Bible college and an Internet school. She has  
17 obtained a doctorate in theology and a degree from Arizona Paralegal Institute.  
18 (Elizabeth depo. pp. 049-050.)

19           26. According to their website, Fredric Gardner is a certified estate planner,  
20 financial planner and accountant. (Cantrell Decl., exh. A, p. 009.) Other material  
21 states that Fredric has “special training in Business and Charitable Planning and  
22 will help you form your Canon Law Trust.” (Ritter depo. exh. 5, p. 028.) Fredric  
23 attended Kent State University. (Fredric depo. pp. 103-104.)

24           27. The Gardners are former owners and operators of a bookstore.  
25 (Elizabeth depo. p. 051; Fredric depo. p. 105.)

26           28. Fredric has some role in the corporation sole program but mainly  
27 concentrates on the trust and LLC portion of the program. Elizabeth handles most  
28

1 of the corporation sole program. (Elizabeth depo. p. 074A; Fredric depo. pp. 106-  
2 108.)

3 29. Elizabeth claims to have learned about corporations sole and tax issues  
4 through self-study (Elizabeth Depo. pp. 065-066.) She has authored a book on the  
5 differences between a § 501(c)(3) corporation and a corporation sole. (Elizabeth  
6 depo. p. 065; Cantrell Decl., exh. A, p. 009.) Fredric learned about corporations  
7 sole while assisting Elizabeth in her research. (Fredric depo. p. 104.)

8 30. The suggested “donation” that the Gardners charge customers for a  
9 corporation sole is \$1,200. The suggested donation for a trust is \$800 and that for  
10 an LLC is \$500. (Elizabeth depo. pp. 068-070.)

11 31. The Gardners have organized or set up more than 300 corporations sole  
12 for individuals located throughout the United States. (*Id.* at pp. 067, 074 and 081.)  
13 In addition, they have established about ten LLCs. (*Id.* at p. 082.)

14 32. The IRS has notified the Gardners that their program is under  
15 investigation. (Kuxhausen Decl. ¶ 7, p. 001.) Elizabeth is aware of the IRS  
16 problems faced by other corporation sole promoters. (Elizabeth depo. p. 077.)  
17 Nonetheless, the Gardners’ program continues. (Kuxhausen Decl. ¶ 8, p. 001.)

18 33. The corporation sole program has been identified in the IRS’s annual  
19 consumer alert of fraudulent tax programs that taxpayers are urged to avoid. *See*  
20 <http://www.irs.gov/newsroom/article/0,,id=136337,00.html>. (The corporation sole  
21 scam has dropped off the more recent “dirty dozen” lists because the IRS has  
22 “noticed less activity in [this] scam[] over the past year following court cases  
23 against a number of promoters.”

24 <http://www.irs.gov/newsroom/article/0,,id=154293,00.html>. *See also* “IRS Warns  
25 of ‘Corporation Sole’ Tax Scam,” IRS News Release, IR-2004-42 (Mar. 29,  
26 2004); Rev. Rul. 2004-29, 2004-1 C.B. 627, Rev. Rul. 2004-27, 2004-1 C.B. 625.)  
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DANIEL G. KNAUSS  
United States Attorney

/s/ Martin M. Shoemaker  
MARTIN M. SHOEMAKER

Certificate of Service

IT IS HEREBY CERTIFIED that service of the foregoing has been made upon the following by depositing a copy in the United States mail, postage prepaid, this 23d day of July 2007: Elizabeth A. & Fredric A. Gardner, Bethel Aram Ministries, P.O. Box 2038, Dewey, AZ 86327.

/s/ Martin M. Shoemaker  
MARTIN M. SHOEMAKER