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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. 2:11-CV-411 JAM-JFM
)	
Plaintiff,)	ORDER GRANTING UNITED STATES'
)	MOTION FOR PRELIMINARY
v.)	INJUNCTION
)	
THOMAS W. EATON, DDS,)	
)	
Defendant.)	
)	
)	
)	

Upon motion of plaintiff, the United States of America, the Court makes the following findings of fact and conclusions of law and enters this preliminary injunction against Defendant Thomas W. Eaton, DDS ("Easton"):

Legal Standard for Preliminary Injunction

In order to obtain a preliminary injunction under Section 7402(a) of the Internal Revenue Code (I.R.C.), 26 U.S.C., the United States must show that an injunction is necessary or appropriate for the enforcement of the internal revenue laws. Alternatively, this Court will issue a preliminary injunction upon

1 a showing of either (1) a combination of probable success on the
2 merits and the possibility of irreparable harm, or (2) that serious
3 questions are raised and the balance of hardship tips in its favor.
4

5 **Findings of Fact**

- 6 1. Eaton is a practicing dentist in Ione, California.
7 2. Eaton is holding himself out as the employer of the workers
8 performing services for him and as a party liable for federal
9 employment taxes and federal unemployment taxes related to
10 those employees.
11 3. Since August 2001, the IRS had repeatedly warned Eaton that,
12 as an employer, he is required to withhold trust fund taxes
13 from wages of his employees, make timely federal tax deposits,
14 file accurate returns, and pay any taxes due.
15 4. Since 2001, Eaton has failed to consistently make timely
16 federal tax deposits and consistently pay Form 941 employment
17 taxes on the date they are due.
18 5. Since 2001, Eaton has failed to consistently comply with the
19 federal tax laws requiring him to withhold federal employment
20 taxes from employee wages, to make federal employment tax
21 deposits, and to make timely payments of federal taxes due to
22 the Internal Revenue Service ("IRS").
23

24 **Conclusions of Law**

25 This Court finds that the Defendant is interfering with the
26 administration of the internal revenue laws. Defendant is
27 violating I.R.C. §§ 3102, 3402, 6011, 6071, 6072, 6151, 6302 and
28 7501. The United States is likely to succeed on the merits in this

1 case and will suffer irreparable harm if the Defendant is not
2 enjoined now. Accordingly, the Court finds that a preliminary
3 injunction under I.R.C. § 7402(a) is necessary and appropriate for
4 the enforcement of the internal revenue laws.

5
6 **Security**

7 The United States is not required to give security for an
8 injunction under Federal Rule of Civil Procedure 65(c).

9
10 **Order**

- 11 1. The Court ORDERS that defendant (individually and doing
12 business under any other name or using any other entity), and
13 his representative, agents, servants, employees, attorneys,
14 and anyone in active concert or participation with him, are
15 enjoined and restrained from failing to withhold and pay over
16 to the IRS all federal payroll taxes, including federal income
17 withholdings, FICA taxes and FUTA taxes, required by law;
- 18 2. Further, the Court ORDERS Defendant to file with IRS Revenue
19 Officer Leslie Fouche-Munoz (or whomever the IRS may designate
20 in her stead) accurate and timely Employer's Annual Federal
21 Unemployment (FUTA) Tax Returns (Form 940) and Employer's
22 Monthly Federal Tax Returns (Form 941-M) and to send copies of
23 such returns to counsel for the United States at the same time
24 that they file the originals;
- 25 3. Further, the Court ORDERS Defendant to segregate and hold
26 separate and apart from all other funds, all monies withheld
27 from employees or collected from others for taxes under any
28 internal revenue laws of the United States and to deposit the

1 moneys so withheld and collected in a separate bank account in
2 trust for the United States no later than the same day that
3 the paychecks, for which the moneys are so withheld and
4 collected, are given or made available to the employees. At
5 the time of making such deposit in such separate bank account,
6 Defendant is ordered to send by fax to IRS Revenue Officer
7 Leslie Fouche-Munoz at (916) 974-5540 a receipt for each
8 employment tax deposit and a completed worksheet showing the
9 calculation for each deposit;

10 4. Further, the Court ORDERS Defendant to file complete and
11 accurate individual income tax returns (Forms 1040) with the
12 IRS as they become due, to pay the tax reflected in those
13 returns, and to send copies of such returns to counsel for the
14 United States and IRS Revenue Officer Leslie Fouche-Munoz at
15 the same time that he files the originals;

16 5. Further, the Court ORDERS that Thomas W. Eaton, and every
17 other person authorized to sign checks or otherwise make
18 disbursements for him or his business, to file with IRS
19 Revenue Officer Leslie Fouche-Munoz a statement within
20 fourteen (14) days of the date this preliminary injunction is
21 issued to the effect that

22 a. They have read the preliminary injunction issued by this
23 Court, and

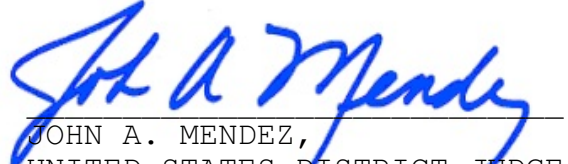
24 b. Each pay period, they will personally determine that all
25 federal payroll taxes, including federal income
26 withholdings, FICA taxes, and FUTA taxes, for each pay
27 period after the date this preliminary injunction is
28 issued have been fully paid to the IRS by certified or

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cashier's check prior to signing checks or otherwise
disbursing funds.

IT IS SO ORDERED.

Dated: June 6, 2011



JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE