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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA)	Case No. 10-cv-2310-WHA
Plaintiff,)	
v.)	ORDER
CAFFÈ AMICI ESPRESSO, LLC,)	
Defendant.)	

1. The United States filed a complaint alleging that Defendant failed to file federal employment (Form 941) and unemployment (Form 940) tax returns, and failed to collect and to pay over federal employment and unemployment taxes.

2. Defendant, without admitting any of the allegations in the complaint except as to jurisdiction, waive the entry of findings of fact and conclusions of law under Fed. R. Civ. P. 52, and consent to the entry of this Stipulated Judgment of Permanent Injunction ("Stipulated Judgment") under Fed. R. Civ. P. 65 and 26 U.S.C. § 7402.

3. Defendant understands that this Stipulated Judgment constitutes the final judgment in this matter, and Defendant waives any and all rights to file an appeal from this judgment.

4. Defendant consents to the entry of this Stipulated Judgment without further notice

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Stipulation

1 and agree to be bound by its terms. Defendant further understands and agrees that the Court will
2 retain jurisdiction over this matter for the purpose of implementing and enforcing this injunction,
3 and understands that if Defendant violates this injunction, Defendant, or anyone acting in concert
4 with the Defendant, may be found in contempt of court and may be sanctioned and/or
5 imprisoned.

6 Accordingly, in light of the foregoing, the Court hereby ORDERS that:

7 A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340, 1345
8 and 26 U.S.C. § 7402;

9 B. Defendant has consented to the entry of this Stipulated Judgment and agrees to be
10 bound by its terms;

11 C. Pursuant to 26 U.S.C. § 7402, for a period of five years, Defendant, and its
12 representatives, agents, employees, attorneys, and anyone in active concert or participation with
13 them, are:

14 i. Permanently enjoined from engaging in conduct that violates 26 U.S.C. §§ 3101,
15 3102, 3111, 3402, 6011(a), and 6041;

16 ii. Required to establish a bank account, as defined pursuant to 26 U.S.C. § 581,
17 designated as “Anthony Henry, Trustee, Special Fund in Trust for the United
18 States under 26 U.S.C. § 7512” within 30 days of the entry of this Stipulated
19 Judgment;

20 iii. Required to timely deposit withheld FICA taxes, as well as Caffe Amici’s
21 FICA taxes, in an appropriate federal depository bank in accordance with the
22 federal deposit regulations;

23 iv. Required to deposit withheld FUTA taxes in an appropriate federal depository
24 bank in accordance with the federal deposit regulations;

25 v. Required to deposit withholdings from Caffe Amici’s employees’ wages in
26 an appropriate federal depository bank in accordance with the federal deposit
27 regulations;
28

- 1 vi. Required to required to sign and deliver affidavits to an IRS revenue officer, or to
2 such other person or location as the Service may deem appropriate, on the First
3 day of each month, stating that the requisite withheld income, FICA and FUTA
4 tax deposits were timely made;
- 5 vii. Required to timely file all employment and unemployment tax returns with
6 the Internal Revenue Service;
- 7 viii. Required to timely pay all required outstanding liabilities due on each return
8 required to be filed herein;
- 9 ix. Prohibited from assigning any property or making any disbursements
10 after the date the injunction is issued until amounts required to be withheld from
11 wages after the date of the injunction are paid to the Service; and
- 12 x. Required to notify the Internal Revenue Service of any new company or
13 entity that Caffè Amici acquires, or manages in the next five years or
14 other appropriate specified time period; and
- 15 xi. Required to file all unfiled and past-due federal employment (Form 941) and
16 unemployment (Form 940) tax returns with the Internal Revenue Service within
17 90 days of the entry of this Stipulated Judgment.

18 D. The United States shall be entitled to conduct discovery to monitor Defendant's
19 compliance with the terms of this Stipulated Judgment;

20 E. This Court shall retain jurisdiction over this matter and Defendant for the purpose
21 of enforcing this Stipulated Judgment.

22 THUS DONE AND SIGNED on this 3rd day of September, 2010 at San Francisco,
23 California.

24 

25
26 WILLIAM ALSUP
27 UNITED STATES DISTRICT JUDGE
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