

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
BAKER FUNERAL HOME, LTD.)	
2008 North Broad Street)	
Philadelphia, PA 19121)	
)	
VINCE BAKER)	
7101 Wayne Ave.)	
Philadelphia, PA 19119)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION
AND FOR OTHER RELIEF

The United States of America complains and alleges against the defendants as follows:

1. Baker Funeral Home, Ltd. ("Baker Funeral") is a corporation that has ignored the tax laws for at least sixteen years by refusing to timely file its federal employment tax returns and to pay these tax liabilities. As of August 1, 2011, Baker Funeral's unpaid federal tax liabilities exceed \$800,000.
2. Vince Baker owns Baker Funeral and is responsible for its operation.
3. The United States seeks to end Baker Funeral's continued failure to abide by the federal tax laws by reducing the federal tax assessments made against Baker Funeral to judgment, by compelling Baker Funeral and Vince Baker to timely file the corporation's federal tax returns and timely collect and pay over to the Internal

Revenue Service its accruing federal taxes, and by enjoining them from future interference with the enforcement of the internal revenue laws.

JURISDICTION AND VENUE

4. The Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, authorized and requested this action, and it is brought at the direction of the Attorney General of the United States of America, pursuant to 26 U.S.C. § 7401.

5. Jurisdiction exists under 28 U.S.C. §§ 1340, 1345 and 26 U.S.C. § 7402(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1396 because Baker Funeral and Vince Baker reside in this judicial district and the unpaid federal tax liabilities of Baker Funeral arose in this judicial district.

PARTIES

7. Plaintiff is the United States of America.

8. The defendant, Baker Funeral, resides and has its principal place of business in Philadelphia, Pennsylvania, which is within the jurisdiction of this Court.

9. The defendant, Vince Baker, resides in Philadelphia, Pennsylvania, which is within the jurisdiction of this Court.

COUNT I - REDUCE TAX ASSESSMENTS TO JUDGMENT

10. The United States repeats and realleges each and every allegation set forth in paragraphs 1 through 9, inclusive, as though fully set forth herein.

11. Baker Funeral has failed to timely file its Employer's Quarterly Federal Tax Returns (Form 941) with respect to its employees for all of the taxable quarters since at least 1995.

12. A delegate of the Secretary of the Treasury made the following assessments against Baker Funeral based on its failure to pay over to the Internal Revenue Service its employment (Form 941) taxes:

Tax Period	Tax Type	Date of Assessment	Amount of Assessment
12/31/02	941	3/6/06	\$48,130
		4/23/07	\$9,538
3/31/03	941	2/23/04	\$19,693
		12/4/06	\$8,827
6/30/03	941	2/23/04	\$19,693
		7/2/07	\$27,606
9/30/03	941	2/23/04	\$19,693
12/31/03	941	10/4/04	\$25,033
3/31/04	941	10/11/04	\$32,463
6/30/04	941	3/6/06	\$34,481
9/30/05	941	1/1/07	\$13,878
		5/14/07	\$16,667
12/31/05	941	3/5/07	\$26,343
3/31/06	941	4/2/07	\$33,435
6/30/06	941	4/2/07	\$32,801
9/30/06	941	4/2/07	\$30,779
12/31/06	941	4/16/07	\$25,642

3/31/07	941	7/2/07	\$29,130
6/30/07	941	4/21/08	\$32,024
9/30/07	941	7/7/08	\$31,622
12/31/07	941	7/7/08	\$26,786
6/30/08	941	10/20/08	\$27,170
9/30/08	941	1/5/09	\$26,273
12/31/08	941	3/30/09	\$20,528
3/31/09	941	6/22/09	\$25,451
6/30/09	941	9/21/09	\$23,767
9/30/09	941	12/28/09	\$22,957
12/31/09	941	3/29/10	\$17,188
3/31/10	941	11/1/10	\$14,206
9/30/10	941	12/27/10	\$11,971
12/31/10	941	4/4/11	\$11,647
3/31/11	941	7/4/11	\$13,381

13. Notice and demand for payment of the assessments were given to the Baker Funeral in accordance with 26 U.S.C. § 6303.

14. Statutory additions for interest and penalties have accrued and will continue to accrue on the assessments.

15. Baker Funeral has failed to pay the United States the full amount owed as a result of the assessments.

16. By reason of the foregoing, Baker Funeral is indebted to the United States for unpaid federal employment taxes and statutory additions to tax in the amount of

\$667,937 as of August 1, 2011, plus interest and costs that have accrued and will continue to accrue according to law.

WHEREFORE, the United States respectfully prays for judgment as follows:

- A. That the Court render judgment in favor of the United States and against Defendant Baker Funeral for unpaid federal employment taxes, interest, and penalties in the amount of \$667,937 as of August 1, 2011, together with all interest and penalties that have accrued and will continue to accrue thereafter according to law; and
- B. That the Court grant the United States such other and further relief as it deems to be just and proper.

COUNT II - REDUCE CIVIL PENALTY ASSESSMENTS TO JUDGMENT

17. The United States repeats and realleges each and every allegation set forth in paragraphs 1 through 16, inclusive, as though fully set forth herein.

18. Baker Funeral Home, Ltd. failed to file IRS Form W-2 Wage and Tax Statements with the Internal Revenue Service regarding Baker Funeral's employees for the 2005, 2006, and 2007 tax years.

18. A delegate of the Secretary of the Treasury made the following civil penalty assessments against Baker Funeral Home, Ltd., in accordance with 26 U.S.C. § 6721, based on its intentional disregard of its obligation to file IRS Form W-2 Wage and Tax Statements with the Internal Revenue Service regarding Baker Funeral's employees:

Tax Period	Date of Assessment	Amount of Assessment
2005	12/29/08	\$47,837
2006	12/21/09	\$45,269
2007	1/3/11	\$43,422

19. Notice and demand for payment of the assessments were given to the Baker Funeral in accordance with 26 U.S.C. § 6303.

20. Statutory additions for interest and penalties have accrued and will continue to accrue on the assessments.

21. Baker Funeral has failed to pay the United States the full amount owed as a result of the assessments.

22. By reason of the foregoing, Baker Funeral is indebted to the United States for unpaid civil penalties and statutory additions to tax in the amount of \$145,720 as of August 1, 2011, plus interest and costs that have accrued and will continue to accrue according to law.

WHEREFORE, the United States respectfully prays for judgment as follows:

- C. That the Court render judgment in favor of the United States and against Baker Funeral in the amount of \$145,720 as of August 1, 2011, together with all interest and statutory additions that have accrued and will continue accruing according to law, for the civil penalties assessed against Baker Funeral for its intentional

disregard and failure to file IRS Form W-2 Wage and Tax Statements with the Service.

- D. That the Court grant the United States such other and further relief as it deems to be just and proper.

COUNT III - PERMANENT INJUNCTION

23. The United States repeats and realleges each and every allegation set forth in paragraphs 1 through 22, inclusive, as though fully set forth herein.

24. Federal law required Baker Funeral to timely file with the Internal Revenue Service federal employment (Form 941) tax returns, and to pay the balance shown as due on those tax returns upon filing.

25. Since at least 1995, Baker Funeral has repeatedly failed to timely file its federal employment tax returns (Form 941), and failed to pay over to the Internal Revenue Service its federal employment taxes.

26. Vince Baker has owned and operated Baker Funeral since he assumed the business from his father in 1997.

27. As owner and operator of Baker Funeral, Vince Baker is responsible for Baker Funeral's failure to timely file its tax returns and pay its tax liabilities.

28. In 1999, the Internal Revenue Service first assigned a revenue officer to collect Baker Funeral's unpaid tax liabilities and encourage future compliance.

29. Since that time, the Internal Revenue Service has engaged in extensive enforced collection action, including the filing of notices of federal tax liens,

administratively seizing the taxpayer's property and rights to property, and assessing trust fund recovery penalties against Vince Baker in order to collect Baker Funeral's outstanding liabilities and encourage future compliance.

30. The only payments received by the Internal Revenue Service have resulted from enforcement actions.

31. The Service has issued hundreds of levies since 1999 to all known levy sources, including all of Baker Funeral's bank accounts and any accounts receivables. Collecting Baker Funeral's assets has proved futile because the levies have yielded minimal payments. Nearly every time the Service issued levies to Baker Funeral's bank accounts, Baker Funeral has changed bank accounts to place the corporation's assets beyond the reach of the Service.

32. The Service has also filed notices of federal tax liens for all quarterly periods with outstanding liabilities in an effort to collect the outstanding liabilities.

33. The Internal Revenue Service attempted to seize Baker Funeral's assets on February 2, 2010. At the last moment, however, Vince Baker tendered a check for \$114,264.68 to the Service to halt the seizure.

33. The Service has also attempted to collect Baker Funeral's unpaid federal employment tax liabilities from Vince Baker by assessing trust fund recovery penalties arising under section 6672 of the Internal Revenue Code (26 U.S.C.) against him. The Service first assessed a trust fund recovery penalty against Vince Baker in 2004; the

Service has made several trust fund recovery penalty assessments against him since then.

34. In addition to issuing levies to Vince Baker's known bank accounts, the Service attempted to collect his outstanding trust fund recovery penalty assessments by seizing the real property owned by Vince Baker. Vince Baker owns the real property at the business location. The Service seized the real property on two occasions. First, the Service seized the real property on November 16, 2009. Forty-five minutes before the scheduled public auction, Vince Baker appeared to pay in full the trust fund recovery penalties assessed against him. Baker Funeral and Vince Baker continued their pattern of noncompliance, however, and another trust fund recovery penalty assessment was made against Vince Baker to aid in the collection of the outstanding employment tax liabilities. The Service then seized the real property again on March 17, 2011. After the seizure, Vince Baker exercised his right of redemption and paid the trust fund recovery penalties assessed against him.

35. Baker Funeral and Vince Baker have been repeatedly advised of the employment tax filing and payment requirements. Nonetheless, they continue to exhibit a pattern of noncompliance with the internal revenue laws. Baker Funeral continues to accrue unpaid federal employment tax liabilities, thereby continuing to frustrate the administration of the internal revenue laws.

36. The Service's administrative actions have failed to bring Baker Funeral into compliance, and the Internal Revenue Service has no adequate remedy to prevent the further pyramiding of unpaid employment taxes.

37. The Internal Revenue Service has exhausted all of its administrative abilities to compel Baker Funeral to file its federal tax returns and pay its federal tax liabilities. Further administrative enforcement actions will be both burdensome and fruitless for the Internal Revenue Service, requiring the performance of a useless act because these collection activities will not bring Baker Funeral and Vince Baker into compliance.

38. Without an injunction, Baker Funeral and Vince Baker will continue to flout the federal tax laws and accrue further liabilities. Baker Funeral is likely to obstruct and interfere with the enforcement of the internal revenue laws by pyramiding its federal employment tax liabilities to the detriment of the United States. An injunction ordering Baker Funeral and Vince Baker to comply with Baker Funeral's federal tax obligations is necessary and appropriate for the enforcement of the internal revenue laws and to prevent future violations of the law.

39. Baker Funeral's refusal to timely file these tax returns, and to make timely tax deposits, interferes with the enforcement of the internal revenue laws, and has caused and continues to cause the United States irreparable harm for which there is no adequate remedy at law.

40. The injury to the United States outweighs any potential injury to Baker Funeral and Vince Baker. If an injunction is entered, Baker Funeral will simply have to

obey the internal revenue laws. While failing to enjoin the defendants will permanently harm the United States, enjoining the defendants will cause them no injury and will place them on a level playing field with other similarly situated businesses.

41. An injunction will serve the public interest. The efficacy of the federal tax system relies upon employers to collect employment and unemployment taxes and to pay over those taxes to the United States. Baker Funeral's failure to file tax returns, failure to pay over taxes, and to pyramid tax liabilities undermine this system. Failing to pay its employment and unemployment taxes gives Baker Funeral an unfair advantage over its competitors who comply with the law. Enjoining Baker Funeral and Vince Baker will protect the public's interest in the fair administration of the internal revenue laws and in fair competition by halting their wrongful practices.

WHEREFORE, the United States of America respectfully requests that the Court enter a permanent injunction and order Baker Funeral and Vince Baker to do the following:

E. Order Baker Funeral and Vince Baker to cease their conduct interfering with the enforcement of the internal revenue laws;

F. Require Baker Funeral and Vince Baker to withhold and pay over to the Internal Revenue Service all employment taxes, including federal income, FICA, and FUTA taxes, as required by law;

G. Prescribe that Baker Funeral must make timely (no later than the 15th day of the following month) deposits of federal payroll taxes, *i.e.* withheld federal income tax,

withheld FICA tax as well as the defendant's share of FICA tax, as they become due, in an appropriate federal depository bank in accordance with the federal deposit regulations;

H. Order Baker Funeral to make timely (no later than the 15th day of the following month) deposits of income, FICA, and FUTA taxes as they become due, in an appropriate federal deposit bank in accordance with the federal deposit regulations;

I. Require Baker Funeral and Vince Baker to sign and deliver affidavits to the Internal Revenue Service, 600 Arch Street, Room 3256, Philadelphia, Pennsylvania, 19106, within two banking days after each required federal tax deposit is due stating that the requisite withheld income taxes, FICA taxes (both the employees' withheld portions and the employer's portion), and unemployment tax deposits were timely made;

J. Require Baker Funeral and Vince Baker to timely file with the Internal Revenue Service all of its employment (Form 941) and unemployment tax returns (Form 940) and pay any balance due on those returns upon filing;

K. Prohibit Baker Funeral from transferring, disbursing, or assigning any money, property, or assets until the required federal tax deposits have been fully made for the given payroll period;

L. Prohibit Baker Funeral from paying other creditors before paying its federal employment and unemployment tax liabilities;

M. Require Baker Funeral to file all unfiled and past-due federal employment and unemployment tax returns with the Internal Revenue Service within 60 days of the entry of the injunction;

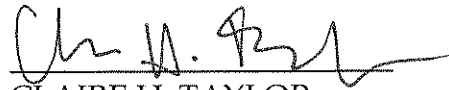
N. Require Vince Baker to notify the Internal Revenue Service within 10 business days if he begins operating any new business enterprise;

O. Require Baker Funeral to 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 permanent injunction;

P. Grant the United States such other relief, including costs, as the Court deems appropriate.

Dated: November 22, 2011

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