

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Case No. CV04-02100 FMC (JWJx)

UNITED STATES OF AMERICA,

Plaintiff,

JOSEPH O. SALADINO,
individually and dba FREEDOM &
PRIVACY COMMITTEE,

Defendant.

Upon motion by the plaintiff, United States of America, and based on the

record in this case, including evidence presented in the motion for preliminary
injunction, and at the hearings held in this case, a permanent injunction is hereby
entered against defendant Joseph O. Saladino. The Court finds and orders as
follows.

Standards for Permanent Injunction

In order to obtain a permanent injunction pursuant to 26 U.S.C.-(Internal
Revenue Code, "IRC") § 7408, the United States must show that (1) defendant
either engaged in conduct subject to penalty under IRC §§ 6700 or 6701; and (2)
injunctive relief is appropriate to prevent the recurrence of such conduct. The
Court may issue an injunction under IRC § 7402 "as may be necessary or
appropriate for the enforcement of the internal revenue laws." IRC § 7402(a).

Findings of Fact

1. This Court has jurisdiction over the parties and subject matter of this case.
2. Joseph O. Saladino, a self-professed tax expert, promotes abusive tax shelters, referred to herein as the "corporation sole" program and the "claim of

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1 right” program. He conducts his business through Freedom & Privacy Committee
2 (“FPC”).

3 3. According to its promotional material, FPC “is an educational
4 organization dedicated to helping you reclaim 100% of your FREEDOM and
5 PRIVACY. You may think you are free, but anyone who has been hoodwinked by
6 the legal system (i.e., traffic tickets, IRS confiscations, etc.) knows in their heart
7 that something is seriously wrong with the system and the government.” Further,
8 FPC markets its products to those persons “convinced that you are NOT required
9 to pay Federal Income Tax and [] need help getting free from the IRS. We fully
10 support legal taxes but not direct taxes which are prohibited by the Constitution of
11 the United States.”

12 4. Saladino’s tax promotion involves a multi-level marketing organization
13 that relies on management and subpromoters. Wholesale packages of the tax
14 programs are purchased by subpromoters directly through Saladino and FPC. The
15 subpromoters (or salesmen) then sell the packages to the participants. Saladino
16 and FPC are involved in each transaction and have complete participant
17 information, although the actual sale transactions may occur between the
18 participant and the FPC subpromoter. Participants or purchasers are encouraged
19 to become FPC subpromoters and further market the scheme.

20 5. Saladino markets the abusive FPC tax program nationwide through
21 internet websites, including the FPC website www.freedomcommittee.com,
22 conference calls, and seminars. Subpromoters receive their own internet web
23 page, which is linked directly to the FPC main website. Membership in the FPC
24 organization costs \$200, with a \$100 annual renewal fee. FPC advertises that
25 membership “can eliminate your personal income taxes” and permits participants
26 to “operate a business tax free and still enjoy limited liabilities.”
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1 6. There are hundreds of participants located nationwide in Saladino's
2 promotion.

3 *The Corporation Sole Package*

4 7. Saladino markets the FPC "corporation sole" arrangement as a means to
5 evade the reporting and payment of federal income taxes, as well as a means to
6 conceal assets and thereby evade estate and inheritance taxes and IRS collection
7 efforts. Saladino markets the corporation sole package for \$2,295. After
8 receiving a customer's application and payment, Saladino instructs participants
9 how to form a corporation sole, including how to conceal assets and taxable
10 income by transferring assets and income to their corporations sole.

11 8. Saladino falsely or fraudulently advises participants that they can treat
12 their corporations sole as a "church" with no tax return filing requirement, and yet
13 can control and use the assets and income of the corporation sole for their own
14 personal benefit. FPC promotional material states that "this product will position
15 you to have full-time ministry which is tax free." Saladino advises participants
16 that corporations sole that are used for the participants' personal benefit are tax
17 exempt, do not need to file tax returns of any kind, and do not need to keep
18 records. Saladino also falsely states that a corporation sole's church status cannot
19 be challenged by the Government.

20 9. Saladino further falsely states that participants can make donations to
21 their corporations sole and then deduct the donations on the participants' federal
22 income tax returns (in the event returns are filed), even though the entities are
23 owned and controlled by the participants.

24 10. Saladino falsely or fraudulently advises that a participant who becomes
25 the "minister" or "overseer" of the corporation sole and takes a vow of poverty,
26 can assign his income to the corporation sole and thereby transform taxable
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1 individual income into nontaxable income of the corporation sole. According to
2 Saladino, "Once you declare your pauper status, your income is tax-free to you and
3 your assets cannot be encumbered with a property tax."

4 11. Saladino falsely or fraudulently states that a corporation sole can be
5 engaged in any occupation, business or profession, and that all earnings therefrom
6 are tax exempt, and that no tax return need be filed. Saladino also advises that if
7 the participant's residence or real estate is titled in the name of the corporation
8 sole, then the individual can use and maintain it as a tax-exempt parsonage, and
9 that the corporation sole can provide the participant housing or a housing
10 allowance that is tax exempt.

11 12. Saladino falsely or fraudulently touts participating in the corporation
12 sole program as a mechanism that enables participants to drop out of the federal
13 tax system entirely. The effect of Saladino's scheme is that the participant lives in
14 the same residence and operates the same business activity as he did prior to
15 joining the program. All living expenses of the participant and his family are paid
16 from compensation earned from the business activity, just as before the creation of
17 the corporation sole. The participant receives the full benefit of, and has full
18 control over, all corporation sole funds. The only substantive change in the
19 participants' regular business and lifestyle activities is the alleged benefit of no
20 taxation.

21 *The Claim of Right Package*

22 13. The claim of right promotion involves filing erroneous income tax
23 returns or claims for refund. The cost of the claim of right package to participants
24 is \$1,095 for the first year and \$250 for additional years, plus 25% of each refund
25 above the first \$1,000 received.

1 14. Saladino asserts that taxpayers have an alleged common-law and
2 constitutional right to exclude from taxation all compensation for personal
3 services or labor rendered. According to Saladino, the claim of right package "is
4 used to claim that 'compensation for personal labor' may be excluded from
5 taxation." Saladino falsely states that the program "allows most people who work
6 for wages and do not have profits from sources that are not directly attributable to
7 their labor to reduce their taxable income to zero, which results in no taxes due in
8 most cases." He falsely asserts that either IRC § 183, 212 or 1341 or codifies this
9 so-called common-law or constitutional right and entitles participants to take a
10 deduction in the amount of compensation earned, which in most cases eliminates a
11 participant's tax liability. According to Saladino, this can be done by claiming an
12 itemized deduction to offset wages reported on W-2 forms, or by taking a
13 Schedule C deduction to offset any net income from self-employment.

14 15. Saladino falsely states that participants in the FPC claim of right
15 scheme are able to recover all of their withheld income and social security taxes,
16 and also to eliminate any self-employment tax. Also, "[t]his program allows one
17 to get a refund of all taxes (including Social Security, Medicare, etc.) withheld
18 from paychecks. This is the only lawful approach to eliminating the IRS from
19 your life." According to promotional materials, FPC "will assist clients correct
20 their 1040 (1040X) returns for new and existing members in such a way that they
21 may receive back all federal withholding taxes and social security/medicare
22 overpayments." Saladino has signed numerous federal income tax returns as a
23 return preparer for persons taking fraudulent claim of right deductions.

24 16. FPC promotional material further falsely asserts that "[t]his program is
25 in strict adherence to IRC Code," and "this program is in compliance with IRC
26 rules and regulations." Saladino makes these claims even though the IRS has
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1 disallowed the claim of right deductions on his own income tax returns for the
2 years 1998 through 2001. The IRS has assessed frivolous return penalties against
3 Saladino for each of those returns. In addition, as Saladino is aware, the
4 Government is vigorously opposing his customers' claim of right deductions in
5 Court of Federal Claims litigation.

6 17. Saladino requests that participants in the claim of right program furnish
7 him with their personal tax information, including tax returns, so that he can
8 modify the returns to conform to his tax program. In order to join the claim of
9 right program, participants are required to give Saladino power of attorney to
10 represent them before the Internal Revenue Service for the tax years in which they
11 take part in the program. Saladino is supporting his claim of right program in
12 litigation in the United States Court of Federal Claims, either by supervising his
13 customers' cases or by having the customers assign their alleged refund rights to
14 him. Saladino has not been successful in that forum.

15 18. Both the corporation sole and the claim of right programs are identified
16 in the IRS's annual consumer alert of tax scams.

17 19. Saladino has substantially interfered with the administration and
18 enforcement of the nation's tax laws. Participation in Saladino's abusive program
19 results in customers failing to file federal income tax returns, failing to file proper
20 and accurate returns, and/or failing to pay their federal tax liabilities. This results
21 in irreparable harm to the United States.

22 20. Saladino's corporation sole and claim of right programs are frivolous
23 and without merit. Saladino knew or should have known that his representations
24 regarding the tax benefits of the programs are false or fraudulent. Furthermore,
25 Saladino aids in or assists in the preparation of federal tax returns or claims for
26 refund that he knows, if used, would result in an understatement of tax liability.

1 Conclusions of Law

2 1. Based upon the factual findings and evidence presented by the parties,
3 the Court finds that Saladino is engaging in conduct in violation of IRC §§ 6700
4 and 6701, and that injunctive relief is appropriate to prevent the recurrence of that
5 conduct.

6 2. The Court also finds that Saladino is engaging in conduct that interferes
7 with the enforcement of the internal revenue laws, and that the United States and
8 the public will suffer irreparable harm in the absence of a permanent injunction.

9 3. Based on the evidence and argument presented, Saladino's position is
10 frivolous and the United States has prevailed on the merits. The public interest
11 will be served by granting a permanent injunction.

12 4. Also, it is evident that Saladino will continue to violate the Internal
13 Revenue Code absent an injunction, and that the United States has no adequate
14 remedy at law to stop Saladino's abusive tax schemes.

15 5. Accordingly, the Court finds that Saladino, and any business or entity
16 through which he operates, and anyone acting in concert with him, should be
17 permanently enjoined under IRC §§ 7408 and 7402(a).

18 Order

19 Based on the foregoing factual findings and for good cause shown, entry of
20 a permanent injunction is appropriate. Therefore, it is hereby

21 ORDERED that Defendant Joseph O. Saladino, individually and doing
22 business as Freedom & Privacy Committee, or as any other entity, and his
23 representatives, agents, servants, employees, attorneys, and those persons in active
24 concert or participation with him, including his distributors, is permanently
25 enjoined from directly or indirectly:
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- 1 (1) Organizing, promoting, marketing, or selling any abusive tax shelter,
2 plan or arrangement that advises or encourages taxpayers to attempt
3 to violate the internal revenue laws or unlawfully evade the
4 assessment or collection of their federal tax liabilities, including the
5 corporation sole and claim of right programs;
- 6 (2) Making false statements about the allowability of any deduction or
7 credit, the excludability of any income, or the securing of any tax
8 benefit by participating in such tax shelters, plans or arrangements;
- 9 (3) Encouraging, instructing, advising or assisting others to violate the
10 tax laws, including to evade the payment of taxes;
- 11 (4) Engaging in conduct subject to penalty under IRC § 6700, *i.e.*, by:
12 making or furnishing, in connection with the organization or sale of
13 an abusive shelter, plan, or arrangement, a statement the defendant
14 knows or has reason to know to be false or fraudulent as to any
15 material matter;
- 16 (5) Engaging in conduct subject to penalty under IRC § 6701, *i.e.*,
17 preparing or assisting others in the preparation of any tax forms or
18 other documents to be used in connection with any material matter
19 arising under the internal revenue laws and which the defendant
20 knows will (if so used) result in the understatement of tax liability;
- 21 (6) Engaging in any conduct that interferes with the administration and
22 enforcement of the internal revenue laws by the Internal Revenue
23 Service; and
- 24 (7) Representing any persons or entities before the Internal Revenue
25 Service in any manner, directly or indirectly.
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1 ~~Further, IT IS HEREBY ORDERED that Saladino produce to the United~~
2 ~~States any records in his possession or control, or to which he has access,~~
3 ~~identifying the persons who have purchased his abusive tax plans, arrangements or~~
4 ~~programs, including the corporation sole and claim of right programs, and to file~~
5 ~~with the Court, within 15 days of the date of this Order, a certification that he has~~
6 ~~done so,~~

7 Further, IT IS HEREBY ORDERED that Saladino, at his own expense,
8 contact by mail (or by e-mail, if an address is unknown) all individuals who have
9 previously purchased his abusive tax shelters, plans, arrangements or programs,
10 including the corporation sole program and the claim of right program, and inform
11 those individuals of the Court's findings concerning the falsity of the defendant's
12 prior representations and provide a copy of this Permanent Injunction Order to
13 those persons, and to file with the Court, within 15 days of the date of this Order, a
14 certification that he has done so;

15 Further, IT IS HEREBY ORDERED that Saladino and his representatives,
16 agents, servants, employees, attorneys, and those persons in active concert or
17 participation with him, including his distributors, remove from their websites,
18 including www.freedomcommittee.com, all abusive tax scheme promotional
19 materials, false commercial speech, and materials designed to incite others
20 imminently to violate the law (including the tax laws), to display prominently on
21 the first page of those websites a complete copy of this Order, and to maintain the
22 websites, at their own expense, for one year with a complete copy of the Court's
23 permanent injunction so displayed throughout that time; and to file with the Court,
24 within 15 days of the date of this Order, a certification that he has done so;

1 Further, IT IS HEREBY ORDERED that the United States is permitted to
2 engage in post-judgment discovery to ensure compliance with the permanent
3 injunction; and

4 Further, IT IS HEREBY ORDERED that this Court shall retain jurisdiction
5 of this action for the purpose of implementing and enforcing this Final Judgment.

6 There being no just reason for delay, the Clerk is directed to enter this Final
7 Judgment forthwith.

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9 Dated: Jan. 20, 2005


FLORENCE-MARIE COOPER
United States District Judge