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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 EDUARDO MARMOLEJO RIVERA,

19 Defendant.

Civil No.

03 - 2520

**Complaint for Permanent
Injunction**

GHK
JWX

20 Plaintiff, the United States of America, states for its complaint against
21 defendant Eduardo Marmolejo Rivera:

22 **Jurisdiction**

23 1. This Court has jurisdiction over this action to enjoin Rivera from
24 violating the Internal Revenue Code (I.R.C.), 26 U.S.C., pursuant to 28 U.S.C.
25 §§ 1340 and 1345 and I.R.C. §§ 7402(a) and 7408.

1 **Venue**

2 2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396
3 because Rivera resides in this judicial district.

4 **Nature of Action**

5 3. This action has been requested by the Chief Counsel of the Internal
6 Revenue Service (IRS), a delegate of the Secretary of the Treasury, and
7 commenced at the direction of a delegate of the Attorney General, pursuant to
8 I.R.C. §§ 7402 and 7408.

9 4. The United States is bringing this complaint to permanently enjoin
10 Rivera from the following actions:

11 (a) organizing or selling abusive tax shelters, plans, or arrangements that
12 advise or encourage taxpayers to attempt to evade the assessment or
13 collection of their correct federal tax;

14 (b) engaging in any activity subject to penalty under I.R.C. §§ 6700 or
15 6701; and

16 (c) engaging in conduct that substantially interferes with the enforcement of
17 the internal revenue laws and from promoting any false tax scheme.

18 5. An injunction is warranted based on Rivera's continuing promotion of
19 anti-tax arrangements and continuing interference with the enforcement of the
20 internal revenue laws.

21 **Defendant**

22 6. Defendant Eduardo Marmolejo Rivera resides at 3477 Maricopa Street,
23 #36, Torrance, California 90503. He is an attorney licensed to practice law in
24 California.

25 **Defendant's Activities**

26 7. Rivera prepares, promotes, and sells tax avoidance schemes purporting to
27 exempt his customers from federal income taxation.

1 8. Rivera advertises on his website, www.EdRivera.com, that the focus of
2 his “service is to provide legal documentation, educational materials, and
3 workshops to educate, inspire and assist the people in their desire to opt out of the
4 voluntary tax system with the least amount of risk.”

5 9. Rivera offers three categories of services: opinion letters, representation,
6 and asset protection.

7 10. Rivera sells opinion letters he describes as “personalized.” He markets
8 these letters as effective to “avoid criminal charges” and to stop IRS collection
9 efforts.

10 11. Rivera recommends that purchasers of his opinion letters send the
11 letters to the IRS and bankers to stop the collection of taxes, and rely upon the
12 letters in “opting out” of federal employment tax withholding.

13 12. Rivera’s opinion letters, which he sells for between \$100 and \$2,000,
14 consist of frivolous arguments concluding that the federal income tax is voluntary
15 and applies only to federal employees.

16 13. Rivera writes letters to his customers’ employers directing them to stop
17 withholding federal taxes from his customers’ wages.

18 14. Rivera falsely claims that only federal employees are subject to
19 withholding under the internal revenue laws.

20 15. Rivera prepares letters for customers to send to their employers
21 requesting that the employers meet with Rivera so that he might persuade them to
22 stop withholding federal taxes from their employees’ wages.

23 16. For a retainer fee of \$3,500 per year, Rivera represents customers
24 before the IRS.

25 17. Rivera advertises that he will respond to all IRS notices and establish in
26 the IRS’s records that his customers have no federal tax liability.

1 18. As part of his representation service, Rivera sends the IRS Power of
2 Attorney and Declaration of Representative forms (IRS Forms 2848), notifying the
3 IRS that the purpose of his representation is to “DETERMINE NON-LIABILITY
4 FOR ALL FEDERAL TAXATION.”

5 19. Rivera responds to IRS notices on behalf of his customers with letters
6 asserting frivolous tax protestor arguments challenging the IRS’s jurisdiction and
7 claiming that his clients are not liable for federal taxes.

8 20. Rivera falsely implies on his website that his asset protection services
9 enable his customers to avoid IRS levies on their own property.

10 21. Visitors to Rivera’s website, www.EdRivera.com, are invited to
11 subscribe to an e-mail newsletter.

12 22. Subscribers to Rivera’s e-mail newsletter receive periodic e-mail
13 messages with sample opinion letters.

14 23. In the sample opinion letters Rivera e-mails to subscribers to his e-mail
15 newsletter, Rivera falsely assures his customers that they “of course, are not liable
16 for the federal income tax” and advises them that an IRS Notice of Deficiency is
17 “no more than a notice . . . that a voluntary payment of a federal income tax was
18 sought”

19 24. Rivera advertises on his website that he is recruiting attorneys to join
20 his abusive tax promotion, which he describes as an “exciting and profitable
21 business.”

22 25. On his website and in his e-mail messages, Rivera has made numerous
23 false statements regarding the internal revenue laws, including the following:

- 24 • The federal income tax “is a voluntary tax for anyone who
25 gives consent by filing a Form 1040.”
- 26 • “There is no statute in the code that makes the private worker
27 in the 50 states subject to the Personal Income Tax.”

- 1 • “The vast majority have no tax liability or filing requirement.”
- 2 • The Internal Revenue Code applies only to “‘Individuals’ who
- 3 contract with the federal government or who live and work on
- 4 federal property, only they are required to make income tax
- 5 returns.”
- 6 • “As is widely known, the [Internal Revenue] Code does not
- 7 require the filing of income tax returns.”

8 26. Licensed to practice law in California since 1972, Rivera knows or has
9 reason to know that these statements regarding the internal revenue laws are false.

10 27. Rivera employs these and other false and fraudulent statements in
11 advising his customers to cease filing federal income tax returns and paying
12 federal income tax, and, for customers who are employers, to cease withholding
13 federal taxes from their employees’ wages.

14 **Count I:**

15 **Injunction under I.R.C. § 7408 for Violation of I.R.C. §§ 6700 and 6701**

16 28. The United States incorporates by reference the allegations in
17 paragraphs 1 through 27.

18 29. I.R.C. § 7408 authorizes a court to enjoin persons who have engaged in
19 any conduct subject to penalty under I.R.C. §§ 6700 or 6701 if the court finds that
20 injunctive relief is appropriate to prevent the recurrence of such conduct.

21 30. I.R.C. § 6700 penalizes any person who organizes or sells a plan or
22 arrangement and makes, in connection with organizing or selling the plan or
23 arrangement, a statement regarding the excludibility of income that the person
24 knows or has reason to know is false or fraudulent as to any material matter.

25 31. I.R.C. § 6701 penalizes any person who prepares or assists in the
26 preparation of a return, affidavit, or other document that the person knows or has
27 reason to believe will be used in connection with any material matter arising under

1 the internal revenue laws, and that the person knows would result in an
2 understatement of tax liability.

3 32. Rivera organizes and sells abusive tax schemes.

4 33. In organizing and selling his abusive tax schemes, Rivera makes false
5 or fraudulent statements regarding the excludibility of income.

6 34. Rivera knows or has reason to know that his programs and program
7 materials contain false or fraudulent statements within the meaning of I.R.C. §
8 6700.

9 35. Rivera prepares or assists in preparing letters and other documents that
10 he knows or has reason to believe will be used in connection with material matters
11 arising under the internal revenue laws, including the assessment and collection of
12 federal taxes.

13 36. Rivera knows that the letters and other documents will result in an
14 understatement of his customers' tax liability.

15 37. If he is not enjoined, Rivera is likely to continue to organize and sell his
16 abusive tax schemes.

17 **Count II:**

18 **Injunction under I.R.C. § 7402 for Unlawful Interference**
19 **with Enforcement of the Internal Revenue Laws**
20 **and Appropriateness of Injunctive Relief**

21 38. The United States incorporates by reference the allegations in
22 paragraphs 1 through 37.

23 39. I.R.C. § 7402 authorizes a court to issue orders of injunction as may be
24 necessary or appropriate for the enforcement of the internal revenue laws.

25 40. Rivera, through the actions described above, has engaged in conduct
26 that interferes substantially with the enforcement of the internal revenue laws.

1 41. The IRS is unable to estimate the total lost revenue caused by Rivera's
2 violation of the internal revenue laws because he has not provided the IRS with an
3 accurate list of his customers. The IRS has identified six Rivera customers, on
4 whose behalf Rivera is attempting to block IRS examination and collection
5 procedures, against whom the IRS has asserted audit deficiencies totaling
6 \$9,580,771.71 in tax, interest, and penalties.

7 42. If Rivera is not enjoined, the United States will suffer irreparable harm
8 because the loss caused by Rivera will continue to increase.

9 43. While the United States will suffer irreparable injury if Rivera is not
10 enjoined, Rivera will not be harmed by being compelled to obey the law.

11 44. The public interest would be advanced by enjoining Rivera because an
12 injunction will stop his illegal conduct and the harm that conduct is causing to the
13 United States Treasury

14 45. If Rivera is not enjoined, he is likely to continue to interfere with the
15 enforcement of the internal revenue laws.

16 WHEREFORE, plaintiff, the United States of America, respectfully prays
17 for the following:

18 A. That the Court find that Rivera has engaged in conduct subject to
19 penalty under I.R.C. §§ 6700 and 6701, and that injunctive relief under I.R.C.
20 § 7408 is necessary and appropriate to prevent a recurrence of that conduct;

21 B. That the Court find that Rivera has engaged in conduct interfering with
22 the enforcement of the internal revenue laws, and that injunctive relief is
23 appropriate to prevent the recurrence of that conduct pursuant to the Court's
24 inherent equity powers and under I.R.C. § 7402(a);

25 C. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter a
26 permanent injunction prohibiting Rivera, individually and doing business under
27 any other name or using any other entity, and his representatives, agents, servants,

1 employees, attorneys, and those persons in active concert or participation with
2 him, from directly or indirectly, by means of false, deceptive, or misleading
3 commercial speech:

- 4 a. Engaging in activity subject to penalty under I.R.C. § 6700, including
5 organizing or selling a plan or arrangement and making a statement
6 regarding the excludibility of income that he knows or has reason to
7 know is false or fraudulent as to any material matter;
- 8 b. Engaging in activity subject to penalty under I.R.C. § 6701, including
9 preparing and/or assisting in the preparation of a document related to
10 a matter material to the internal revenue laws that includes a position
11 that he knows will result in an understatement of tax liability;
- 12 c. Selling any type of asset protection device, including trusts, limited
13 liability corporations, or similar arrangements, advocating
14 noncompliance with the income tax laws or tax evasion,
15 misrepresenting the tax savings realized by using the arrangement, or
16 concealing the receipt of income or location of assets from the IRS;
- 17 d. Engaging in any other activity subject to penalty under I.R.C. §§ 6700
18 or 6701; and
- 19 e. Engaging in other conduct interfering with the enforcement of the
20 internal revenue laws;

21 D. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an
22 injunction requiring Rivera to contact by mail all individuals who have purchased
23 his abusive tax shelters, plans, arrangements, or programs, including his opinion
24 letters, representation services, and asset protection services, or any other shelter,
25 plan, or program in which Rivera has been involved, and inform those individuals
26 of the Court's findings concerning the falsity of Rivera's representations and
27 attach a copy of the permanent injunction against Rivera;

1 E. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an
2 injunction requiring Rivera to produce to the United States any records in his
3 possession or to which he has access, identifying by name, Social Security
4 Number, address, and telephone number all individuals who have purchased his
5 abusive tax plans, arrangements, or programs, including his opinion letters,
6 representation services, and asset protection services, or any other shelter, plan, or
7 program in which Rivera has been involved;


8 F. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an
9 injunction requiring Rivera and his representatives, agents, servants, employees,
10 attorneys, and those persons in active concert or participation with him, to remove
11 from his websites all abusive tax scheme promotional materials, false commercial
12 speech, and materials designed to incite others imminently to violate the law, to
13 display prominently on the first page of those websites a complete copy of the
14 Court's permanent injunction, and to maintain his websites for one year with a
15 complete copy of the Court's permanent injunction so displayed throughout that
16 time; and

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1 G. That this Court grant the United States such other relief, including costs,
2 as is just and equitable.

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Respectfully submitted,
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