

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

UNITED STATES OF AMERICA)
)
 Plaintiffs,)
)
 v.)
)
 RAYMOND LEO BELL individually and)
 d/b/a AMERICAN BEAUTY ROSE; and)
 THE BEST WAY, INC.)
)
 Defendants.)

Civil No. 04-5648 RJB

**DEFAULT JUDGMENT OF
PERMANENT INJUNCTION**

Upon motion by Plaintiff, the United States of America, the Court makes the following findings of fact and conclusions of law and enters this default judgment of permanent injunction against Raymond Leo Bell, individually and d/b/a American Beauty Rose; and The Best Way, Incorporated.

FACTUAL FINDINGS

The Court entered default against Best Way, Inc. on April 6, 2005. The Clerk of Court entered default against Raymond Leo Bell individually and d/b/a American Beauty Rose on April 12, 2005.

1 **Scheme One: Sham Trusts and Business Entities to Illegally Evade Tax and Hide Assets**

2 Defendants promote a system of trusts with the ultimate goal of fraudulently concealing
3 income and assets from the IRS. (Compl. ¶ 11.) Defendants instruct customers to transfer their
4 business and personal assets to trusts and to use their business income to pay personal living
5 expenses, thereby fraudulently reducing the amount of their income subject to income and
6 employment tax. (Compl. ¶ 8, 10.)

7 Defendants advise and assist customers in transferring their businesses to a business trust
8 or “Unincorporated Business Organization.” (Compl. ¶ 12.) The customer continues to operate
9 the business in the same manner as before the trust was set up. (Compl. ¶ 12.) Defendants advise
10 and assist customers in transferring their personal assets and real property to a family trust, while
11 maintaining the same control over the assets as before the transfer. (Compl. ¶ 13.) Defendants
12 advise customers to have the business receive all business income and pay ordinary business
13 expenses, including a nominal salary to the customer, and distribute the business profits to the
14 family trust. (Compl. ¶ 14.) Defendants advise customers to use the money distributed to the
15 family trust to maintain the family residence and pay other personal living expenses of the
16 customer. (Compl. ¶ 15.) Defendants falsely advise customers that they need only report on their
17 federal income tax returns the family trust income remaining after the trust has paid the
18 customers’ living expenses. (Compl. ¶ 16.) Defendants falsely claim that because the family trust
19 holds customers’ personal assets, the cost of maintaining those assets is a legitimate trust expense.
20 (Compl. ¶ 16.)

21 The relationship of defendants’ customers to their income and assets is not altered by
22 participation in this abusive scheme. (Compl. ¶ 17.) Participants, typically self-employed persons,
23 operate their businesses in virtually the same manner under defendants’ program as they did
24 before using the program. (Compl. ¶ 17.) The “trusts” that defendants create for their customers
25 are shams, devoid of economic substance. (Compl. ¶ 18.) Alternatively, the “trusts” are grantor
26

1 trusts that may be disregarded for federal-income-tax purposes. (Compl. ¶ 18.) Defendants
2 also advise customers to file fraudulent UCC-1 statements with the Washington State Department
3 of Licensing, to make it appear that their assets are fully encumbered, in order to “protect” assets
4 from IRS liens and levy. (Compl. ¶ 19.)

5 As a result of this scheme, defendants’ customers fail to report on their federal income tax
6 returns a substantial portion, if not all, of their business profits and other income. (Compl. ¶ 20.)

7 **Scheme Two: False Tax-Exempt Status Claims, and Fabricated and Inflated Deductions.**

8 After the Internal Revenue Service began auditing defendants’ trust customers, Bell
9 developed a second scheme, in which he advises and assists customers in falsely claiming tax-
10 exempt status for their businesses, and in fabricating and inflating improper deductions in a
11 fraudulent attempt to evade income and employment taxes. (Compl. ¶ 21.)

12 Defendants market this scheme as a way to create a purported tax-exempt organization.
13 (Compl. ¶ 22.) In fact, defendants merely instruct customers to falsely designate their
14 corporations as tax-exempt when requesting a Taxpayer Identification Number on IRS Form SS-
15 4, despite knowing that such designation is false. (Compl. ¶ 22.) Defendants do not advise
16 customers to apply for tax-exempt status, despite instructing them to claim this status when
17 submitting Form SS-4. (Compl. ¶ 22.)

18 Defendants advise customers to draw a nominal salary from the corporation, so as to
19 minimize reported wage income, which is the amount of their income subject to employment tax.
20 (Compl. ¶ 23.) Defendants falsely advise customers that their corporations can “lease” assets
21 from the customer at an inflated rate, and that the customer can claim deductions for expenses
22 related to the “leased” property on their personal income tax returns. (Compl. ¶ 24.) These
23 “leased” assets are typically the customer’s personal residence and other personal assets, none of
24 which are used in the customer’s business operations. (Compl. ¶ 24.)

1 Defendants' false advice concerning "lease payments" results in their customers'
2 improperly evading employment and income taxes. (Compl. ¶ 25.) When customers personally
3 draw lease payments from their corporations for phony business expenses, the corporate profits,
4 which customers previously received as wages, are not reported for employment tax purposes.
5 (Compl. ¶ 25.) Furthermore, when customers deduct "lease expenses" against that income, they
6 are claiming unallowable personal expense deductions, and improperly shielding that income from
7 tax. (Compl. ¶ 25.)

8 Defendants advise customers to file fraudulent UCC-1 statements with the Washington
9 State Department of Licensing in order to "protect" assets from IRS liens and levy. (Compl. ¶
10 26.) Defendants assist customers in preparing incorporation documents, lease agreements, and
11 other forms and documents necessary to the abusive scheme. (Compl. ¶ 27.)

12 As a result of this scheme, defendants' customers illegally shield a substantial portion, if
13 not all, of their business profits from income and employment tax. (Compl. ¶ 28.)

14 **Promoting the Scheme: False Statements about the Internal Revenue Laws.**

15 Defendants market these schemes through word of mouth, and through the Internet.
16 (Compl. ¶ 29.) In promoting the scheme, defendants falsely and fraudulently claim that the
17 following benefits are available to participants:

- 18 a. "SAVES \$\$\$\$\$\$ SIGNIFICANTLY REDUCES INCOME TAXES both personal
19 and business (Compl. ¶ 30);"
- 20 b. "HELPS PREVENT SEIZURE OF YOUR ASSETS (Compl. ¶ 30);"
- 21 c. "PROTECTS YOUR ASSETS - LIMITS YOUR LIABILITIES (Compl. ¶ 30);"
- 22 d. "UNIVERSALLY ELIMINATES UNNECESSARY ESTATE TAXATION
23 (Compl. ¶ 30);"
- 24 e. "The Hunts and the Rockefellers have spent over \$15,000,000.00 researching and
25 instituting Common Law Trust Organization structures (Compl. ¶ 30);"
- 26 f. "With creation of more trusts and a little effort, taxes disappear. With more effort
27 even the value of the holdings can be completely hidden (Compl. ¶ 30);" and

1 g. “Look what Business and Family Trusts Can Do for You: Glamorous
2 Vacations!...Exotic Automobiles!...Luxury Boats!...\$\$\$ Investments!...(Compl. ¶
30.)”

3 Defendants have made the following false and fraudulent claims about their schemes:

- 4 a. The trusts are “IRS-proof,” in that “the only entities who can break a trust are the
5 trustees (Compl. ¶ 31);”
- 6 b. The IRS does not need to know about the trusts (Compl. ¶ 31);
- 7 c. The IRS cannot obtain trust documents (Compl. ¶ 31);
- 8 d. Trust customers can use trust income to pay their personal bills (Compl. ¶ 31);
- 9 e. Trust customers can avoid self-employment tax and “control, manage, and limit
10 both estate tax and current tax liabilities (Compl. ¶ 31);” and
- 11 f. Corporation customers can rent their personal residence, personal vehicles and
12 other personal property to the corporation, and then deduct expenses associated
with maintaining those assets against the rental income on their tax returns (Compl.
¶ 31.)

13 The defendants’ false and fraudulent statements have induced numerous customers to participate
14 in their illegal schemes. (Compl. ¶ 32.) Defendants charge \$1,000 for incorporation and
15 approximately \$1,500 for trust packages. (Compl. ¶ 33.)

16 Bell claims to have spent substantial time studying the tax laws and therefore he should be
17 aware that no court has upheld the validity of his schemes.¹ (Compl. ¶ 32.). Bell has associated

18 ¹ See, e.g., *Muhich v. Commissioner*, 238 F.3d 860 (7th Cir. 2001) (holding that a trust
19 arrangement where the defendants placed personal assets into five trusts but retained total control
20 over the assets lacked economic substance and therefore should not be recognized by the IRS);
Zmuda v. Commissioner, 731 F.2d 1417, 1421 (9th Cir. 1984) (rejecting a trust where the
21 taxpayer retained control over the trust assets); *O’Donnell v. Commissioner*, 726 F.2d 679, 681
22 (11th Cir. 1984) (rejecting a trust where the taxpayer transferred his income to the trust and
23 claimed business deductions for living expenses); *Schulz v. Commissioner*, 686 F.2d 490, 493 (7th
24 Cir. 1982) (rejecting a trust because “income is taxed to the person who earns it, regardless of
25 what arrangements he makes to divert the payment of it elsewhere”); *United States v. Welti*, No.
C-1-02-243, Doc. No. 55 (S.D. Ohio Sept. 24, 2003) (permanently enjoining a promoter of
26 abusive trusts); *United States v. Mosher*, No. 1:03-CV-208, Doc. No. 45 (W.D. Mich. Oct. 27,
2003) (preliminarily enjoining an abusive trust promoter). See generally *United States v. Buttorff*,

(continued...)

1 himself with other fraudulent tax scheme promoters and groups that deny the validity of federal
 2 tax laws, and should know that many of these promoters, such as Jack Cohen of Fircrest,
 3 Washington; and Jim Mattatall, of Harbor City, California, have been enjoined under I.R.C. §§
 4 7408 and 7402 from promoting illegal tax schemes.² (Compl. ¶ 35.) Moreover, the IRS has
 5 audited several of defendants' customers, due to their participation in defendants fraudulent
 6 schemes, and discovered tax understatements. (Compl. ¶ 38, 40.) Despite all of this, defendants
 7 continue to promote their fraudulent schemes. (Compl. ¶ 40.) Defendants will not cease this
 8 illegal activity unless they are enjoined.

9 **Harm to the Government**

10 The tax loss as a result of this promotion is estimated to be substantial, and much of it may
 11 never be recovered. (Compl. ¶ 39.) Therefore, the harm to the government is material, and if
 12 defendants' promotional activity is not stopped, it will result in additional harm with each new
 13 return filing season. (Compl. ¶ 39.)

14 **CONCLUSIONS OF LAW**

15 **A. Standard for Default Judgment.**

16 Rule 55 of the Federal Rules of Civil Procedure provides that where a party fails to plead or
 17 otherwise defend against a complaint, and after entry of default, default judgment may be entered
 18 against such person.³ Upon entry of default, the well-pleaded allegations of the complaint relating
 19 to a defendant's liability are taken as true, with the exception of the allegations as to the amount

21 ¹(...continued)

22 761 F.2d 1056 (5th Cir. 1985) (discussing abusive trusts); *United States v. Sweet*, No. 8:01-CV-
 23 331-R-23TGW, 2002 WL 963398 (M.D. Fla. Feb. 20, 2002) (enjoining abusive trust promoter).

24 ² See *United States v. Cohen*, No. 04-332 (W.D. Wash. May 7, 2004); *United States v.*
 25 *Mattatall*, No. 03-7016 (C.D. Cal. Apr. 6, 2004).

26 ³ See *Broadcast Music, Inc. v. M.T.S. Enters., Inc.*, 811 F.2d 278, 280 (5th Cir. 1987).

1 of damages, which is not an issue here because the United States is seeking injunctive, not
 2 monetary, relief.⁴ Default judgment should not be different in kind than what is sought in the
 3 complaint.⁵ Here, the United States seeks only the injunctive relief requested in the complaint.

4 Whether to grant a motion for default judgment is within the Court's discretion.⁶ In *Eitel v.*
 5 *McCool*, the Ninth Circuit set forth factors to consider in exercising this discretion: (1) the
 6 possibility of prejudice to the plaintiff, (2) the merits of plaintiff's substantive claim, (3) the
 7 sufficiency of the complaint, (4) the sum of money at stake in the action, (5) the possibility of a
 8 dispute concerning material facts, (6) whether the default was due to excusable neglect, and (7)
 9 the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the
 10 merits.⁷ The *Eitel* factors favor entry of default judgment in this case.

11 **B. The United States' Substantive Claims Set Forth in its Complaint Satisfy the**
 12 **Standards for a Permanent Injunction.**

13 As pled in the complaint, the United States' claims merit entry of a permanent injunction,
 14 thus satisfying the second and third *Eitel* factors for default judgment. In a statutory injunction
 15 action such as this, the moving party must demonstrate that the statute has been violated and that
 16 "there is a reasonable likelihood of future violations."⁸ Because I.R.C. §§ 7402(a) and 7408 set
 17 forth the criteria for injunctive relief, the United States need only meet those criteria, without
 18 reference to the traditional equitable factors, for a court to issue a permanent injunction under

20
 21 ⁴ See *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

22 ⁵ Fed. R. Civ. P. 54(c).

23 ⁶ *Draper v. Coombs*, 792 F.2d 915, 924-25 (9th Cir. 1986); *Lau Ah Yew v. Dulles*, 236
 24 F.2d 415, 416 (9th Cir. 1956).

25 ⁷ *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

26 ⁸ *S.E.C. v. Holschuh*, 694 F.2d 130, 144 (7th Cir. 1982).

1 these sections.⁹ Nonetheless, the traditional equitable standards for granting a permanent
2 injunction are also met here. In the Ninth Circuit, the requirements for the issuance of a
3 permanent injunction are (1) the likelihood of substantial and immediate irreparable injury, and (2)
4 the inadequacy of remedies at law.¹⁰

5 The allegations in the complaint, and the evidence submitted with the preliminary injunction
6 motion clearly establish that a permanent injunction under I.R.C. §§ 7402(a) and 7408 should
7 issue to stop defendants from promoting their abusive tax scheme and interfering with the
8 enforcement of the internal revenue laws.

9 **1. Injunctive Relief is Warranted Under I.R.C. § 7408 Because Defendants’ Fraudulent
10 Tax Scheme Violates I.R.C. §§ 6700 and 6701.**

11 An injunction under I.R.C. § 7408 is warranted to enjoin a person from further engaging in
12 conduct subject to penalty under I.R.C. §§ 6700 or 6701. The record submitted with this motion
13 establishes that Bell has engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701 in
14 connection with the organization and promotion of the tax schemes described above, and that he
15 will continue to do so absent injunctive relief.
16
17
18

19 ⁹ See I.R.C. §§ 7402(a) and 7408. See also *United States v. Estate Pres. Servs.*, 202 F.3d
20 1093, 1098 (9th Cir. 2000) (finding, with regard to I.R.C. § 7408, that the “traditional
21 requirements for equitable relief need not be satisfied since [the statute] expressly authorizes the
22 issuance of an injunction.”); *Duke v. Uniroyal, Inc.*, 777 F. Supp. 428, 433 (E.D.N.C. 1991)
23 (finding that where an injunction is expressly authorized by statute, and the statutory conditions
24 have been satisfied, the moving party is not required to establish irreparable injury before
obtaining injunctive relief). Cf. *In re Dow Corning Corp.*, 280 F.3d 648, 658 (6th Cir. 2002)
(holding, in a bankruptcy case, that where a statute, such as I.R.C. § 7402(a), grants the court
injunctive power, the court is not “confined to traditional equity jurisprudence”).

25 ¹⁰ See *G.C. & K.B. Invs., Inc. v. Wilson*, 326 F.3d 1096, 1107 (9th Cir. 2003); *LaDuke v.*
26 *Nelson*, 762 F.2d 1318, 1330 (9th Cir. 1985).

1 **a. Defendants engaged in conduct subject to penalty under § 6700.**

2 Section 6700 imposes a penalty on a person who organizes or participates in the sale of any
3 plan or arrangement and, in connection therewith, makes or furnishes a statement with respect to
4 the excludability of any income that the person knows or has reason to know is false or fraudulent
5 as to any material matter. The evidence submitted with the Government’s motion establishes that
6 defendants organize, promote, and market two abusive tax avoidance schemes, advocating the use
7 of sham trusts and business entities in a fraudulent attempt to avoid income and employment tax,
8 and to thwart the IRS’s ability to collect their customers’ unpaid federal tax liabilities. In
9 promoting the scheme, defendants falsely and fraudulently claim that the following benefits are
10 available to participants:

- 11 1. “SAVES \$\$\$\$\$ SIGNIFICANTLY REDUCES INCOME TAXES both personal
12 and business;”
- 13 2. “HELPS PREVENT SEIZURE OF YOUR ASSETS;”
- 14 3. “PROTECTS YOUR ASSETS - LIMITS YOUR LIABILITIES;”
- 15 4. “UNIVERSALLY ELIMINATES UNNECESSARY ESTATE TAXATION;”
- 16 5. “The Hunts and the Rockefellers have spent over \$15,000,000.00 researching and
17 instituting Common Law Trust Organization structures;”
- 18 6. “With creation of more trusts and a little effort, taxes disappear. With more effort
19 even the value of the holdings can be completely hidden;” and
- 20 7. “Look what Business and Family Trusts Can Do for You: Glamourous
21 Vacations!...Exotic Automobiles!...Luxury Boats!...\$\$\$ Investments!...”

20 Defendants have made the following false and fraudulent claims about their schemes:

- 21 1. The trusts are “IRS-proof,” in that “the only entities who can break a trust are the
22 trustees;”
- 23 2. The IRS does not need to know about the trusts;
- 24 3. The IRS cannot obtain trust documents;
- 25 4. Trust customers can use trust income to pay their personal bills;

1 5. Trust customers can avoid self-employment tax and “control, manage, and limit
2 both estate tax and current tax liabilities;” and

3 6. Corporation customers can rent their personal residence, personal vehicles and
4 other personal property to the corporation, and then deduct expenses associated
5 with maintaining those assets against the rental income on their tax returns.

6 These false and fraudulent statements have induced numerous customers to participate in this
7 illegal scheme.

8 Bell knew or had reason to know that his promotional statements concerning the tax
9 benefits obtainable using his scheme were frivolous. Courts consider three factors in determining
10 whether the Government has established the “knew or had reason to know” standard of § 6700:
11 (1) the extent of the defendant’s reliance on knowledgeable professionals; (2) the defendant’s
12 level of sophistication and education; and (3) the defendant’s familiarity with tax matters.¹¹ All
13 three factors point to Bell’s knowledge of the falsehoods contained in his promotional material.
14 Bell has spent substantial time studying the tax laws. Bell has associated himself with other
15 abusive scheme promoters and groups that deny the validity of federal tax laws. Many of these
16 promoters, such as Jack Cohen of Fircrest, Washington; and Jim Mattatal, of Harbor City,
17 California, have been enjoined under I.R.C. §§ 7408 and 7402 from promoting illegal tax
18 schemes.¹² And many of Bell’s own customers have been audited by the IRS, and assessed
19 additional tax liabilities. As such, defendants know or have reason to know that their positions
20 are frivolous and have been repeatedly rejected by the federal courts. At a minimum they had
21 reason to know that statements they made in promoting their schemes were false.

22 Furthermore, Bell’s false statements made in the course of his promotion were material. A
23 matter is material if it would have a substantial impact on the decision-making process of a

24 ¹¹ *United States v. Estate Preservation Services*, 202 F.3d 1093, 1103 (9th Cir. 2000).

25 ¹² *See United States v. Cohen*, No. 04-332 (W.D. Wash. May 7, 2004); *United States v.*
26 *Mattatal*, No. 03-7016 (C.D. Cal. Apr. 6, 2004).

1 reasonably prudent investor.¹³ Bell has successfully marketed his abusive scheme to numerous
2 customers. His false claims about the tax benefits obtainable through participation in his scheme
3 have a substantial impact on whether customers participate. Accordingly, because Bell made false
4 statements during the course of promoting his abusive tax scheme, he and his enterprise have
5 engaged in conduct subject to penalty under I.R.C. § 6700.

6 **b. Defendants engaged in conduct subject to penalty under § 6701.**

7 I.R.C. § 6701 penalizes a promoter who aids, assists, or advises with respect to the
8 preparation or presentation of any portion of a return or other document, knowing or having
9 reason to believe that such advice will be used in connection with any material matter, and who
10 knows that such portion, if used, would result in an understatement of tax. Bell advised
11 customers to transfer their business and personal assets to trusts, use their business income to pay
12 personal living expenses, and thereby fraudulently reduce the amount of their income subject to
13 income and employment tax. Bell also instructed customers to incorporate their businesses,
14 falsely claim tax-exempt status, and then fabricate and inflate improper deductions in a fraudulent
15 attempt to avoid income and employment taxes. Both schemes placed defendants squarely within
16 I.R.C. § 6701's prohibitions, because defendants' advice concerning how to fraudulently reduce
17 income subject to income and employment tax was clearly advice that would be used in the
18 preparation of documents and tax returns that resulted in significant understatements of federal
19 tax liability. Based upon Bell's claimed expertise in the law, his many years of research in the
20 area, and the results of IRS audits of his customers, he must know that the positions he advocates
21 result in understatements on his customers' returns. He therefore cannot credibly claim that he
22 lacked knowledge. Bell's conduct is therefore subject to I.R.C. § 6701 penalties.

23
24
25
26 ¹³ S.Rep. No. 97-494, Vol. 1 at 267 (1982).

1 **2. Defendants Should Be Enjoined from Interfering with the Enforcement of the Internal**
2 **Revenue Laws Under I.R.C. § 7402.**

3 Manifesting “a Congressional intention to provide the district courts with a full arsenal of
4 powers to compel compliance with the internal revenue laws,”¹⁴ 26 U.S.C. § 7402 “has been used
5 to enjoin interference with tax enforcement even when such interference does not violate any
6 particular tax statute.”¹⁵ Here, injunctive relief under § 7402 is appropriate to prevent Bell’s
7 interference with tax enforcement.

8 The allegations in the complaint, and the declaration and exhibits submitted in support of the
9 preliminary injunction motion present irrefutable evidence that Bell individually and through Best
10 Way, Inc. repeatedly impeded the administration of the internal revenue laws. Defendants instruct
11 customers to hide income and assets, and to interfere with and obstruct legitimate IRS
12 examination and collection efforts.

13 The United States has suffered and will continue to suffer irreparable injury if defendants are
14 not enjoined. The IRS estimates that Bell’s customers have tried to evade a substantial amount in
15 taxes. Because the defendants will not end their scheme unless forced to do so, the United States
16 Treasury will continue to lose money as long as Bell and Best Way, Inc. are operating.
17 Defendants’ scheme also undermines public confidence in the federal tax system and incites
18 violations of the internal revenue laws. If defendants’ promotional activity is not stopped, it will
19 result in ongoing additional harm to the United States.
20
21

22 ¹⁴ *Brody v. United States*, 243 F.2d 378, 384 (1st Cir. 1957). See *United States v. First*
23 *Nat’l City Bank*, 568 F.2d 853 (2d Cir. 1977).

24 ¹⁵ *Ernst & Whinney*, 735 F.2d at 1300. See *United States v. Kaun*, 633 F. Supp. 406, 409
25 (E.D. Wis. 1986) (“federal courts have routinely relied on [§ 7402(a)] . . . to preclude individuals
26 . . . from disseminating their rather perverse notions about compliance with the Internal Revenue
laws or from promoting certain tax avoidance schemes”), *aff’d*, 827 F.2d 1144 (7th Cir. 1987).

1 **3. Equitable Factors Weigh in Favor of Enjoining Defendants**

2 In addition, a permanent injunction is appropriate under the Ninth Circuit’s permanent
3 injunction standard. Defendants are causing the United States substantial and immediate
4 irreparable injury, for which the United States has no adequate remedy at law. That harm,
5 described above, has cost the United States a substantial amount in lost tax revenue. Given the
6 IRS’s limited resources, identifying and recouping the lost revenue may be impossible.
7 Accordingly, defendants should be permanently enjoined.

8 **C. Default Judgment is Appropriate Under the Remaining *Eitel* Factors**

9 The remaining *Eitel* factors—the possibility of prejudice to the plaintiff, the sum of money at
10 stake in the action, the possibility of a dispute concerning material facts, whether the default was
11 due to excusable neglect, and the strong preference for decisions on the merits—all weigh in favor
12 of default judgment in this case.

13 If default judgment is not entered, the United States will be prejudiced. Defendants are
14 violating the law and causing irreparable damage to the United States; they will continue unless
15 they are enjoined. To deny the United States’ motion for default judgment would leave the
16 United States without a remedy. The United States is not seeking monetary damages here, but is
17 only requesting an injunction against future violations. Even if defendants had answered the
18 complaint, it is unlikely that the material facts would be in dispute—their promotional materials,
19 distributed to customers and obtained by Revenue Agent Flannery, provide the bulk of the United
20 States’ evidence against them. The United States has produced substantial evidence with its
21 preliminary injunction motion showing that a permanent injunction is warranted.

22 **ORDER**

23 Based on the foregoing factual findings and legal conclusions, and for good cause shown, the
24 Court ORDERS that defendants Raymond Leo Bell, individually and d/b/a American Beauty
25 Rose; and The Best Way, Inc. are permanently enjoined from:

- 1 A. Organizing, promoting, marketing, or selling any entity, plan, or arrangement that incites
2 taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment
3 of their federal tax liabilities;
- 4 B. Causing other persons and entities to understate their federal tax liabilities and avoid paying
5 federal taxes;
- 6 C. Further engaging in any conduct subject to penalty under I.R.C. § 6700, *i.e.*, making or
7 furnishing, in connection with the organization or sale of any entity, plan, or arrangement, a
8 statement about the allowability of any deduction or credit, the excluability of any income,
9 or the securing of any other tax benefit that defendants know or have reason to know is
10 false or fraudulent as to any material matter;
- 11 D. Further engaging in any conduct subject to penalty under I.R.C. § 6701, *i.e.*, aiding,
12 assisting, or advising with respect to the preparation or presentation of any portion of a
13 return or other document knowing that such document, if used, will result in the
14 understatement of another person's tax liability; and
- 15 E. Further engaging in any conduct that interferes with the administration and
16 enforcement of the internal revenue laws.

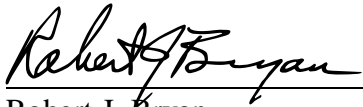
17 It is further

18 ORDERED, pursuant to I.R.C. § 7402, that defendants within 11 days file with the Court and
19 serve upon the government a complete list of customers (including names, addresses, e-mail
20 addresses, phone numbers, and social security numbers or employer identification numbers) who
21 have purchased any trust or other entity, plan or arrangement from defendants, or sought or
22 received any tax advice from defendants; it is further

23 ORDERED, pursuant to I.R.C. § 7402, that defendants, at their own expense and as a corrective
24 measure, provide a copy of the complaint and injunction to each of their customers, current and
25 former, within eleven days of entry of the injunction. Defendant Raymond Leo Bell must file a

1 sworn certificate of compliance stating that the defendants have complied with this portion of the
2 Order, within eleven days of the date of this Order, and must attach a copy of all correspondence
3 sent with the complaint and injunction; it is further
4 Defendant Raymond Leo Bell must file a sworn certificate of compliance stating that the
5 defendants have complied with this portion of the Order, within eleven days of the date of this
6 Order.

7 DATED this 19th day of May, 2005.

8
9
10 
11 Robert J. Bryan
12 United States District Judge

13
14 Prepared by:

15
16 s/ Kari M. Larson
17 KARI M. LARSON
18 Trial Attorney, Tax Division
19 U.S. Department of Justice
20 P.O. Box 7238
21 Washington, D.C. 20044
22 Telephone: (202) 514-0564
23 Facsimile: (202) 514-6770

24
25
26
27
28 DEFAULT JUDGMENT AND PERMANENT INJUNCTION
(Civil No. 04-5648 RJB)

- 15 -

U.S. Department of Justice
P.O. Box 7238, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-0564