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 CLERK US DISTRICT COURT
 DISTRICT OF NEVADA
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1 DANIEL G. BOGDEN
United States Attorney

2 KRISTIN H. HODGES
3 Attorney, Tax Division
4 U.S. Department of Justice
5 Post Office Box 7238
6 Washington, D.C. 20044
7 Tel.: (202) 307-0170
8 Fax: (202) 514-6770

Attorneys for Plaintiff United States

9 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

10 UNITED STATES,

11 Plaintiff,

12 v.

13 JEFFREY DEAN HUBACEK

14 Defendant.

Civil No. CV-S-03-1523-JCM-RJJ

15 ~~Proposed~~ **PROPOSED FINAL JUDGMENT**

16 Upon motion by the plaintiff, the United States of America, the Court makes the
17 following findings of fact and conclusions of law and grants summary judgment in favor of the
18 United States.

19 **Standards for Summary Judgment**

20 Summary judgment must be granted when the facts particular to the claim establish
21 beyond a reasonable question the claimant's right to relief. The United States, as the claimant,
22 bears the burden of persuasion to obtain judgment. Therefore, the United States must show that
23 under the undisputed facts no reasonable judge could find against the United States as a matter of
24 law. Summary judgment is appropriate if, based on undisputed facts, the record shows the
25 United States to have satisfied the elements required to grant a permanent injunction.
26

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1 To obtain a permanent injunction under 26 U.S.C. (I.R.C.) §§ 7407 and 7408 the United
2 States must show that Hubacek (1) engaged in conduct subject to penalty under I.R.C. §§ 6694 or
3 6695; (2) misrepresented his eligibility or ability to practice before the IRS or otherwise
4 misrepresented his education or experience as a tax return preparer; (3) engaged in conduct
5 subject to penalty under I.R.C. § 6701; or (4) engaged in any other fraudulent or deceptive
6 conduct that substantially interferes with the proper administration of the internal revenue laws;
7 and ^{THAT} injunctive relief is appropriate to prevent the recurrence of such conduct.

8 *see* In order to obtain a permanent injunction under I.R.C. § 7402 the United States must
9 show that a permanent injunction is necessary or appropriate for the enforcement of the internal
10 revenue laws.

11 Findings of Fact

- 12 1. Hubacek has been preparing returns for customers since the 1990s.
- 13 2. Hubacek has prepared at least 40-50 fraudulent zero-income Forms 1040X and at least
14 that many fraudulent zero-income Forms 1040
- 15 3. Hubacek charges his customers for his tax-preparation services.
- 16 4. Hubacek's scheme to help his customers evade taxes uses the same frivolous theory
17 propounded by Irwin Schiff, a Las Vegas-based tax-scam promoter—the "corporate profit"
18 theory.
- 19 5. The "corporate profit" theory rests on the premise that no section of the Internal
20 Revenue Code establishes an income-tax liability on wages.
- 21 6. Hubacek prepares returns by inserting zeros on all lines of the return that require the
22 reporting of income, thereby falsely reporting that customers have no taxable income and no tax
23 liability.
- 24 7. Hubacek submits false Forms 2848 to the IRS stating that he is an attorney or his
25 customer's full-time employee.

1 penalty under I.R.C. §§ 6694, 6695, and 6701. Accordingly, the Court finds that a permanent
2 injunction under I.R.C. § 7402 is necessary or appropriate for the enforcement of the internal
3 revenue laws.

4 Order

5 Based on the foregoing factual findings and for good cause shown, the Court ORDERS
6 that Defendant Jeffrey Dean Hubacek is permanently enjoined from:

7 A. Further engaging in any conduct subject to penalty under 26 U.S.C. § 6701, *i.e.*,
8 assisting others in the preparation of any tax forms or other documents to be filed with the IRS or
9 used in connection with a tax matter that Hubacek knows, if so used, will result in the
10 understatement of income-tax liability.

11 B. Further engaging in any conduct subject to penalty under 26 U.S.C. § 6694, *i.e.*,
12 preparing any part of a return or claim for refund that includes an unrealistic position;

13 C. Assisting or aiding others to evade the payment of taxes or to prepare false or
14 fraudulent federal-income-tax returns through any means;

15 D. Preparing or assisting in the preparation of any federal-income-tax returns for any
16 other person;

17 E. Engaging in conduct subject to penalty under I.R.C. § 6695, including (1) failing to
18 sign and furnish the correct tax identification number on tax returns he prepares and (2) failing to
19 keep a customer list and/or customer returns and to provide them to the IRS upon

20 F. Misrepresenting his eligibility to practice before the IRS, or otherwise misrepresenting
21 his experience or education as an income-tax-return preparer;

22 G. Representing any third party before the IRS;

23 H. Providing any tax services to any third party;

24 Further, pursuant to 26 U.S.C. §§ 7402 and 7407, the Court ORDERS that Hubacek
25 provide a complete list of persons for whom he has prepared federal-income-tax returns, from
26

1 January 1, 2000 through the present, including names, addresses, phone numbers, e-mail
2 addresses, and social security numbers or employer identification numbers, to counsel for the
3 United States within eleven days of the date of this Order. Hubacek must file a sworn certificate
4 of compliance stating that he has complied with this portion of the Order within eleven days of
5 the date of this Order.


6 Further, pursuant to I.R.C. § 7402, the Court ORDERS that Hubacek, at his own expense,
7 contact all persons for whom he prepared federal-income-tax returns or any other federal tax
8 forms from January 1, 2000 through the present and inform those persons of the entry of the
9 Court's findings concerning the falsity of his representations, the falsity of the tax returns
10 prepared on their behalf, the possibility of a frivolous filing penalty against them, the possibility
11 that the United States may seek to collect any additional federal income taxes, penalties, and
12 interest which they may owe, and the entry of the permanent injunction against him.

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1 Further, the Court ORDERS that the United States may engage in post-judgment
 2 discovery to monitor compliance with this injunction, and this Court shall retain jurisdiction over
 3 this action for the purpose of implementing and enforcing this final judgment.

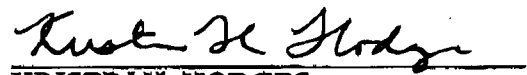
4 Further, the Court ORDERS that costs are awarded to the United States.

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 6 SO ORDERED this 22nd day of June, 2004.

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 8 
 9 JAMES C. MAHAN
 United States District Judge

Jms

10 Prepared by:

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 12 
 13 KRISTIN H. HODGES
 Trial Attorney, Tax Division
 U.S. Department of Justice
 14 P.O. Box 7238
 Washington, D.C. 20044
 15 Telephone: (202) 307-0170
 Attorney for Plaintiff United States