

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Rev.
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U.S.D.C. Atlanta

JAN 17 2002

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 HAROLD E. "HAL" HEARN, individually)
 and doing business as HEH TAX SERVICE)
 and HEH TAX SERVICES; HEH)
 FINANCIAL SERVICES, INC.; and HAL'S)
 FINANCIAL SERVICES, LLC.)
)
 Defendants.)

CIVIL NO. 1:01 CV 3058 - CC

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LUTHER D. THOMAS, Clerk
Dr. JMT
Deputy Clerk

Judgment and Permanent Injunction

The parties stipulate to the facts stated below and to entry of judgment in favor of the plaintiff and against defendants Harold E. "Hal" Hearn (individually and doing business as HEH Tax Service and HEH Tax Services); HEH Financial Services, Inc.; and Hal's Financial Services, LLC., as stated below.

Factual stipulation

The parties stipulate to the following facts included in the Complaint:

1. Hearn has used the frivolous §861 argument to file frivolous amended federal-income-tax returns (IRS Form 1040X) and current-year federal-income-tax returns (Form 1040) that understate his clients' tax liabilities. The § 861 argument falsely posits that a regulation promulgated under 26 U.S.C. (IRC) § 861 (26 CFR § 301-1.861.8(f)) provides the exclusive list of sources of income subject to federal income tax. Since that list is narrow, and focuses on foreign income of US citizens and similar international tax issues, § 861-argument proponents assert that domestic income earned by

US citizens is not subject to income taxation. Using the § 861 position, Hearn listed his clients' domestic income as \$0 on both current-year and amended income-tax returns. The amended returns constituted claims for refund of all or most taxes paid for the year at issue. During 2000 and 2001, Hearn prepared at least 88 original and amended income-tax returns on behalf of at least 35 clients, using the § 861 argument to request refunds totaling \$2,567,538. To date, the IRS has uncovered erroneous refunds issued to five of Hearn's clients, all of which relate to 2000 tax returns. The five erroneous refunds total \$168,782.00. There was no realistic possibility that the § 861 position taken by Hearn would be sustained on the merits. Hearn knew or should have known that the § 861 position was unrealistic, and although the § 861 position advanced by Hearn was disclosed on the tax returns, the position was frivolous.

2. The documents, advice, and other services provided by Hearn in advancing the § 861 argument constitute assisting in the organization or organizing a plan or arrangement for avoidance of taxation. In connection with organizing and promoting this plan or arrangement, Hearn made false or fraudulent statements regarding the excludibility of wages and other items from income. Hearn knew or had reason to know his statements were false or fraudulent.

3. Hearn has prepared tax returns and/or has assisted in the preparation of tax returns or other documents for other people that were intended to be used (and were in fact used) in connection with material matters arising under the internal revenue laws. These documents include tax returns and amended returns prepared by Hearn, through the HEH companies, for at least 35 clients. Hearn also knew that these returns and other documents (if so used) would result in understatements of tax liabilities of these other persons.

4. Hearn failed to turn over to the IRS a list of his clients for the preceding three years, despite repeated requests to do so. Hearn eventually provided the list of clients to the Department of Justice, after being informed that the United States intended to file a complaint to enjoin Hearn.

Injunction

Therefore the parties request that the Court enter the following order:

A. Judgment is entered in favor of the plaintiff, the United States of America, against the defendants, Harold E. "Hal" Hearn (individually and doing business as HEH Tax Service and HEH Tax Services); HEH Financial Services, Inc.; and Hal's Financial Services, LLC., pursuant to IRC §§ 7402, 7407, and 7408;

B. The Court finds that each of the defendants has engaged in conduct subject to penalty under IRC § 6694, and that injunctive relief under IRC § 7407 is appropriate to prevent a recurrence of that conduct;

C. The Court finds that Hearn has engaged in conduct subject to penalty under IRC § 6695, and that injunctive relief under IRC § 7407 is appropriate to prevent a recurrence of that conduct;

D. The Court finds that each of the defendants has engaged in conduct subject to penalty under IRC § 6700, and that injunctive relief under IRC § 7408 is appropriate to prevent a recurrence of that conduct;

E. The Court finds that each of the defendants has engaged in conduct subject to penalty under IRC § 6701, and that injunctive relief under IRC § 7408 is appropriate to prevent a recurrence of that conduct;

F. The Court finds that each of the defendants has engaged in conduct that interferes with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and IRC § 7402(a);

G. The Court, pursuant to IRC § 7407, 7408, and 7402, enters a permanent injunction prohibiting Harold E. "Hal" Hearn (individually and doing business as HEH Tax Service and HEH Tax Services), HEH Financial Services, Inc., and Hal's Financial Services, LLC., and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from directly or indirectly by means of false, deceptive, or misleading commercial speech:

- (1) Organizing, promoting, marketing, or selling (or assisting therein) the tax shelter, plan, or arrangement known as "the § 861 argument" or any other abusive tax shelter, plan or arrangement that assists or incites taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities or unlawfully claim improper tax refunds;
- (2) Further engaging in any conduct subject to penalty under IRC § 6700, *i.e.*, making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement they know or have reason to know is false or fraudulent as to any material matter;
- (3) Further engaging in any conduct subject to penalty under IRC § 6701, *i.e.*, assisting others in the preparation of any tax forms or other documents to be used in connection with any material matter arising under the internal revenue laws and which they know will (if so used) result in the understatement of income tax liability;
- (4) Further engaging in any conduct subject to penalty under IRC § 6694, *i.e.*, preparing any part of a return or claim for refund that includes an unrealistic position;
- (5) Further engaging in any conduct subject to penalty under IRC § 6695, *i.e.*, failing to turn over a list of clients for the previous three years to the IRS upon

request;

- (6) Further engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws by the Internal Revenue Service; and

H. The Court, pursuant to IRC §§ 7402, 7407, and 7408, enters an injunction requiring

Harold E. “Hal” Hearn, HEH Financial Services, Inc., and Hal’s Financial Services, LLC. to contact:

- (1) all persons to whom they gave, sold, or distributed any materials espousing or related to the “§ 861 argument”;
- (2) all persons on whose behalf Hearn, HEH Financial Services, Inc., and Hal’s Financial Services, LLC. prepared and/or assisted in the preparation of any federal or state income tax returns or tax-related documents; and
- (3) all persons who contacted Hearn, HEH Financial Services, Inc., and Hal’s Financial Services, LLC. regarding the “§ 861 argument” (in paper form, via telephone, or through electronic means);

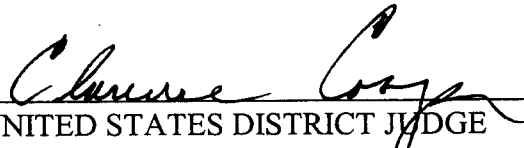
and inform those persons of the entry of the Court's findings concerning the falsity of representations made by Hearn, HEH Financial Services, Inc., and Hal’s Financial Services, LLC., the falsity of the tax returns prepared on these persons’ behalf, the possibility of the imposition of frivolous-return penalties against them, the possibility that the United States may seek to recover any erroneous refund they may have received, and the fact that a permanent injunction has been entered against Harold E. “Hal” Hearn (individually and doing business as HEH Tax Service and HEH Tax Services), HEH Financial Services, Inc., and Hal’s Financial Services, LLC.

I. The Court, pursuant to IRC §§ 7402, 7207, and 7408, enters an injunction requiring Harold E. “Hal” Hearn, HEH Financial Services, Inc., and Hal’s Financial Services, LLC. to turn over to the United States any records in their possession or to which they have access, that identify (1) the

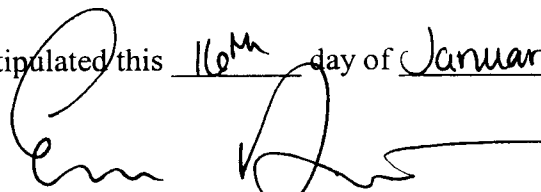
persons to whom Hearn, HEH Financial Services, Inc., and Hal's Financial Services, LLC. gave or sold, directly or indirectly, any materials related to the § 861 argument, (2) the persons who assisted in the marketing or preparation of materials used by Hearn, HEH Financial Services, Inc., and Hal's Financial Services, LLC. or written materials sent to potential clients, (3) any individuals or entities for whom Hearn, HEH Financial Services, Inc., and Hal's Financial Services, LLC. or their associates prepared or assisted in the preparation of any tax-related documents, including claims for refund or tax returns, and (4) any individuals or entities who purchased or used any other tax shelter, plan, or arrangement in which Hearn, HEH Financial Services, Inc., and Hal's Financial Services, LLC. has been involved.

J. Each party shall bear its own costs of litigation.

SO ORDERED THIS 29th day of January, 2002.



UNITED STATES DISTRICT JUDGE

So stipulated this 16th day of January, 2002.


EVAN J. DAVIS
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Civil Trial Section, Central Region
U.S. Department of Justice
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Attorney for Plaintiff United States

**ATTEST: A TRUE COPY
CERTIFIED THIS**

FEB 11 2002

Luther D. Thomas, Clerk
By: 
Deputy Clerk

Harold E. Hearn

HAROLD E. HEARN
1337 Jody Lane Northeast
Atlanta, Georgia 30329

Harold E. Hearn

HEH FINANCIAL SERVICES, INC.
by Harold E. Hearn, President
1337 Jody Lane Northeast
Atlanta, Georgia 30329

Harold E. Hearn

HAL'S FINANCIAL SERVICES, LLC.
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