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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]* DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
CHRISTOPHER M. HANSEN,
Defendant.

Civil No. 05cv0921-L(CAB)
ORDER RE: MOTIONS
ORDER ENTERING PERMANENT INJUNCTION
[Docket Nos. 64, 67, 77, 81, 85]

This matter comes before the Court on: Plaintiff's Motion for Summary Judgment; Plaintiff's Motion for Default Judgment; Defendant's Petition to Chief Justice for Leave of Court to File Cross Complaint; Defendant's Petition to Dismiss; and Defendant's Petition to Stay. The Court finds the motions suitable for disposition on the papers and without oral argument in accordance with Civil Local Rule 7.1(d)(1).

BACKGROUND

Defendant Christopher M. Hansen conducts business and promotes a number of tax-fraud schemes under two names or entities: the Family Guardian and the Sovereignty Education and Defense Ministry ("SEDM").¹ He sells how-to guides filed with forms, instructions, and tactics

¹ Gordon Decl. ¶ 6.

9 / [Signature]

1 to help customers evade paying federal taxes.² The prices for these guides range from \$10 to
2 \$40, and he also offers for free other documents and advice for the same purpose, including a
3 lengthy document entitled “The Great IRS Hoax.”³ Hansen markets his programs through word-
4 of-mouth, live seminars, and his websites www.famguardian.org and www.sedm.org.⁴

5 Hansen also sells “IRS Response Letters” that are meant to be used by persons who have
6 been contacted by the Internal Revenue Service (“IRS”).⁵ These response letters delay, obstruct,
7 impede or at least slow down the IRS examinations.⁶ They are not responsive to IRS inquiries
8 and do not advance the cause of the examination.⁷ These letters falsely notify the IRS that the
9 customers are not taxpayers and are not required to file tax returns, and that federal income tax
10 laws are not enforceable.⁸ The form letters also contain threats of criminal prosecution against
11 IRS employees and are used to intimidate the employees and obstruct IRS investigations.⁹
12 Hansen charges around \$50 for each letter and tells customers these form letters will cause the
13 IRS to cease the examinations of their liabilities.¹⁰ In addition to these letters, Hansen provides
14 customers with a nearly 100-page questionnaire entitled “Test for Federal Tax Professionals” for
15 his customers to give to IRS agents who are investigating the customers’ tax returns.¹¹ Hansen
16 advises his clients not to cooperate with the investigating IRS agent until the agent completes the
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19 ² *Id.*; Cantrell Decl. ¶ 3, Ex. 2(b).

20 ³ Gordon Decl. ¶ 6; Cantrell Decl. ¶ 4, Ex. 2(d).

21 ⁴ Gordon Decl. ¶¶ 7, 12.

22 ⁵ *Id.* ¶ 13; Cantrell Decl. ¶ 5, Exs. 2(f)-(l).

23 ⁶ Gordon Decl. ¶ 14.

24 ⁷ *Id.*

25 ⁸ Cantrell Decl. ¶ 5, Exs. 2(f)-(l).

26 ⁹ Cantrell Decl. ¶ 5, Exs. 2(f)-(l).

27 ¹⁰ Cantrell Decl. ¶ 5, Ex. 2(m) at 584-85.

28 ¹¹ Gordon Decl. ¶ 15; Cantrell Decl. ¶¶ 3, 5, Ex. 2(b) at 340-404, Ex. 2(c) at 406-07.

1 questionnaire.¹²

2 In connection with promoting his tax-avoidance schemes, Hansen has made numerous
3 false or fraudulent statements regarding the government's ability to tax, including stating that:
4 the Internal Revenue Code ("IRC") applies only within a "federal zone;"¹³ federal income taxes
5 only apply to federal officers, federal employees, and elected federal officials;¹⁴ payment of
6 income taxes is voluntary;¹⁵ income does not include wages, salaries, commissions, or tips;¹⁶
7 wages cannot be taxed;¹⁷ and W-4 forms do not apply to federal income taxes and only federal
8 employees or federal officeholders need to complete Form W-4.¹⁸

9 Hansen also aids or assists in preparing false or fraudulent income tax returns for
10 customers, or tells them not to file a return at all.¹⁹ For a \$100 hourly fee, Defendant will meet
11 with customers for administrative or consulting services and prepare their documents for them.²⁰
12 Hansen advises customers that once the Government stops receiving 1040's and W-2's, "it will
13 be more difficult for them to find you as well because you won't be feeding them any more
14 information about you!"²¹ He also informs customers that by not filing income tax returns, they
15 will create several problems for the IRS; in particular: they will add considerably to the effort
16 and the expense involved with collecting taxes from the customer; it is harder for the IRS to
17 track the customer down because the Government does not have a recent address or phone
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19 ¹² Gordon Decl. ¶ 15; Cantrell Decl. ¶ 5, Ex. 2(c) at 407.

20 ¹³ Cantrell Decl. ¶¶ 3, 5, Ex. 2(b) at 286, Ex. 2(e) at 466.

21 ¹⁴ *Id.* ¶ 5, Ex. 2(e) at 466, Ex. 2(g) at 520-23, Ex. 2(h) at 527-30.

22 ¹⁵ *Id.* ¶ 5, Ex. 2(e) at 494.

23 ¹⁶ *Id.* ¶ 5, Ex. 2(e) at 504.

24 ¹⁷ *Id.* ¶ 5, Ex. 2(e) at 507.

25 ¹⁸ *Id.* ¶ 5, Ex. 2(i) at 534-38.

26 ¹⁹ *Id.* ¶ 5, Ex. 2(c); Gordon Decl. ¶ 23; Henline Decl. ¶¶ 5-6.

27 ²⁰ Gordon Decl. ¶ 29, Ex. 1(b) at 8; Cantrell Decl. ¶ 5, Ex. 2(m) at 583.

28 ²¹ Cantrell Decl. ¶ 5, Ex. 2(c) at 418.

1 number; the Government has no evidence it can use against the customer in a tax prosecution;
2 and the customer has severely limited the Government's ability to prosecute the customer for tax
3 fraud.²² If a customer files an income tax return, Hansen advises and assists the customer to file
4 returns that falsely show only one cent of income and request a refund for payments made (or
5 taxes previously withheld).²³

6 Defendant's website includes sample returns and instructions, and provides customers
7 with materials to attach to the returns that set forth his arguments in support of the erroneous
8 filing.²⁴ As part of this program, Hansen advises and assists his customers to file false IRS W-4
9 Forms (Employee's Withholding Allowance Certificate) and W-8 Forms (Certificate of Foreign
10 Status) so that the employer will wrongfully stop withholding taxes from the customers'
11 paychecks.²⁵ Hansen also advises customers to attach erroneous IRS 4582 Forms ("Substitute
12 for Form W-2") to their tax returns.²⁶ Hansen provides his customers with fraudulent "opinion
13 letters" that purportedly document the customer's good faith belief in the lack of his or her
14 liability to pay income taxes.²⁷

15 In addition to his other programs, Hansen markets a "Citizenship Administrative
16 Repudiation" program in which his customers purportedly give up their "U.S. citizenship," but
17 retain or claim "American National citizenship."²⁸ Hansen states that as a result of the
18 Administrative Repudiation, the customer will no longer be liable for federal income tax.²⁹ He
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20 ²² *Id.* ¶ 2, Ex. 2(a) at 48-49.

21 ²³ Gordon Decl. ¶ 24; Cantrell Decl. ¶ 2, Ex. 2(a) at 17.

22 ²⁴ Cantrell Decl. ¶¶ 2, 3, 5, Ex. 2(a) at 15-27, Ex. 2(b), Ex. 2(c) at 413; Gordon Decl. ¶
23 23; Henline Decl. ¶¶ 5-6.

24 ²⁵ Gordon Decl. ¶ 18; Cantrell Decl. ¶ 3, Ex. 2(b)

25 ²⁶ Gordon Decl. ¶ 18; Cantrell Decl. ¶ 3, Ex. 2(b).

26 ²⁷ Cantrell Decl. ¶ 2, Ex. 2(a) at 136-91.

27 ²⁸ Cantrell Decl. ¶¶ 2, 5, Ex. 2(a) at 28-47, Ex. 2(c) at 406; Ex. 2(m) at 583; Gordon
28 Decl. ¶ 29, Ex. 1(b) at 8, 10-11.

²⁹ Gordon Decl. ¶ 29, Ex. 1(b) at 10.

1 charges \$2,000 to individuals and \$2,700 for a couple for the Administrative Repudiation
2 process.³⁰

3 Hansen invites customers to review his programs so they can start their own war with the
4 IRS.³¹ Defendant's customers are located throughout the United States, and their participation
5 has resulted in their illegally failing to file appropriate federal income tax returns, failing to have
6 the proper amount of federal income taxes withheld from wages, and failing to pay their federal
7 tax liabilities.³²

8 Hansen is aware that courts have rejected his positions relating to the federal tax laws and
9 blames those decisions on a conspiracy by the judiciary to protect the federal income tax.³³ The
10 IRS has notified Defendant that his program is under investigation, and that his conduct is
11 subject to penalty under IRC §§ 6700 and 6701 and subject to injunction under IRC §§ 7402 and
12 7408.³⁴ Notwithstanding this notice, Hansen continues to market his programs and interfere with
13 the administration and enforcement of the federal tax laws.³⁵

14 On May 2, 2005, the United States filed this action against Defendant seeking to enjoin
15 Hansen from: promoting programs that advise or encourage customers to violate the tax laws
16 and evade assessment or collection of their federal tax liabilities; making false or fraudulent
17 statements about the securing of any tax benefit by reason of participating in any plan or
18 arrangement; engaging in conduct subject to penalty under 26 U.S.C. §§ 6700 and 6701;
19 engaging in conduct that interferes with the administration and enforcement of the internal
20 revenue laws; and engaging in any activity subject to penalty under the IRC.

21 On June 9, 2005, Hansen filed an Answer and a Motion to Dismiss for Failure to State a
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23 ³⁰ Gordon Decl. ¶ 29, Ex. 1(b) at 11.

24 ³¹ Gordon Decl. ¶ 28, Ex. 1(a) at 7.

25 ³² Henline Decl. ¶ 7; Gordon Decl. ¶ 21, 25-26.

26 ³³ Cantrell Decl. ¶ 4, Ex. 2(d) at 427, 429.

27 ³⁴ Answer at 29.

28 ³⁵ Gordon Decl. ¶ 27.

1 Claim Upon Which Relief Can Be Granted and Other Matters. The Court denied Hansen's
2 motion to dismiss in an order dated July 26, 2005. Plaintiff subsequently filed a motion to strike
3 Defendant's jury demand. This Court granted the motion in an order dated October 4, 2005.
4 Hansen then filed a second motion to dismiss and a request for judicial notice, which this Court
5 denied in an order dated February 9, 2006.

6 Before the Court are the following motions: Plaintiff's motion for summary judgment;
7 Plaintiff's motion for default judgment based on Defendant's refusal to comply with Court
8 orders requiring him to respond to questions at his deposition; Defendant's motion for leave to
9 file a cross-complaint; Defendant's motion to dismiss; and Defendant's motion to stay.

10 DEFENDANT'S MOTIONS

11 I. Defendant's Petition to Chief Justice for Leave of Court to File Cross Complaint

12 Defendant attempted to file a cross complaint in this action. This Court rejected the
13 document in a discrepancy order dated April 5, 2006 because the scheduling order in this action
14 required motions for leave to file additional pleadings to be filed by September 30, 2005. (Dock.
15 No. 75.) Defendant has filed a document entitled, "Petition to Chief Justice for Leave of Court
16 to file Cross Complaint." The Court construes the document as a motion for leave to file a cross
17 complaint.³⁶ In this motion, Defendant argues the Court erred in rejecting his cross complaint,
18 the rejection was arbitrary and unreasonable, and contends that the cross complaint implicates
19 the undersigned and therefore should be decided by the Chief Justice. Defendant further argues
20 the Magistrate Judge has no authority to set deadlines in this action.

21 As an initial matter, the Court finds it can properly rule on this motion. *See United States*
22 *v. Studley*, 783 F.2d 934, 940 (9th Cir. 1986) ("A judge is not disqualified by a litigant's suit or
23 threatened suit against him."). Second, as this Court has stated, the Magistrate Judge has the
24 authority to issue scheduling orders. 28 U.S.C. § 636(b)(1)(A).

25 Because the deadline for filing motions for leave to file additional pleadings has passed,
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27 ³⁶ Defendant also filed an *ex parte* application requesting the Court defer consideration of
28 this motion until after this Court rules on Defendant's motion for leave to file a cross complaint.
That *ex parte* application is **DENIED AS MOOT**.

1 Defendant must establish “good cause” under Federal Rule of Civil Procedure 16(b). See
2 *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294 (9th Cir. 2000); *Johnson v. Mammoth*
3 *Recreations, Inc.*, 975 F.2d 604, 607-08 (9th Cir. 1992). Rule 16(b)’s “good cause” inquiry
4 “primarily considers the diligence of the party seeking the amendment.” *Johnson*, 975 F.2d at
5 609; *Coleman*, 232 F.3d at 1294. Defendant has not presented any reasons why he could not
6 have timely sought leave to file a cross complaint. Accordingly, his motion is **DENIED**.
7 Should Defendant persist in pursuing the cross complaint’s claims in a new action, he is advised
8 that although the complaints and documents submitted by *pro se* litigants are read liberally, *pro*
9 *se* litigants are bound by Federal Rule of Civil Procedure 11, which “provides for the imposition
10 of sanctions when a [document filed with the court] is frivolous, legally unreasonable, or without
11 factual foundation, or is brought for an improper purpose.” *Warren v. Guelker*, 29 F.3d 1386,
12 1388, 1390 (9th Cir. 1994).

13 **II. Defendant’s “Petition to Dismiss”**

14 Defendant has filed a Petition to Dismiss,³⁷ which this Court construes as a motion to
15 dismiss. The hearing date on the motion is June 26, 2006. Defendant argues this case must be
16 dismissed under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction.
17 The gravamen of his motion requests the Court to order Plaintiff to provide information showing
18 the law that “expressly” extends enforcement of federal tax laws to the 50 states in the Union.

19 Having reviewed the motion, the Court finds no additional briefing is necessary. First,
20 the motion was filed beyond the motion cutoff date set in the scheduling order and Defendant
21 has not shown good cause under Rule 16(b) why he could not have filed this motion earlier.
22 Second, Defendant’s motion does not present a viable basis for dismissing this case for lack of
23 subject matter jurisdiction. As discussed below, courts have repeatedly found the IRC is not
24 limited to federal enclaves. *In re Becraft*, 885 F.2d 547, 548 n.2 (9th Cir. 1989); *United States v.*
25 *Sloan*, 939 F.2d 499, 501 (7th Cir. 1991). Accordingly, Defendant’s motion to dismiss is
26 **DENIED**.

27
28 ³⁷ Defendant also filed a Petition to Stay this action pending ruling on his motion to
dismiss. Defendant’s motion to stay is **DENIED AS MOOT**.

1 **PLAINTIFF'S SUMMARY JUDGMENT MOTION**

2 **I. Applicable Law Regarding Summary Judgment Motions**

3 Federal Rule of Civil Procedure 56 empowers the court to enter summary judgment on
4 factually unsupported claims or defenses. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 327
5 (1986). Summary judgment is appropriate “if the pleadings, depositions, answers to
6 interrogatories, and admissions on file, together with the affidavits, if any, show that there is no
7 genuine issue as to any material fact and that the moving party is entitled to judgment as a matter
8 of law.” Fed. R. Civ. P. 56(c). A fact is material when, under the substantive governing law, it
9 affects the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986);
10 *Freeman v. Arpaio*, 125 F.3d 732, 735 (9th Cir. 1997).

11 The party moving for summary judgment bears the initial burden of establishing the
12 absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323. If the moving party does
13 not have the burden of proof at trial, it may carry its initial burden by “produc[ing] evidence
14 negating an essential element of the nonmoving party’s case, or, after suitable discovery, the
15 moving party may show that the nonmoving party does not have enough evidence of an essential
16 element of its claim or defense to carry its ultimate burden of persuasion at trial.” *Nissan Fire &*
17 *Marine Ins. Co., v. Fritz Cos.*, 210 F.3d 1099, 1106 (9th Cir. 2000). When the moving party
18 bears the burden of proof on an issue — whether on a claim for relief or an affirmative defense
19 — the party “must establish beyond peradventure *all* of the essential elements of the claim or
20 defense to warrant judgment in its favor.” *Fontenot v. Upjohn Co.*, 780 F.2d 1190, 1194 (5th
21 Cir. 1986); *see S. Cal. Gas Co. v. City of Santa Ana*, 336 F.3d 885, 889 (9th Cir. 2003).

22 If the moving party fails to discharge its initial burden of production, summary judgment
23 must be denied and the court need not consider the nonmoving party’s evidence, even if the
24 nonmoving party bears the burden of persuasion at trial. *Adickes v. S.H. Kress & Co.*, 398 U.S.
25 144, 159-60 (1970); *Nissan Fire*, 210 F.3d at 1102-03. When the moving party carries its initial
26 burden of production, the nonmoving party cannot “rest upon mere allegation or denials of his
27 pleading.” *Anderson*, 477 U.S. at 256. Rather, the non-movant must “go beyond the pleadings
28 and by her own affidavits, or by the depositions, answers to interrogatories, and admissions on

1 file, designate specific facts showing that there is a genuine issue for trial.” *Celotex*, 477 U.S. at
2 324 (internal quotations omitted); *Anderson*, 477 U.S. at 256; *Nissan Fire*, 210 F.3d at 1103.

3 **II. Discussion**

4 **A. Defendant’s Jurisdictional Defenses**

5 The Court notes that in opposition to the motion for summary judgment, Defendant raises
6 challenges to this Court’s subject matter jurisdiction over this action and personal jurisdiction
7 over the Defendant. He also contends he is not a proper party to this suit and argues that
8 exhaustion of remedies is required prior to maintenance of this suit. Defendant raised these
9 arguments in his motions to dismiss the Complaint, and this Court rejected them as a matter of
10 law. Defendant’s opposition brief is no more persuasive, and therefore the Court finds those
11 arguments do not bar summary judgment in Plaintiff’s favor.

12 **B. Defendant’s Evidence**

13 In opposition to this summary judgment motion, Defendant attempts to create triable
14 issues of material fact as to whether he in fact engaged in activity prohibited under IRC §§ 6700
15 and 6701. In so doing, he submitted an “Affidavit of Material Facts” in which he discusses his
16 role in SEDM, Family Guardian, his websites, his PayPal account activities, the nature of his
17 speech, and his IRS response letters. This evidence is not properly before the Court.

18 In an order dated October 28, 2005, the Honorable Nita L. Stormes granted Plaintiff’s
19 motion to compel and ordered Defendant to submit to a deposition no later than November 30,
20 2005. (Dock. No. 41.) The order further required Defendant to answer the questions asked
21 (subject to appropriate privileges). *Id.* The order also admonished Defendant that failure to
22 comply with the terms of the Order would be grounds for sanctions. *Id.* Nevertheless, at
23 Defendant’s deposition, Defendant failed to answer questions regarding the
24 www.famguardian.org and www.sedm.org websites and his relationship to those websites, his
25 residence, his phone number, the IRS response letters, as well as other questions relevant to
26 Plaintiff’s claims. (*See* Dock. Nos. 50, 62.) Plaintiff filed another motion to compel that was
27 granted. In an order dated January 26, 2006, the Honorable Cathy Ann Bencivengo sanctioned
28 Defendant in the amount of \$1400, ordered Defendant’s deposition reconvene, and warned that

1 “[f]urther refusal to answer questions will result in Defendant being prohibited from introducing
2 evidence on the subjects that he refuses to answer and may result in a default judgment being
3 entered against him.” (Dock. No. 62.) Plaintiff noticed Defendant’s deposition for February 7,
4 2006, but Defendant failed to appear.

5 Given his willful refusal to respond to questioning at a deposition on issues pertaining to
6 Plaintiff’s claims, Defendant cannot now attempt to raise triable issues of material fact as to
7 those causes of action for purposes of avoiding summary judgment. *Cf. Hambleton Bros.*
8 *Lumber Co. v. Balkin Enters. Inc.*, 397 F.3d 1217, 1225 (9th Cir. 2005) (“Under our ‘sham’
9 affidavit rule, ‘a party cannot create an issue of fact by an affidavit contradicting his prior
10 deposition testimony.’”) (quoting *Kennedy v. Allied Mut. Ins. Co.*, 952 F.2d 262, 266 (9th
11 Cir.1991)); *Block v. City of Los Angeles*, 253 F.3d 410, 419 n.2 (9th Cir. 2001) (“A party cannot
12 create a genuine issue of material fact to survive summary judgment by contradicting his earlier
13 version of the facts.”). Accordingly, the Court declines to consider Plaintiff’s Affidavit of
14 Material Facts when reviewing the instant summary judgment motion.

15 **C. IRC §§ 6700 and 7408**

16 Congress added §§ 6700 and 7408 to the IRC as part of the Tax Equity and Fiscal
17 Responsibility Act of 1982 (“TEFRA”), Pub. L. No. 97-248, 96 Stat. 324. *United States v.*
18 *Estate Pres. Servs.*, 202 F.3d 1093, 1098 (9th Cir. 2000); *United States v. White*, 769 F.2d 511,
19 514 (8th Cir. 1985). Section 7408 “authorizes the United States to institute an action in federal
20 district court at the request of the Secretary of Treasury to ‘enjoin any person from further
21 engaging in conduct subject to penalty under section 6700.’” *United States v. Buttorff*, 563 F.
22 Supp. 450, 452 (N.D. Tex. 1983) (quoting TEFRA); *White*, 769 F.2d at 514. If the court
23 determines that the defendant has engaged in conduct proscribed by § 6700 “and that injunctive
24 relief is appropriate to prevent its recurrence, then the court may enjoin the defendant from
25 engaging in it or in any other activity subject to penalty under section 6700.” *White*, 769 F.2d at
26 514-15.

27 Congress intended § 6700 to be a “penalty provision specifically directed toward
28 promoters of abusive tax shelters *and other abusive tax avoidance schemes.*” *Id.* (quoting

1 *United States v. Savoie*, 594 F. Supp. 678, 680 (W.D. La. 1984)). To establish a violation of
2 IRC § 6700 warranting an injunction under IRC § 7408, the United States must prove
3 Defendant: (1) organized or sold, or participated in the organization or sale of an entity, plan, or
4 arrangement; (2) made or caused to be made false or fraudulent statements concerning the tax
5 benefits to be derived from the entity, plan or arrangement; (3) knew or had reason to know that
6 the statements were false or fraudulent; (4) the false or fraudulent statements pertained to a
7 material matter; and (5) an injunction is necessary to prevent recurrence of this conduct. *Estate*
8 *Pres.*, 202 F.3d at 1098; *United States v. Raymond*, 228 F.3d 804, 811 (7th Cir. 2000).

9 **1. Whether Defendant Organized or Sold, or Participated in the**
10 **Organization or Sale of an Entity, Plan or Arrangement**

11 “Under § 6700 any ‘plan or arrangement’ having some connection to taxes can serve as a
12 ‘tax shelter’ and will be an ‘abusive’ tax shelter if the defendant makes the requisite false or
13 fraudulent statements concerning the tax benefits of participation.” *Raymond*, 228 F.3d at 811.
14 This statute is “‘broad enough to include a tax protestor group.’” *Id.* (quoting *United States v.*
15 *Kaun*, 827 F.2d 1144, 1148 (7th Cir. 1987)); *United States v. Cohen*, No. C04-0332P, 2005 WL
16 1491978, at *4 (W.D. Wash. May 13, 2005) (stating that “a defendant need not be operating a
17 traditional investment tax shelter to run afoul of § 6700, but that the organization or participation
18 in a tax protestor scheme or group, which is based on false or fraudulent conceptions of the U.S.
19 Tax Code, will suffice”).

20 The evidence before the Court establishes Defendant has sold a plan or arrangement
21 under the terms of the statute. Hansen promotes programs advising customers on how to avoid
22 paying federal taxes, including response letters to be used by persons who have been contacted
23 by the IRS.³⁸ The prices for these guides range from \$10 to \$40, and some documents he offers
24 for free.³⁹ Defendant also markets a “Citizenship Administrative Repudiation” program in
25 which his customers purportedly give up their “U.S. citizenship,” but retain or claim “American
26

27 ³⁸ Gordon Decl. ¶¶ 6, 13-14; Cantrell Decl. ¶¶ 3, 5, Exs. 2(b), (f)-(l).

28 ³⁹ Gordon Decl. ¶ 6.

1 National citizenship.”⁴⁰ Hansen states that as a result of the Administrative Repudiation, the
2 customer will no longer be liable for federal income tax.⁴¹ He charges \$2,000 to individuals and
3 \$2,700 for a couple for the Administrative Repudiation process.⁴² These programs are marketed
4 through word-of mouth, live seminars, and his websites www.famguardian.org and
5 www.sedm.org.⁴³

6 **2. Whether Defendant Made False or Fraudulent Statements Concerning**
7 **the Tax Benefits to be Derived from the Entity, Plan or Arrangement**

8 The evidence before the Court establishes that Defendant’s programs make false and
9 fraudulent statements to customers by advising them they are not obligated to pay federal income
10 taxes. In particular, Defendant tells customers the IRC applies only within a “federal zone;”⁴⁴
11 federal income taxes only apply to federal officers, federal employees, and elected federal
12 officials;⁴⁵ payment of income taxes is voluntary;⁴⁶ income does not include wages, salaries,
13 commissions, or tips;⁴⁷ wages cannot be taxed;⁴⁸ and W-4 forms do not apply to federal income
14 taxes and only federal employees or federal officeholders need to complete Form W-4.⁴⁹

15 None of these arguments have ever been recognized as legitimately insulating individuals
16 from federal taxation, but instead have been repeatedly rejected by the courts. Courts have, on
17 numerous occasions, concluded that the IRC imposes a tax on all income, wages are income,
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19 ⁴⁰ Cantrell Decl. ¶¶ 2, 5, Ex. 2(a) at 28-47, Ex. 2(c) at 406; Ex. 2(m) at 583; Gordon
Decl. ¶ 29, Ex. 1(b) at 8, 10-11.

20 ⁴¹ Gordon Decl. ¶ 29, Ex. 1(b) at 10.

21 ⁴² Gordon Decl. ¶ 29, Ex. 1(b) at 11.

22 ⁴³ Gordon Decl. ¶¶ 7, 12.

23 ⁴⁴ Cantrell Decl. ¶¶ 3, 5, Ex. 2(b) at 286, Ex. 2(e) at 466.

24 ⁴⁵ *Id.* ¶ 5, Ex. 2(e) at 466, Ex. 2(g) at 520-23, Ex. 2(h) at 527-30.

25 ⁴⁶ *Id.* ¶ 5, Ex. 2(e) at 494.

26 ⁴⁷ *Id.* ¶ 5, Ex. 2(e) at 504.

27 ⁴⁸ *Id.* ¶ 5, Ex. 2(e) at 507.

28 ⁴⁹ *Id.* ¶ 5, Ex. 2(i) at 534-38.

1 paying taxes is not voluntary, and paying taxes is not limited to federal enclaves or federal
2 employees. *Becraft*, 885 F.2d at 548 n.2; *Wilcox v. Comm'r of Internal Revenue*, 848 F.2d 1007,
3 1008 (9th 1988); *Sloan*, 939 F.2d at 500-01. The Sixteenth Amendment to the United States
4 Constitution authorizes the United States Congress to impose a federal income tax on citizens
5 and residents of the United States. *Wilcox*, 848 F.2d at 1008 n.3. "Like it or not, the Internal
6 Revenue Code is the law." *Ryan v. Bilby*, 764 F.2d 1325, 1328 (9th Cir. 1985).

7 Defendant's "Citizenship Administrative Repudiation Program" falsely claims it is
8 possible to renounce one's citizenship to the United States for purposes of avoiding federal
9 income tax liability. Numerous courts have refused to accept the argument that individuals can
10 reject United States citizenship in order to relieve themselves of their federal income tax
11 liabilities. *See, e.g., Sloan*, 939 F.2d at 500-01; *United States v. Gerads*, 999 F.2d 1255, 1256
12 (8th Cir. 1993); *United States v. Price*, 798 F.2d 111, 113 (5th Cir. 1986). "All individuals,
13 natural or unnatural, must pay federal income tax on their wages,' regardless of whether they
14 requested, obtained or exercised any privilege from the federal government." *Sloan*, 939 F.2d at
15 500 (quoting *Lovell v. United States*, 755 F.2d 517, 519 (7th Cir. 1984)).

16 **3. Whether Defendant Knew or Had Reason to Know that the Statements**
17 **Were False or Fraudulent**

18 "The United States is not required to establish that defendants acted with subjective bad
19 faith." *United States v. Ratfield*, No. 01-8816-CIV-MARRA, 2004 WL 3174420, at *18 (S.D.
20 Fla. Nov. 30, 2004). Congress expressly provided a promoter or seller is subject to penalties if
21 he "knows or has reason to know" that his statements are false or fraudulent. *Id.* TEFRA's
22 legislative history indicates the "knows or has reason to know" standard "includes what a
23 reasonable person in the [defendant's] . . . subjective position would have discovered." *Estate*
24 *Pres.*, 202 F.3d at 1103 (internal quotations omitted) (alteration in original). This standard
25 "allow[s] imputation of knowledge so long as it is commensurate with the level of
26 comprehension required by the speaker's role in the transaction." *Id.* (internal quotations
27 omitted) (alteration in original).

28 The evidence before the Court conclusively establishes that Defendant knows or should

1 know that the theories under which he urges others to avoid paying federal income taxes are
2 false or fraudulent. Defendant's websites state Defendant has researched the tax code. This
3 research would have revealed the well-established law discussed above requiring payment of
4 federal income taxes by all citizens and residents of the United States. Further, in his publication
5 "The Great IRS Hoax," Defendant admits that courts have rejected his views on the federal tax
6 laws.⁵⁰ Accordingly, the Court finds the knowledge element is satisfied.

7 **4. Whether Defendant's False or Fraudulent Statements Pertained to a**
8 **Material Matter**

9 Statements regarding the availability of credits, deductions, or other means for reducing
10 tax liability are material. *United States v. Estate Pres. Servs.*, 38 F. Supp. 2d 846, 855 (E.D. Cal.
11 1998), *aff'd* 202 F.3d 1093 (9th Cir. 2002). The Court finds Defendant's statements are material
12 because they "would have a substantial impact on the decision-making process" of an individual
13 regarding his or her tax liability. *See United States v. Campbell*, 897 F.2d 1317, 1320 (5th Cir.
14 1990). Further, although it is not necessary for the government to prove taxpayer reliance, there
15 is evidence before the Court that numerous individuals have filed frivolous tax returns and anti-
16 tax correspondence using Defendant's materials.⁵¹ For these reasons, the materiality prong is
17 met.

18 **5. Whether an Injunction is Necessary to Prevent Recurrence of this**
19 **Conduct**

20 Because IRC § 7408 sets forth the criteria for injunctive relief, the United States need
21 only meet those criteria, without reference to the traditional equitable factors, for an injunction to
22 issue under this section. *Estate Pres.*, 202 F.3d at 1098. In determining the need for an
23 injunction, courts consider the following factors:

24 (1) the gravity of the harm caused by the offense; (2) the extent of the defendant's
25 participation; (3) the defendant's degree of scienter; (4) the isolated or recurrent
26 nature of the infraction; (5) the defendant's recognition (or non-recognition) of his
own culpability; and (6) the likelihood that defendant's occupation would place

27 ⁵⁰ Cantrell Decl. ¶ 4, Ex. 2(d) at 427, 429.

28 ⁵¹ Gordon Decl. ¶ 21.

1 him in a position where future violations could be anticipated.

2 *Id.* at 1105; *accord United States v. Schiff*, 379 F.3d 621, 625 (9th Cir. 2004).

3 Having reviewed the record, the Court finds consideration of these factors mandates an
4 injunction be issued. Defendant's programs are advertised throughout the country, and have
5 resulted in numerous persons illegally failing to file appropriate federal income tax returns,
6 failing to have the proper amount of federal income taxes withheld from their wages, and failing
7 to pay their federal tax liabilities.⁵² Although advised his programs are under investigation,
8 Defendant has continued to market his programs.⁵³ Further, his materials indicate he is
9 effectively "at war" with the IRS and encourages others to use his materials to do the same.⁵⁴
10 There is no indication that absent court order that Defendant will cease his activities.

11 Accordingly, the Court finds an injunction is warranted.

12 **D. IRC §§ 6701 and 7408**

13 To obtain an injunction under IRC § 7408 based on a violation of IRC § 6701, the United
14 States must prove: (1) the defendant prepares, assists in, procures, or advises the preparation of
15 any portion of a return, affidavit, claim, or other document; (2) the defendant knows (or has
16 reason to believe) that such portion will be used in connection with any material matter arising
17 under the internal revenue laws; (3) the defendant knows that such portion (if so used) would
18 result in an understatement of the liability for tax of another person; and (4) an injunction is
19 necessary prevent a recurrence of this conduct. 26 U.S.C. §§ 6701, 7408.

20 The evidence before the Court establishes the elements of an IRC § 6701 violation. In
21 particular, the evidence establishes Hansen aids and assists his customers in preparing false or
22 fraudulent income tax returns. His websites provide sample returns and instructions, as well as
23 letters for clients to use when they get audited. For the reasons discussed above, the Court finds
24 the evidence shows Defendant knows or has reason to know that his advice and documents will

26 ⁵² *Id.* ¶ 26.

27 ⁵³ *Id.* ¶ 27.

28 ⁵⁴ *Id.* ¶ 28, Ex. 1(a) at 7.

1 be used in a material matter — the filing of false or fraudulent income tax returns — and will
2 result in his customers' understatement of tax liability. The Court further finds, for the reasons
3 discussed above, that an injunction is warranted to prevent recurrence of this conduct.

4 **E. IRC § 7402**

5 IRC § 7402 authorizes district courts to issue injunctions as may be necessary or
6 appropriate for the enforcement of internal revenue laws. 26 U.S.C. § 7402(a); *United States v.*
7 *Ernst & Whinney*, 735 F.2d 1296, 1300 (11th Cir. 1984). Congress has expressly stated that
8 injunctive relief under IRC § 7402(a) is “in addition to and not exclusive of any and all other
9 remedies.” *See* IRC § 7402(a). In *Ernst* the Eleventh Circuit held, however, that for an
10 injunction to issue under IRC § 7402(a) the United States must meet the traditional equitable
11 standard for an injunction. *Ernst*, 735 F.2d at 1301 (“the decision to issue an injunction under §
12 7402(a) is governed by the traditional factors shaping the use of the equitable remedy.”). Those
13 factors are: (1) the likelihood of continuing irreparable injury to the United States, (2) the harm
14 to the defendant, (3) success on the merits of the case, and (4) the public interest. *United States*
15 *v. Harkins*, 355 F. Supp. 2d 1175, 1181 (D. Or. 2004).

16 Considering these four factors, the Court finds an injunction under IRC § 7402 is
17 appropriate. Plaintiff is sustaining irreparable harm in the form of lost revenue from Hansen's
18 customers who either fail to file income tax returns or file income tax returns that illegally seek a
19 refund or misrepresent the customer's tax liability. Further, Defendant will not sustain any
20 irreparable harm by being required to obey the law. Third, Plaintiff has prevailed in its claims,
21 and finally, the public interest in prohibiting the Defendant from selling illegal and invalid tax
22 avoidance programs is great.

23 As part of its injunctive relief under IRC § 7402, the Government requests the Defendant
24 be required to: (1) furnish the Government with the identities of those persons who have
25 purchased his abusive tax programs, and to notify those customers of this Court's ruling in this
26 matter; (2) remove false and fraudulent tax promotional materials from his websites; and (3) post
27 a copy of the Court's injunction order on those websites. The Court will address each of these
28 provisions in turn.

1 **1. Identities and Notification of Customers**

2 Plaintiff requests the Defendant be ordered to produce the identities of his customers and
3 notify those customers of the Court’s ruling in this case. The record establishes the Government
4 has had to devote significant resources to identifying and preventing revenue lost due to
5 individuals using Defendant’s programs to avoid paying income tax. In particular, the IRS has
6 received “a voluminous amount of frivolous tax returns and anti-tax correspondence from
7 individuals across the United States who are utilizing Hansen’s materials.”⁵⁵ The IRS has
8 completed audits for 72 of Defendant’s customers, resulting in additional tax assessments of
9 \$1,049,654, exclusive of interest and penalties.⁵⁶

10 Based on this evidence, the Court concludes that “knowing the identities of Defendant[’s]
11 customers will assist the IRS in identifying frivolous returns and determining whether any
12 erroneous refunds have been issued.” *United States v. Hill*, No. CV-05-877-PHX-DGC, 2005
13 WL 3536118, at *7 (D. Ariz. 2005). Accordingly, the Court will order Defendant to disclose to
14 Plaintiff the identities of any individuals who have purchased Defendant’s abusive tax programs,
15 and to notify those customers of this Court’s ruling in this case.

16 **2. Removing the False Advertising from the Website**

17 “Fraudulent commercial speech may be enjoined” without running afoul of the First
18 Amendment. *Schiff*, 379 F.3d at 630; *Estate Pres.*, 202 F.3d at 1106. “An advertisement is
19 fraudulent when it misleads customers about the benefit of the offered product.” *Schiff*, 379
20 F.3d at 630. Defendant contends his speech is “exclusively religious” and comprised of
21 “political statements that are factual, not actionable.”⁵⁷ The Court disagrees. As discussed
22 above, Defendant’s websites promote the view that payment of federal income taxes is
23 voluntary, that wages are not income, the IRC applies only to federal enclaves, and that only
24 federal officers, employees, and elected federal officials are subject to federal taxation.

25
26 ⁵⁵ Gordon Decl. ¶ 21; Henline Decl. ¶¶ 5-7.

27 ⁵⁶ Henline Decl. ¶ 10.

28 ⁵⁷ Opp’n Br. At 9.

1 “Although these claims are far-fetched, they could mislead a customer into believing that he or
2 she could use [Defendant’s] products to legally stop paying income taxes.” *Id.* Defendant’s
3 promotional activities are properly considered commercial speech, and can be regulated as such.
4 *See Schiff*, 379 F.3d at 626-30. The Court will therefore order Defendant to remove from his
5 websites all advertising for his fraudulent tax programs. *See id.*; *Hill*, 2005 WL 3536118, at *6.

6 3. Posting a Copy of the Court’s Ruling

7 “In a commercial setting, such as a website that sells products, the government must be
8 able to regulate content to prevent the deception of customers.” *Schiff*, 379 F.3d at 631. Further,
9 “mandated disclosure of factual, commercial information does not offend the First Amendment.”
10 *Id.* The Ninth Circuit recently affirmed a district court’s order requiring defendants to post an
11 order preliminarily enjoining the defendants from promoting their “zero-income” tax theories on
12 the defendants’ website. *Id.* The Court finds that because Defendant has been offering
13 fraudulent tax services on his websites that could expose customers to penalties, requiring
14 Defendant to post a copy of this Court’s permanent injunction order on his websites is
15 warranted. *See id.*; *Hill*, 2005 WL 3536118, at *7.

16 ORDER OF PERMANENT INJUNCTION

17 As discussed above, based on the Court’s factual and legal findings, the following
18 permanent injunction is entered against the Defendant under IRC §§ 6700, 6701, 7408, and
19 7402(a).

20 **IT IS HEREBY ORDERED** that Defendant, individually, and doing business as or
21 through any other entity, and other persons in active concert or participation with him, are
22 permanently enjoined from directly or indirectly:

23 (1) Organizing, promoting, advertising, marketing, or selling (or assisting therein) any tax
24 shelter, plan or arrangement that advises or encourages customers to attempt to violate the
25 internal revenue laws or unlawfully evade the assessment or collection of their federal tax
26 liabilities;

27 (2) Making false or fraudulent statements about the securing of any tax benefit by the
28 reason of participating in any plan or arrangement, including the false statements that only

1 Defendant's products.

2 b. Within 21 days of the date this Order is stamped "Filed," Defendant must place
3 this Order, in its entirety, on his websites www.famguardian.org and www.sedm.org.

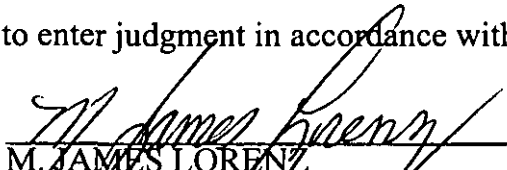
4 c. Within 21 days of the date this Order is stamped "Filed," Defendant shall
5 provide a copy of this Order to his current and former customers for which he has contact
6 information.

7 6. In light of the Court's order finding summary judgment appropriate, Plaintiff's motion
8 for default judgment is **DENIED WITHOUT PREJUDICE AS MOOT** [dock. no. 64].

9 The Clerk of the Court is directed to enter judgment in accordance with this Order.

10 **IT IS SO ORDERED.**

11 Dated: 5/31/06


M. JAMES LORENZ
UNITED STATES DISTRICT JUDGE

12 COPY TO:

13 HON. CATHY ANN BENCIVENGO
14 UNITED STATES MAGISTRATE JUDGE

15 ALL PARTIES/COUNSEL
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1 federal workers are subject to the Internal Revenue Code, workers need not submit accurate W-4
2 forms, and that United States citizens are not liable for federal income taxes.

3 (3) Encouraging, instructing, advising, and assisting others to violate the tax laws,
4 including the evasion of assessment and payment of taxes;

5 (4) Engaging in conduct subject to penalty under 26 U.S.C. § 6700, *i.e.*, making or
6 furnishing, in connection with the organization or sale of a shelter, plan, or arrangement, a
7 statement the Defendant knows or has reason to know to be false or fraudulent as to any material
8 matter under the federal tax laws;

9 (5) Engaging in conduct subject to penalty under 26 U.S.C. § 6701, *i.e.*, preparing or
10 assisting others in the preparation of any tax forms or other documents to be used in connection
11 with any material matter arising under the internal revenue laws and which the Defendant knows
12 (or has reason to believe) will (if so used) result in the understatement of tax liability; and

13 (6) Engaging in any conduct that interferes with the administration and enforcement of
14 the internal revenue laws, including encouraging and assisting customers in disrupting or
15 delaying IRS examination of their tax liabilities.

16 CONCLUSION

17 Having reviewed the record and applicable law, **IT IS HEREBY ORDERED:**

18 1. Defendant's *ex parte* application to extend ruling is **DENIED AS MOOT**.

19 2. Defendant's motion for leave to file a cross complaint is **DENIED** [dock. no. 77].

20 3. Defendant's motion to stay is **DENIED AS MOOT** [dock. no. 85].

21 4. Defendant's motion to dismiss is **DENIED** [dock. no. 81].

22 5. Plaintiff's motion for summary judgment is **GRANTED**, and a permanent injunction
23 is entered against the Defendant under IRC §§ 6700, 6701, 7408, and 7402 as stated above
24 [dock. no. 67]. **IT IS FURTHER ORDERED** under 26 U.S.C. § 7402 that:

25 a. Within 21 days of the date this Order is stamped "Filed," Defendant shall
26 produce to the United States all records in his possession, custody, or control or to which he has
27 access that identify the names, addresses, e-mail addresses, phone numbers, and social security
28 numbers (or employer identification numbers) of persons or entities who purchased any of