

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:04-cv-07403
)	
Plaintiff,)	Judge Samuel Der-Yeghiayan
)	
v.)	
)	
WILLIAM J. BENSON,)	
)	
Defendant.)	
_____)	

MOTION FOR ORDER TO SHOW CAUSE RE CONTEMPT

Comes now Defendant, William J. Benson (hereinafter “Benson”), by and through his undersigned attorney of record, who moves the court for an order requiring Internal Revenue Service Revenue Agent Joseph Conroy, his Group Manager, Sam Anderson, and anyone else acting in concert or privity with them, to show cause why they should not be held in contempt for resistance to, and deliberate defiance of, the Court’s order dated December 17, 2007 (Docs. 105 and 106) specifically holding the United States was not entitled to the names, addresses, social security numbers, telephone numbers or e-mail addresses of those persons who may have purchased, or otherwise received, the 16th Amendment Reliance Packages. In support of said motion, Benson makes the following showing:

1. The complaint filed in this action sought an injunctive order compelling from Benson the production of the names, addresses, social security numbers, telephone numbers and e-mail addresses of the persons to whom Benson gave or sold, directly or indirectly, “The Reliance Defense Package.” (Doc. 1, pp. 7-8).

2. The real party in interest in the litigation is the Internal Revenue Service. The

cause of action arose under the Internal Revenue Code, and the action was requested by the Chief Counsel of the Internal Revenue Service. (Doc. 1, p. 2, ¶ 2). Affidavits were filed by employees of the Internal Revenue Service (Docs. 40, 41 and 42), and the case was prosecuted by the Tax Division of the Department of Justice. The Internal Revenue Service was the client being represented by the Tax Division.

3. The right to the information requested by the Internal Revenue Service was fully litigated. A final order was issued by the Court that unequivocally held the Internal Revenue Service was not entitled to the requested information. (Docs. 105 and 106). Final judgment was entered on January 10, 2008. (Doc. 117).

4. The Internal Revenue Service filed a motion to alter or amend the judgment. The motion asked the Court to order Benson to provide the requested information. (Doc. 119). The motion was denied. (Doc. 137).

5. Robert Metcalfe, attorney for the Internal Revenue Service, admits he notified the Internal Revenue Service of the existence of the Court's order holding that Benson was not required to provide the requested information. Robert Metcalfe also admits he did not counsel his client to issue the administrative summons. (See Declaration of Jeffrey A. Dickstein).

6. Internal Revenue Service Agent Joseph Conroy admits he had actual knowledge of the Court's order holding that Benson was not required to provide the requested information to the Internal Revenue Service. (See Declaration of Jeffrey A. Dickstein).

7. Notwithstanding actual knowledge of the Court's order, on February 14, 2008, Internal Revenue Service Agent Joseph Conroy, acting in concert with his Group Manager, Sam Anderson, issued an Internal Revenue Service administrative summons, a copy of which is

attached hereto as Exhibit A, and caused the summons to be personally served on Benson.

8. The administrative summons requires Benson to produce to the Internal Revenue Service the identical documentation that the Court held the Internal Revenue Service was precluded from obtaining.

9. The actions of Joseph Conroy and Sam Anderson in issuing and serving the Internal Revenue Service is an intentional, knowing and wilful disobedience or resistance to the Court's lawful writ, process, order, rule, decree, or command, and is punishable by contempt pursuant to 18 U.S.C. § 401(3).

WHEREFORE, Benson moves this Court to issue an order to show cause directed to Revenue Agent Joseph Conroy, his Group Manager, Sam Anderson, and anyone acting in concert with them, to show cause why they should not be held in contempt for their intentional, knowing and wilful disobedience or resistance to the aforesaid mentioned Court order.

Dated: February 21, 2008.

/s/ Jeffrey A. Dickstein
Jeffrey A. Dickstein
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CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2008, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney for the Plaintiff, Robert D. Metcalfe.

/s/ Jeffrey A. Dickstein