

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil No. _____
)	
CHARLES CONCES, individually and)	
d/b/a the LAWMEN, an unincorporated)	
organization,)	
)	
Defendant.)	

Plaintiff, the United States of America, states as follows for its complaint against defendant Charles Conces, individually and doing business as the Lawmen, an unincorporated organization:

Jurisdiction and Venue

1. This Court has jurisdiction over this action to enjoin Conces from violating and interfering with the administration of the internal revenue laws pursuant to 28 U.S.C. §§ 1340 and 1345 and Internal Revenue Code (I.R.C.) (26 U.S.C.) § 7402(a).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396 because Conces resides in this judicial district.

Nature of the Action

3. This is a civil action brought by the United States of America pursuant to I.R.C. §§ 7402 and 7408 to enjoin Conces, individually and d/b/a the Lawmen, an unincorporated organization, and all those in active concert or participation with him, from promoting a tax-fraud scheme, from aiding and abetting others persons' federal tax understatements, and from engaging in other conduct that interferes with the administration and enforcement of the tax laws.

4. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to the provisions of I.R.C. §§ 7402 and 7408.

5. The United States brings this action to enjoin Conces permanently from:

- (a) Organizing, promoting, marketing, or selling any abusive tax shelter, plan or arrangement that advises or encourages others to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
- (b) Engaging in conduct subject to penalty under I.R.C. § 6700, *i.e.*, by making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement that he knows or has reason to know to be false or fraudulent as to any material federal tax matter;
- (d) Engaging in conduct subject to penalty under I.R.C. § 6701, *i.e.*, by preparing or 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 Conces knows will (if so used) result in the understatement of tax liability; and
- (e) Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws, including but not limited to assisting others to file “zero income tax returns,” write frivolous letters to the IRS and others, and file frivolous lawsuits, all for the purpose of interfering with the administration of the internal revenue laws.

6. An injunction is warranted based on Conces’ continuing violation of the internal revenue laws, including engaging in conduct subject to penalty under I.R.C. §§ 6700 and 6701.

Defendants

7. Conces resides at 9523 Pine Hill Drive, Battle Creek, Michigan 49017 and, on information and belief, conducts business from that location.

8. Conces founded and serves as the “chairman” of the group called the “Lawmen.”

9. On information and belief, the Lawmen is an unincorporated organization with its principal place of business at 9523 Pine Hill Drive, Battle Creek, Michigan 49017.

Defendants’ Activities: Overview

10. Conces actively promotes a series of false and fraudulent claims about the internal revenue laws, and based on those claims he counsels and assists customers to file fraudulent tax returns, send bogus letters to the IRS and others, and engage in other conduct intended to impede the enforcement of federal tax laws.

11. Conces promotes his scheme through seminars; e-mail groups; meetings of his organization, the Lawmen; his products; an Internet bulletin board (http://groups.yahoo.com/group/national_lawman); and his sites (www.lawmenamerica.homestead.com and <http://cconces.tripod.com>).

12. Conces' websites advise and assist customers to join the Lawmen, stop filing income tax returns and/or file so-called "zero income tax returns," and purchase various products that are intended to implement his bogus tax-law theories. Conces falsely claims that customers' use of these products will defeat the assessment and collection of their federal income taxes, remove federal tax liens from their property, defeat IRS levies, and assist customers in preparing and filing lawsuits against the IRS.

13. The costs and a description of the products Conces sells on his website include but are not limited to:

Price	Product
\$25	A series of letters targeted at local property-records offices that purportedly remove tax liens;
\$25	A series of letters to revenue agents that purportedly establish a record from which the customer can initiate a criminal lawsuit;
\$25	A series of letters that demand that the IRS return tax returns to the customers;
\$25	A series of letters that purportedly expedite removal of a federal tax lien while also purportedly eliminating the sender's W-4 filings;
\$75	A set of "Statement of Facts letters" targeted at revenue agents, banks, and employers;
\$100	A "Statutes at Large study providing there is no law" that purports to explain that customers have a right to refuse to pay income taxes;
\$100	Sample lawsuit templates that customers purportedly may use to bring suit against IRS employees, local counties, and employers in United States District Court; and
\$330	A complete collection of all of Conces' materials.

The Conces Report

14. The foundation of Conces' false theories is contained in his "21 page report" ("the Conces Report"), which he distributes free of charge from various websites. A copy of the Conces Report is attached as Exhibit A.

15. The Conces Report lays out Conces' false theory that individuals are not required to pay federal income taxes.

16. The Conces Report misstates, misquotes, and mischaracterizes case law; cites overruled cases without referring to the overruling decisions; and mischaracterizes federal statutes and regulations in an effort to support Conces' false arguments.

17. The Conces Report makes, among others, the following specific false statements:

- (a) "The regulation must cite a statute, such as IRC sec. 6331, in order to have the force and effect of law and application to the general public."
- (b) "The IRS claims that the 16th Amendment to the Constitution authorizes an income tax without apportionment. Well, that is only partly true. The Amendment only applies to the corporate profits, not to an unincorporated individual or business."
- (c) "So now it can be seen that Property (a person's labor or wages), considered by itself, is not taxable."
- (d) "If a person states on a W-4 or on a '1040 form' that he had 'income', the government will oblige that statement and collect an 'income tax'. However, if a person is forced to sign a W-4 in order to support himself and his family, that W-4 is not legally valid and is compelled by fraud. Understanding that the income tax can be voluntary, is crucial to the understanding as to why it might be constitutional, that is, not authorized by the constitution but simply permitted if it is voluntarily undertaken between government and citizen."
- (e) "The individual income tax, unless it is imposed from the rule of Apportionment, falls outside the authorized taxation powers granted by the Constitution, it being a direct tax on an individual's property."
- (f) "These cases and code sections are all a person would need to be exempt from the income tax if he didn't volunteer. It can be shown that the statutes reflect the voluntary nature of the income tax. The mandatory nature of the statutes, which are listed in the Internal Revenue Code, are missing and have been missing since 1954."

- (g) “There is no statute that causes the average individual to be liable for the income tax and no regulation that implements any such alleged statute.”
- (h) “The individual federal income tax is being imposed as a direct un-apportioned tax, except in regard to corporations, which are engaged in a taxable corporate activity.”
- (I) “The individual is free to volunteer or not volunteer to pay the direct tax imposed without apportionment.”
- (j) “The individual income tax is constitutional, but only when it is apportioned.”
- (k) “The un-apportioned income tax on the individual, who lives and works in the 50 states, is not authorized by the Constitution and falls into the category of a direct tax.”
- (l) “The 16th amendment only applies to ‘income’ as defined by the US Supreme Court, as pertaining only to corporations.”
- (m) “The taxing powers of the federal government were the same after the passage of the 16th amendment as were existent before the passage.”
- (n) “The federal government cannot admit their ‘mistake’ because they have been fraudulently collecting the tax and fraudulently putting people in prison for many years.”

18. The Conces Report falsely states that the Constitution allegedly still forbids all direct taxes without apportionment, that the word “income” applies only to corporations, and that the 16th Amendment did not alter the apportionment requirement for direct taxes on individual incomes. Based on these false statements the Conces Report falsely concludes that payment of the federal income tax is solely voluntary.

19. The overall intent of the Conces Report is to promote, aid and abet non-compliance with the tax laws by means of false or fraudulent statements, which Conces knows or has reason to know are false or fraudulent.

Conces' Zero Returns

20. To implement the false positions in his Report, Conces assists, instructs, advises and encourages customers who previously filed federal income tax returns, or have had taxes withheld, to file a "zero return" as a refund demand.

21. A zero return involves filling in a "0" on most lines of a Form 1040, individual federal income tax return, in an attempt to understate tax liability and receive a refund for any amounts withheld.

22. Conces recommends that customers file these returns accompanied by a statement that he sells on his websites. A copy of this statement is attached as Exhibit B.

23. As part of an effort to understate customers' tax liabilities, the zero-return statement that Conces sells contains the following false claims:

- (a) "... I am filing even though the 'Privacy Act Notice' as contained in a 1040 booklet clearly informs me that I am not required to file. It does so in at least two places."
- (b) "Since no Code Section makes me 'liable' for income taxes, this provision notifies me that I do not have to file an income tax return."
- (c) "Obviously, since I know the legal definition of 'income' I would be committing perjury under both 18 U.S.C. 1621 and U.S.C. 7206. Therefore, not wishing to commit perjury under either statute, I can only swear to have 'zero' income for [the tax year]."

24. Conces also advises customers to prepare a zero return Form 1040X, amended federal individual income tax return, to demand refunds of previous years' taxes, and to accompany these amended returns with the same statement described above.

25. Conces' statement attached to the zero return is, on information or belief, substantially similar to the zero return attachment advocated by tax protester Irwin Schiff, the dissemination of which the District of Nevada enjoined in *United States v. Schiff*, 269 F. Supp.2d 1262 (D. Nev. 2003), *aff'd* 379 F.3d 621 (9th Cir. 2004).

26. Conces' statement attached to the zero return has been specifically rejected by the United States Tax Court in the following cases: *Copeland v. Commissioner*, 2003 WL 465348 (T.C. Feb. 25, 2003); *Fink v. Commissioner*, 2003 WL 724800 (T.C. March 4, 2003); and *Smith v. Commissioner*, 2003 WL 465250 (T.C. Feb. 23, 2003).

27. Federal courts have repeatedly held that zero returns, and statements of the sort that Conces has his customers append to their returns, are false and fraudulent.

28. Conces knows or has reason to know that zero returns and the zero-return attachments he sells are false and fraudulent and knows that they will, if used, result in understatements of customers' federal taxes.

Conces' Letter Packages

29. To further implement his theories, Conces advises customers who receive an IRS notice to purchase his packages in order to "beat" the agency. Customers' use of these packages results in their understating their tax liabilities.

30. Conces' packages include instructions, prepared letters, forms, and templates of lawsuits for customers to send to the IRS, its employees, and to federal judges, or to file in federal courts, in order frustrate the assessment and collection of federal taxes.

31. For example, Conces sells letters that demand that the local register of deeds remove properly-filed federal tax lien notices. These instructions include, among others, the following false statements:

- (a) "The 'A' letters for the County Register of Deeds, gives [sic] her notice that she has broken laws and she must correct them. If she refuses to answer (the County lawyer may advise her to remain silent, hoping you will go away or hoping that it will general lawyer fees at taxpayer expense) then you have no choice but to take her to court and sue her for damages."
- (b) "Thereafter, you can send the 'A1' letter to the Register of Deeds, referencing the default and notifying her to remove the fraudulent [Notice of Federal Tax Lien]. If she refuses, you have a basis for criminal action against her. Use the criminal letters."

32. Conces further sells his customers letters to send to the IRS asking for the name and proof of authority of an employee who can receive the returns.

33. These letters purport to be intended to establish a “paper trail” for future lawsuits and put IRS employees “on notice” of such a future lawsuit unless they comply with the customers’ frivolous demands. In fact they are designed to intimidate IRS and other government officials and to interfere unlawfully with the administration and enforcement of the internal revenue laws. Conces instructions include, but are not limited to, the following false statements:

- (a) “Make sure you do the necessary prerequisites for the lawsuit. Give the IRS agent notice of violations of law, and request his authority to be stated by affidavit. Give him sufficient opportunity to respond. The notices of non-compliance create prima facie evidence of wrongdoing.”
- (b) “You must first identify the agent who will become your target. You need names(s), title(s), employee number(s), and department name.”

34. Conces further advises and provides customers with letters to demand a “lawfully exempt W-4” from the IRS while also putting its employees “on notice” for a future lawsuit unless they comply with the customers’ frivolous demands.

35. Conces similarly advises and provides customers with letters that outline a “Statement of Facts” that will purportedly “educate” IRS employees and judges as to why they are not liable for federal income taxes.

36. Conces sells these letters to assist customers in evading their federal taxes by obstructing the administration and enforcement of the federal tax laws.

37. Conces knows or has reason to know that the claims made in the letters he sells are false and fraudulent.

Conces' Frivolous Lawsuits

38. Conces advises, encourages and assists customers in filing frivolous lawsuits against the IRS, its employees, and federal judges in order to disrupt the assessment and collection of federal taxes.

39. Conces sells lawsuit packages including prepared letters threatening the IRS and its employees with criminal and civil action, sample lawsuits brought by Conces, and brochures entitled "How to File Lawsuit in District Court" and "Winning in Court."

40. The lawsuit packages that Conces sells falsely allege that the IRS and its employees have no legal authority to issue levies, or require tax returns from Conces' customers.

41. Conces' lawsuits falsely allege that the IRS and its employees are operating only under the "color of" law and do not have the legal authority to collect funds from customers.

42. These lawsuits have been repeatedly dismissed and defeated in court.

43. Conces sells letter templates and writes letters on behalf of customers aimed at judges who dismiss his and other Lawmen cases. Conces' instructions for other letter products outline how writing letters to judges may be necessary if they "ignore" his customer's alleged rationale for an understatement of tax liability. These letters demand that judges let Conces or his customers inspect their oath of office, falsely allege that judges are guilty of perjury for not upholding their oaths of duty by dismissing Lawmen lawsuits, and claim to put the judges "on notice" by threatening to sue the judges in a class-action lawsuit if they fail to respond positively to the Lawmen requests and uphold Lawmen positions.

44. Conces knows or has reason to know that the claims made in these lawsuits are false and fraudulent and that the lawsuits will, if filed, interfere with and obstruct the administration of the internal revenue laws.

Harm to the United States

45. Conces claims that over 1,700 people nationwide have joined his Lawmen organization.

46. The IRS has thus far identified over 105 cases from people self-identified as Lawmen or who submitted documents substantially similar to those that Conces sells.

47. Conces' scheme harms the United States by fraudulently reducing his customers' reported tax liabilities, requesting fraudulent tax refunds, and assisting and encouraging customers to file frivolous letters and lawsuits against the IRS, its employees, and federal judges.

48. Some of the revenue loss resulting from Conces' misconduct may never be recovered.

49. Thus far the IRS has spent over \$60,000 in dealing with frivolous Lawmen-related tax law administration and enforcement.

Count I: Injunction under I.R.C. § 7408 for violations of § 6700

50. The United States incorporates by reference the allegations contained in paragraphs 1 through 49.

51. I.R.C. § 7408 authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under I.R.C. § 6700 from engaging in further such conduct if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct.

52. Section 6700 imposes a penalty on any person who organizes or participates in the sale of a plan or arrangement and in so doing makes a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by participating in the plan or arrangement which that person knows or has reason to know is false or fraudulent as to any material matter.

53. As set forth in paragraphs 10 through 49, Conces organizes or participates in the sale of a plan or arrangement and in so doing makes statements with respect to the allowability of deductions or credits, the excludability of income, or the securing of tax benefits by participating in the plan or arrangement, which Conces knows or has reason to know are false or fraudulent as to material matters.

54. Injunctive relief is appropriate to prevent recurrence of this conduct.

Count II: Injunction under I.R.C. § 7408 for violations of § 6701

55. The United States incorporates by reference the allegations contained in paragraphs 1 through 49.

56. I.R.C. § 7408 authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under I.R.C. § 6701 from engaging in further such conduct if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct.

57. Section 6701 penalizes a person who aids, assists, or advises with respect to the preparation or presentation of any portion of a return or other document, knowing or having reason to believe that such document will be used in connection with any material matter under the tax laws, and knowing that such portion, if used, would result in an understatement of another person's tax liability.

58. As set forth in paragraphs 10 through 49, Conces aids, assists, or advises with respect to the preparation or presentation of any portion of a return or other document while knowing or having reason to believe that such document will be used in connection with any material matter under the tax laws and while knowing that such portion, if used, would result in an understatement of another person's tax liability.

59. Injunctive relief is appropriate to prevent recurrence of this conduct.

Count III: Injunction Under I.R.C. § 7402

60. The United States incorporates by reference the allegations contained in paragraphs 1 through 49.

61. I.R.C. 7402(a) authorizes a court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

62. As described in paragraphs 10-49, Conces substantially interferes with the enforcement of the internal revenue laws by promoting his tax-fraud scheme, filing frivolous and time-consuming letters and lawsuits directed at the IRS, its employees and judges.

63. Conces' conduct results in irreparable harm to the United States for which the United States has no adequate remedy at law.

64. Unless enjoined by this Court, Conces is likely to continue to engage in such conduct. The United States is entitled to injunctive relief under I.R.C. § 7402(a).

WHEREFORE, plaintiff, the United States of America, prays for the following relief:

A. That the Court find that Conces has engaged in conduct subject to penalty under I.R.C. § 6700, and that injunctive relief is appropriate under I.R.C. § 7408 to prevent him and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from further such conduct;

B. That the Court find that Conces has engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief is appropriate under I.R.C. § 7408 to prevent him and anyone acting in concert with him, from further such conduct;

C. That the Court find that Conces has engaged in conduct that interferes with the administration and enforcement of the internal revenue laws, and that injunctive relief against him and his representatives, agents, servants, employees, attorneys, and those persons in active concert or

participation with him is appropriate to prevent the recurrence of that conduct under the Court's equity powers and I.R.C. § 7402(a);

D. That pursuant to I.R.C. §§ 7402(a) and 7408, defendant Charles Conces individually and d/b/a as the "Lawmen," and anyone acting in concert with him, be enjoined and restrained from, directly or indirectly, by use of any means or instrumentalities:

- (a) Organizing, promoting, marketing, or selling any tax shelter, plan or arrangement that advises or assists others to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
- (b) Engaging in conduct subject to penalty under I.R.C. § 6700, *i.e.*, by making or furnishing, in connection with the organization or sale of a shelter, plan, or arrangement, a statement that he knows or has reason to know to be false or fraudulent as to any material federal tax matter;
- (d) Engaging in conduct subject to penalty under I.R.C. § 6701, *i.e.*, by preparing or 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 the defendant knows will (if so used) result in the understatement of another person's tax liability; and
- (e) Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws, including but not limited to aiding or assisting others to file "zero income tax returns," write frivolous or threatening letters to the IRS, federal judges, or other government employees, and file frivolous lawsuits for the purpose of interfering with the administration of the internal revenue laws.

E. That this Court, under I.R.C. §§ 7402 and 7408, enter an injunction requiring Conces to contact all persons for whom he prepared and/or assisted in the preparation of any federal income tax returns or tax-related documents or letters and inform those persons of the entry of the Court's findings concerning the falsity of the tax returns or tax-related documents or letters he prepared on these persons' behalf, the possibility of the imposition of penalties against them, and the fact that an injunction has been entered against Conces.

F. That this Court, under I.R.C. §§ 7402 and 7408, enter an injunction requiring Conces and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, to give the Justice Department a list of the names, addresses, e-mail addresses, telephone numbers, and Social Security and federal tax identification numbers of (1) all individuals and entities for whom Conces prepared or helped to prepare any tax-related documents, including claims for refund or tax returns; and (2) all individuals or entities to whom he has furnished or who have purchased or used any other tax shelter, plan, or arrangement in which Conces has been involved, including all those who purchased any of the products identified in paragraph 13 above.

G. That this Court allow the United States full post-judgment discovery to monitor compliance with the injunction;

H. That this Court retain jurisdiction over this action for purposes of implementing and enforcing the final judgment and any additional orders necessary and appropriate to the public interest; and

I. That the Court grant the United States such other and further relief as the Court deems appropriate.

Dated this ___ day of October, 2005.

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