

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA :
 :
V. : Civil No. WMN-05-1297
 :
JOHN BAPTIST KOTMAIR et al. :

ORDER

On November 29, 2006, this Court entered an order granting Plaintiff summary judgment. On that same date, the Court also entered a permanent injunction order requiring Defendants to refrain from certain activities that interfere with the enforcement of the internal revenue laws. In that permanent injunction order, the Court also required Defendants to take certain affirmative actions, including: posting the injunction order on their website, notifying their members of the outcome of this litigation, and providing the government with a listing of the "Save-A-Patriot Fellowship's" membership. Under the terms of the order, Defendants were to complete the requirements of the order by December 20, 2006, and to file a certification of said compliance by December 21, 2006. Defendants have filed the following three motions: Motion for New Trial, Paper No. 71; Motion for Modification of the Permanent Injunction Order, Paper No. 72; and a Motion for a Stay Pending Resolution of Motion for Modification of Permanent Injunction Order and for New Trial, Paper No. 73.

Although the Court has not had the opportunity to fully

consider the motion for new trial as it is not yet ripe, the Court can say with some certainty that it will be denied. Defendants raise the same arguments in that motion that were raised and fully considered in the cross motions for summary judgment. The motion for modification of the injunction order is also not yet ripe, and the government has yet to respond. This motion, however, might prove to have some merit, particularly as it relates to assisting Defendants in discerning what is protected political speech and what is prohibited false commercial speech.¹ Once that motion is fully briefed, the Court may find it necessary to hold a hearing to assure clarity as to what is prohibited under the injunction.

In the meantime, it seems prudent to grant Defendants' request for a stay. While the harm to the government caused by Defendants' activities is not unsubstantial, the additional harm caused by a brief delay in the enforcement of the injunction is less than the potential immediate harm to Defendants once the injunction is in force. While Defendants are unlikely to succeed on the ultimate merits of their claims, they may be entitled to some minor modifications or clarifications of this Court's

¹ That said, the Court notes that much of Defendants' "confusion" results from their own intentional ignorance and obfuscation. As noted in the memorandum resolving the cross motions for summary judgment, Defendants continue to tout their chimerical theories despite the consistent rejection of those theories by all courts to have considered them. Nov. 29, 2006 Memorandum Opinion at 12 ("just because courts have followed that course of conduct does not make it valid," quoting SAPF's Opp. to Pl.'s Mot. for Summ. J. 28 n.67).

injunction.

Accordingly, IT IS this 19th day of December, 2006, by the United States District Court for the District of Maryland,

ORDERED:

1) That Defendants' Motion for a Stay, Paper No. 73, is GRANTED; and

2) That the Clerk of Court shall mail or transmit copies of this Order to Mr. Kotmair and all counsel of record.

_____/s/_____
William M. Nickerson
Senior United States District Judge