

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. Now pending before this Court are Defendants' motion for a new trial, Paper No. 71, and motion for modification of the permanent injunction order, Paper No. 72. On December 14, 2006, this Court stayed the application and enforcement of the permanent injunction order pending the resolution of these two motions.

As to the motion for a new trial, the Court finds that it essentially raises and reargues the same meritless arguments presented in the cross motions for summary judgment. Therefore, it will be denied.

As to the motion for modification, the Court notes that the injunction issued by this Court is similar to that of injunctions issued and upheld by other courts against others touting similar fanciful views of the federal tax laws. See United States v.

Bell, 414 F.3d 474 (3rd Cir. 2005); United States v. Schiff, 379 F.3d 621 (9th Cir. 2004); United States v. Estate Preservation Services, 202 F.3d 1093 (9th Cir. 2000). To the extent that Defendants claim that they are unable to comply with the requirement that they turn over the records of those that have purchased their products because they have no such records, that is an issue for post-judgment discovery related to Defendants' compliance with the injunction, not for modification of the injunction itself. The motion will be denied.¹

Accordingly, it is this 7th day of February, 2007, by the United States District Court for the District of Maryland,

¹ The Court had considered the possibility of holding a hearing on the motion for modification based on Defendants' professed difficulty in understanding the scope of the conduct that was to be enjoined. See Order of Dec. 14, 2006, granting stay at 2. Upon further reflection, however, the Court determines that such a hearing would be pointless as Defendants' confusion is self-induced. Sprinkled throughout their pending motions is Defendants' assertion that their representations about the federal tax laws are not fraudulent because Defendants "sincerely believe" that his view is the correct one, despite the consistent rejection of that view by the courts. See Mot. for New Trial 3 ("the positions espoused by Defendants represent their sincerely held beliefs with respect to the meaning, applicability and operation of the tax laws"); Mot. for Modification 3 ("Defendants sincerely believe that the activities they engage in and the statements they make accurately reflect upon the meaning, applicability and operation of the tax laws"); 4 ("Defendants sincerely believe their activities are not violative of § 6700 and § 6701"). Defendants have previously offered as justification for their continued fraudulent conduct that "just because courts have followed that course of conduct does not make it valid." Save-A-Patriot Fellowship's Opp. to Pl.'s Mot. for Summ. J. 28 n.67. It is doubtful that being told, yet again, that their view of the tax laws is spurious would have any meaningful impact.

ORDERED:

1) That Defendants' motion for a new trial, Paper No. 71, is DENIED;

2) That Defendants' motion for modification of the permanent injunction order, Paper No. 72, is DENIED;

3) That the stay of this Court's November 29, 2006 injunction is lifted and Defendants shall complete the requirements of paragraphs 2 through 5 of that injunction within 21 days of the date of this Order, and shall file a certificate of compliance with those requirements, under penalty of perjury, within 22 days of the date of this Order; and

4) That the Clerk of Court shall transmit copies of this Permanent Injunctive Order to all counsel of record.

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