

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

**Case No. 5:16-cv-00307-MW-
GRJ**

v.

**GUADALUPE BARRAGAN,
MARIA BARRAGAN, and
MAIN STREET STATION
RESTAURANT,**

Defendants.

ORDER ON MOTION FOR PERMANENT INJUNCTION BY DEFAULT

Before the Court, without hearing, is the United States' Motion for Default Judgment against Defendants Guadalupe Barragan, Maria Barragan, and Main Street Station Restaurant, LLC. (ECF No. 12). On November 8, 2016, the United States filed a Complaint against Defendants Guadalupe Barragan, Maria Barragan, and Main Street Station Restaurant, LLC, alleging violations of the internal revenue laws and seeking to permanently enjoin Defendants from violating these laws. After all of the Defendants failed to answer or otherwise respond to the Complaint, the Clerk entered default on March 2, 2017. Upon consideration of the Complaint and the motion for default judgment, it is FOUND that:

- A. Defendant Main Street Station Restaurant, LLC is indebted to the United States for unpaid federal employment tax liabilities for various periods between 2010 and 2011 in the amount of \$44,835.38, as of March 28, 2017. In addition, Main Street Station Restaurant has accrued employment tax liabilities exceeding \$68,365.00 for various periods between 2012 and 2016 that have yet to be assessed.
- B. Defendants Guadalupe and Maria Barragan, individually and as the owners and operators of Main Street Station Restaurant, LLC have substantially interfered with, and continue to substantially interfere with, the internal revenue laws by continually failing to pay employment tax obligations required by 26 U.S.C. §§ 3102, 3111, 3301, and 3402, and failing to file returns as required by 26 U.S.C. § 6011 and Treasury Regulation (26 C.F.R.) § 31.6071(a)-1. An injunction is appropriate and necessary to prevent continued violations.
- C. The Barragans' company, Main Street Station Restaurant, LLC has substantially interfered with and continues to substantially interfere with, the internal revenue laws by continually failing to pay employment tax obligations required by 26 U.S.C. §§ 3102, 3111, 3301, and 3402, and failing to file returns as required by 26 U.S.C. § 6011 and Treasury

Regulation (26 C.F.R.) § 31.6071(a)-1. An injunction is appropriate and necessary to prevent continued violations.

- D. The United States lacks an adequate legal remedy to prevent additional pyramiding of employment taxes owed by the company, and will suffer irreparable harm as a result.
- E. The harm suffered by the United States as a result of continuing pyramiding outweighs the harm suffered by the Barragans and their company of being forced to comply with the law by timely paying employment tax obligations and filing employment tax returns.
- F. An injunction in this case would serve the public good. As the efficacy of the federal income tax and Social Security system relies on employers to collect and remit income and FICA taxes paid by their employees, the pyramiding undermines the most vital cog in our system of tax collection. Additionally, by using the tax money for the business' own expenses, the Barragans and Main Street Station Restaurant, LLC, exact an involuntary subsidy on the taxpayers of the United States. An injunction would bring an end to this waste of taxpayer resources.
- G. In the absence of an injunction backed by the Court's contempt powers, the Defendants are likely to continue to obstruct and interfere with the enforcement of the internal revenue laws by pyramiding taxes to the

detriment of the United States. Injunctive relief under I.R.C. § 7402(a) and this Court's inherent equity powers is appropriate to stop the conduct described herein by Defendants Guadalupe Barragan, Maria Barragan and Main Street Station Restaurant.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Government's motion, ECF No. 12, is **GRANTED** and Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, are enjoined from failing to withhold and pay over to the IRS all employment taxes, including federal income and FICA taxes, required by law;
2. Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC shall segregate and hold apart from all other funds all monies withheld from employees or collected from others under any internal revenue law of the United States and deposit the monies so withheld and collected, as well as the employer's share of FICA taxes, in an appropriate federal depository bank in accordance with the federal deposit regulations;
3. Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC shall deposit FUTA taxes in an appropriate federal depository bank each quarter in accordance with the federal deposit regulations;

4. For a period of five years, Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC, and those individuals at Main Street Station Restaurant who are responsible for carrying out the duties established under paragraphs (2) and (3), shall sign and deliver affidavits to the Collection Manager at the Pensacola IRS office, or to such specific person or location as the IRS directs, on the twentieth day of each month, stating that the requisite withheld income, FICA, and FUTA tax deposits were timely made;
5. Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC, shall timely file all Form 940 and 941 tax returns with the Pensacola IRS office, or to other such specific location as directed by the IRS;
6. Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC, shall file all required Forms W-2, Wage and Tax Statements, from December 31, 2008 through December 31, 2016, with the Social Security Administration and upon doing so will submit signed copies of those statements to the Pensacola IRS office, or to such other specific location as directed by the IRS;
7. Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC shall timely pay all required outstanding liabilities due on each tax return to be filed;

8. Guadalupe Barragan, Maria Barragan, Main Street Station Restaurant, LLC, and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, shall not assign any property or rights to property or make any disbursements before paying all required outstanding liabilities due on each tax return required to be filed going forward from the date of the injunction; and
9. Guadalupe Barragan and Maria Barragan shall notify the IRS of any new company each defendant may come to own, or work for in the next five years.

The Court retains jurisdiction over this case to ensure compliance with this injunction, including authority to punish its violation as contempt of court. So stated, the Clerk shall close the file and reopen if necessary to address an issue of noncompliance.

SO ORDERED on April 21, 2017.

s/Mark E. Walker
United States District Judge