

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

Mark Crawford, Senator Rand Paul, in his official capacity as a member of the United States Senate, **Roger Johnson, Daniel Kuettel, Stephen J. Kish, Donna-Lane Nelson**, and **L. Marc Zell**,

Plaintiffs,

v.

United States Department of the Treasury, United States Internal Revenue Service, and United States Financial Crimes Enforcement Network,

Defendants.

Civil Case No. 15-250

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

ORAL ARGUMENT REQUESTED

Plaintiffs move for preliminary injunctive relief on all counts set forth in their complaint. Plaintiffs are likely to succeed on the merits of their claims and have met the other requirements for preliminary injunctive relief. For this reason, the Court should grant Plaintiffs' Motion for Preliminary Injunction by declaring unconstitutional and enjoining Defendants from enforcing the following:

- A. Agreement Between the Government of the United States of America and the Government of Canada to Improve International Tax Compliance through Enhanced Exchange of Information under the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital, U.S.-Can., Feb. 5, 2014, available at <http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-Canada-2-5-2014.pdf> (hereinafter "Canadian IGA");
- B. Canadian IGA, art. 2;
- C. Canadian IGA, art. 2, § 2(a)(6);
- D. Canadian IGA, art. 4, § 2;
- E. Agreement between the United States of America and the Czech Republic to Improve International Tax Compliance and with Respect to the United States Information and Reporting Provisions Commonly Known as the Foreign Account

Tax Compliance Act, U.S.-Czech Rep., Aug. 4, 2014, available at <http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-Czech-Republic-8-4-2-14.pdf> (hereinafter “Czech IGA”);

- F. Czech IGA, art. 2;
- G. Czech IGA, art. 2, § 2(a)(6);
- H. Czech IGA, art. 4, § 2;
- I. Agreement between the Government of the United States of America and the Government of the State of Israel to Improve International Tax Compliance and to Implement FATCA, U.S.-Isr., Jun. 30, 2014, available at <http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-Israel-6-30-2014.pdf> (hereinafter “Israeli IGA”);
- J. Israeli IGA, art. 2;
- K. Israeli IGA, art. 2, § 2(a)(6);
- L. Israeli IGA, art. 4, § 2;
- M. Agreement between the United States of America and Switzerland for Cooperation to Facilitate the Implementation of FATCA, U.S.-Switz., Feb. 14, 2013, available at <http://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-Switzerland-2-14-2013.pdf> (hereinafter “Swiss IGA”);
- N. Swiss IGA, arts. 3, 5;
- O. 26 U.S.C. §§ 1471(a), 1471(b)(1)(D), 1471(c)(1), 1471(c)(1)(C);
- P. 26 U.S.C. § 6038D(c)(4);
- Q. 31 U.S.C. § 5321(a)(5)(C);
- R. 26 C.F.R. §§ 1.1471-2T(a)(1);
- S. 26 C.F.R. §§ 1.1471-4(a)(1), 1.1471-4(d), 1.1471-4(d)(3)(ii);
- T. 26 C.F.R. §§ 1.1471-4T(b)(1);
- U. 26 C.F.R. §§ 1.6038D-4(a)(5), 1.6038D-4(a)(6), 1.6038D-4(a)(8);

- V. the Foreign Account Tax Compliance Act's ("FATCA") aggregate gross income reporting requirement of Form 8966, IRS, Instructions for Form 8966 at 10, <http://www.irs.gov/pub/irs-pdf/i8966.pdf>; and
- W. the Report of Foreign Bank and Financial Accounts' ("FBAR") account-balance reporting requirement articulated at FinCEN, BSA Electronic Filing Requirements For Report of Foreign Bank and Financial Accounts (FinCEN Form 114) 15 (June 2014), <http://www.fincen.gov/forms/files/FBAR%20Line%20Item%20Filing%20Instructions.pdf>.

Plaintiffs request oral argument in this case. The opportunity to hear all sides orally and allow them to respond to questions the court may have will better enable the court to reach a just result.

Dated: July 14, 2015

Respectfully Submitted,

s/ Joseph C. Krella

James Bopp, Jr. (Ind. No. 2838-84)*
Justin L. McAdam (Ind. No. 30016-49)*
THE BOPP LAW FIRM, P.C.
The National Building
1 South 6th Street
Terre Haute, Indiana 47807
(812) 232-2434
(812) 235-3685 (fax)
Attorneys for Plaintiffs

Joseph C. Krella (Ohio No. 0083527)
DINSMORE & SHOHL LLP
Fifth Third Center
One South Main Street, Suite 1300
Dayton, Ohio 45402
(937) 463-4926
Attorney for Plaintiffs

*Pro hac vice application pending.

Certificate of Service

I hereby certify that the foregoing document will be served as soon as the summons is available on the following persons by certified mail, return receipt requested:

Loretta Lynch
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Jacob J. Lew
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Carter M. Stewart
U.S. Attorney for Southern District of Ohio
United States Attorney's Office
303 Marconi Boulevard, Suite 200
Columbus, OH 43215

John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Jennifer Shasky Calvery
Director
Financial Crimes Enforcement Network
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

s/ Joseph C. Krella _____