

Pamb

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

THE UNITED STATES OF AMERICA)	
)	
Plaintiff,)	Civil No. 1:10-cv-07068
)	
v.)	Judge Samuel Der-Yeghiayan
)	
JOHN E. ROGERS, SUGARLOAF FUND LLC,)	Magistrate Judge Geraldine
and JETSTREAM BUSINESS LIMITED)	Soat Brown
)	
Defendants.)	

**STIPULATED FINAL JUDGMENT OF PERMANENT INJUNCTION AND
ORDER AGAINST SUGARLOAF FUND LLC**

United States of America ("Plaintiff") and Sugarloaf Fund LLC, AKA 'Sugarloaf,' including its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees and/or Attorneys ("Defendant"), respectfully move the Court for entry of this Stipulated Final Judgment of Permanent Injunction and Order, and agree and stipulate as follows:

1. The United States of America has filed a Complaint for Permanent Injunction and Other Relief under 26 U.S.C. §§ 7402, 7407 and 7408 of the Internal Revenue Code ("I.R.C.") against Sugarloaf Fund LLC and others. Defendant admits that the Court has personal jurisdiction over it pursuant to 28 U.S.C. §§ 1340 and 1345, and subject matter jurisdiction pursuant to 26 U.S.C. §§ 7402(a), 7407(a) and 7408(a).

2. Defendant, without admitting the allegations contained in the complaint, and in order to settle this matter without further litigation, voluntarily agrees and consents to this Stipulated Final Judgment of Permanent Injunction and Order.

3. Accordingly, the United States of America and Defendant ("the Parties"), have agreed to settle this case in accordance with the terms of this Stipulated Final Judgment of Permanent Injunction and Order.

4. The Parties:

- a. Waive the entry of findings of fact and conclusions of law;
- b. Agree that this Stipulated Final Judgment of Permanent Injunction and Order does not establish any fact beyond the existence of the Injunction and its terms and does not constitute an admission of any kind by either party;
- c. Understand and agree that this Stipulated Final Judgment of Permanent Injunction and Order will be entered under Fed. R. Civ. P. 65 and will result in the entry, without further notice, of a Final Judgment in this matter;
- d. Waive the right to appeal from the Stipulated Final Judgment of Permanent Injunction and Order;
- e. Understand and agree that the Parties will bear their own costs, including any attorneys' fees or other expenses of this litigation;
- f. Understand and agree that the Court will retain jurisdiction over this matter for the purpose of implementing and enforcing the Stipulated Final Judgment of Permanent Injunction and Order;

- g. Further understand and agree that if Defendant violates the Injunction, Defendant, including its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees and/or Attorneys, may be subject to civil and criminal sanctions for contempt;
- h. Understand and agree that the United States may conduct full post-judgment discovery to monitor compliance with the Injunction. Such discovery shall be limited to matters covered in this Injunction.

IT IS HEREBY STIPULATED AND AGREED, pursuant to I.R.C. §§ 7402, 7407 and 7408, that Defendant Sugarloaf Fund LLC, including its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees and Attorneys, and/or any person or entity acting in active concert or participation with Defendant, are **PERMANENTLY ENJOINED** from directly or indirectly, by use of any means or instrumentalities:

A. Organizing, promoting, advising, implementing, carrying out, managing, or selling (directly or indirectly) the DAT transaction described in the complaint, the DAD transaction described in the complaint, the I.R.C. § 743(f) distressed debt transaction described in the complaint, or any substantially similar plan or arrangement. The DAT, DAD and I.R.C. § 743(f) distressed debt schemes:

- i. Use or involve distressed debt, distressed receivables or other distressed assets;
- ii. Attempt to shift losses from a foreign or tax indifferent party to or for the benefit of a U.S. taxpayer; and/or

iii. Attempt to shift purported losses among entities claiming to be trusts, corporations, or entities taxed as partnerships for the benefit of U.S. taxpayers who did not incur the losses;

B. Organizing, promoting, advising, implementing, carrying out, managing or selling (or helping others to organize, promote, advise, implement, carry out, manage or sell) any other tax shelter, plan, or arrangement, or a listed or reportable transaction, that violates the internal revenue laws or improperly incites or assists any person or entity to evade or avoid the assessment or collection of their federal tax liabilities or claim improper tax refunds;

C. Engaging in conduct subject to penalty under I.R.C. § 6700(a)(2)(A), including making, in connection with the organization of, participation in, or sale of any plan or arrangement, any statement about the securing of any tax benefit that Defendant, including its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees and/or Attorneys, knows or has reason to know is false or fraudulent as to any material matter;

D. Engaging in conduct subject to penalty under I.R.C. § 6700(a)(2)(B), including making statements as to the value of property or services when the value stated exceeds 200% of the amount determined to be correct and is directly related to the amount of a tax deduction or credit;

E. Engaging in conduct subject to penalty under I.R.C. § 6701, including aiding, assisting, procuring, or advising with respect to the preparation or presentation of any portion of a tax return, claim, or other document, that Defendant, including its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees and/or Attorneys, knows or has reason to know will be used as to a material matter arising under

federal tax law, and will result in the understatement of the liability for the tax of another person;

F. Engaging in conduct subject to penalty under I.R.C. § 6694, which penalizes a return preparer who prepares a return or claim for refund that contains an unreasonable position and the return preparer knew (or reasonably should have known) of the position;

G. Engaging in conduct subject to penalty under I.R.C. § 6695(c), which penalizes a tax return preparer for failing to furnish an identifying number for a return that he prepared;

H. Engaging in conduct subject to penalty under I.R.C. § 6707, which penalizes a material advisor for: (1) failing to timely file any return or statement, currently a Form 8918, Material Advisor Disclosure Statement; (2) failing to obtain a Reportable Transaction Number; and (3) failing to furnish the Reportable Transaction Number to any person or entity as required by statute or regulation;

I. Engaging in conduct designed or intended to obstruct or delay an IRS investigation or audit, although Defendant may assert on its own personal behalf all statutory and constitutional rights to which it is entitled;

J. Organizing, promoting, providing, advising or selling business or tax services that facilitate or promote noncompliance with federal tax laws; and

K. Willfully engaging in conduct subject to penalty under any provision of the Internal Revenue Code;

IT IS FURTHER STIPULATED AND AGREED that, within 21 days of entry by the Court, Defendant will produce to counsel for the United States a list identifying (by

name, address, e-mail address, phone number, and Social Security or other tax identification number) all of the persons and/or entities who, for any of the tax years 2003 to the present, engaged in the DAT, DAD, or I.R.C. § 743(f) distressed debt transactions described in the Complaint, and certify under penalties of perjury that such production is complete and accurate to the best of Defendant's knowledge and belief;

IT IS FURTHER STIPULATED AND AGREED that, within 21 days of entry by the Court, Defendant will send, by first class mail and at his own expense, a copy of the Stipulated Final Judgment of Permanent Injunction and Order to all of the persons and/or entities who, for any of the tax years 2003 to the present, engaged in the DAT, DAD, or I.R.C. § 743(f) distressed debt transactions described in the Complaint. Defendant will file with the Court, within 30 days of the date on which the Stipulated Final Judgment of Permanent Injunction and Order is entered, a certification signed under penalty of perjury that Defendant has sent, by first class mail, a copy of the Stipulated Final Judgment of Permanent Injunction and Order to all required persons and/or entities; such mailings shall be to the last known address of the intended recipient;

IT IS FURTHER STIPULATED AND AGREED that the United States, including any of its agencies, will not introduce this judgment to establish Defendant's liability for civil or criminal penalty, except in an action to enforce the Injunction or for contempt; however, the United States is not precluded from introducing the Injunction into evidence, in any administrative, civil or criminal proceeding, to the extent permitted by the Federal Rules of Evidence, including, but not limited to, impeaching the testimony of Defendant and/or one of Defendant's Officers, Directors, Members, Owners, Managers,

Agents, Servants, Employees or Attorneys, in the event he misrepresents the terms of the Injunction or indicates that Defendant never agreed to the Injunction;

IT IS FURTHER STIPULATED AND AGREED that Defendant, including its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees, and Attorneys, understands and agrees that nothing in this Stipulated Final Judgment of Permanent Injunction and Order shall be construed to preclude any other proceedings against or involving Defendant or its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees, and/or Attorneys, whether administrative, civil or criminal, whether pending or subsequently commenced. The Parties further understand and agree that entry of this Stipulated Final Judgment of Permanent Injunction and Order neither precludes the IRS from asserting liability (e.g. the assessment of taxes, interest, or penalties) against Defendant and/or its Officers, Directors, Members, Owners, Managers, Agents, Servants, Employees, or Attorneys, for asserted violations of the Internal Revenue Code, nor precludes them from contesting any such liability;

IT IS FURTHER STIPULATED AND AGREED that the United States will be allowed full post-judgment discovery to monitor compliance with the Injunction, limited to matters covered in this Injunction; and

IT IS FURTHER STIPULATED AND AGREED that the Court will retain jurisdiction over this action for purpose of implementing and enforcing the final

judgment and any additional orders necessary and appropriate to the public interest.

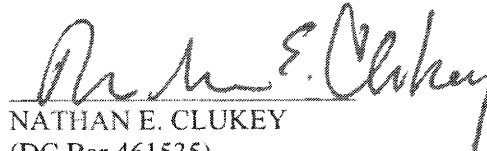
Agreed and submitted by:

Patrick J. Fitzgerald
United States Attorney



GREGORY S. SEADOR
(DC Bar 478236)
Trial Attorney, Tax Division
U.S. Department of Justice
Ben Franklin Station, PO Box 7238
Washington, D.C. 20044
Telephone: (202) 307-2182
gregory.s.seador@usdoj.gov

Dated: 9-13-11



NATHAN E. CLUKEY
(DC Bar 461535)
Trial Attorney, Tax Division
U.S. Department of Justice
Ben Franklin Station, PO Box 7238
Washington, D.C. 20044
Telephone: (202) 616-9067
nathan.e.clukey@usdoj.gov

Dated: 9-13-11

*Attorneys for Plaintiff
The United States of America*



JOHN E. ROGERS
Rogers & Associates
55 W. Monroe St., Suite 2400
Chicago, Ill 60603
Telephone: (312) 376-1910
jer@jerogers.com

Dated: 9-9-11

*Attorney for and Manager of
Defendant Sugarloaf Fund LLC*

IT IS SO ORDERED this 30th day of September, 2011.


Judge Samuel Der-Yeghian
UNITED STATES DISTRICT COURT JUDGE