RECOMMENDED FOR PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name:

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

NORMAN CHARLES RHODES; JEANNIE KAREN PARKER-RHODES, aka Jeanie Karen Parker-Rhodes; JULY THIRTYFIRST,

Defendants-Appellants.

No. 25-1842

Appeal from the United States District Court for the Eastern District of Michigan at Detroit.
No. 2:21-cv-12383—Jonathan J.C. Grey, District Judge.

Decided and Filed:

Before: STRANCH, LARSEN, and MURPHY, Circuit Judges.

COUNSEL

ON BRIEF: Daniel Ginzburg, ABRAHAM & ROSE, P.L.C., Troy, Michigan, for Appellants. Richard L. Parker, Ellen Page DelSole, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

OPINION

MURPHY, Circuit Judge. For decades, taxpayers have tried to evade taxes by structuring their businesses using what they call a "pure trust organization" or "common-law trust." For just as long, the Internal Revenue Service (IRS) has looked through these schemes. This case offers another example of this trend. Norman Rhodes created three "common-law trusts" to own two businesses and a home. He and his businesses then stopped paying income taxes. After an audit,

the IRS issued Rhodes a tax assessment. When he still did not pay, the United States sued him. The district court granted summary judgment to the government, finding that Rhodes owed over half a million dollars and ordering the sale of his home to pay this debt. Rhodes now claims that the court should have held a trial. But any rational factfinder would conclude that Rhodes earned the income produced by his businesses. And the purported entity that owned his home did not qualify as a trust under Michigan law because it had no definite beneficiaries. We affirm.

I. Background

Rhodes founded a "graphic arts" company in 1980 that he named "Rhodes Graphics." Rhodes Dep., R.79-1, PageID 797. This Michigan company undertook "[t]ypesetting and photography work," and Rhodes acted as its "main salesman." *Id.* He owned and operated Rhodes Graphics for about six years. While winding down that business, he also bought "D&G Sign Company." *Id.* D&G sold "sign products," such as billboards, and accompanying "graphics" for these signs. *Id.* Rhodes performed a similar sales role for D&G. *Id.* Throughout this time, the companies filed corporate tax returns, and Rhodes filed individual returns.

In the 1990s, Rhodes began to search for a different ownership structure for his businesses. D&G's operations (which included installing "heavy signs on buildings") required significant "liability insurance" because of the risk that a sign might fall and injure people or property. Rhodes Decl., R.81-2, PageID 1431. So Rhodes wanted to insulate himself from "personal liability" for any accident. *Id.*, PageID 1432. While attending presentations by a man named Brent Johnson, Rhodes discovered an ownership structure that he thought would offer this insulation and allow him to avoid paying taxes.

Johnson marketed common-law trusts (what he called "pure trust organizations") to protect "assets from attachment by the IRS[.]" Website, R.79-3, PageID 965. According to Johnson, these trusts allowed "an ordinary Citizen [to] protect his or her property from the bureaucratic vultures inhabiting all levels of our government." Article, R.79-4, PageID 966. Johnson suggested (without support) that "the Internal Revenue Code" treated these trusts as "exempt from the income tax," but he added that they required parties "to divest [themselves] of

legal control while maintaining practical control of the assets in question." *Id.*, PageID 966–67. Johnson marketed the trusts to his customers for a price of a couple thousand dollars.

Johnson explained that common-law trusts had a simple structure to help small businesses. A businessowner could transfer ownership to the trust, become "the Holder of [a] Beneficial Interest" in it, and hire a "Fiduciary Owner" or "trustee" to manage its assets. Article, R.79-4, PageID 967. But the trust would retain the business owner "as General Manager" who would continue to run the business. *Id.* The trust would also open a bank account that required both the fiduciary owner and the general manager to sign checks. As Johnson explained, businessowners who chose trusts would "not have legal control because [they] alone cannot access funds" as general managers. *Id.* But their fiduciary owners also would lack "the ability to access funds directly," so the general managers could "maintain practical control." *Id.* Johnson thus opined that "if an IRS agent ever visits you at your work place, you can honestly tell him, 'I just work here, go talk to the owner.'" *Id.* After speaking with Johnson, Rhodes became convinced that states could not regulate these trusts.

Rhodes created one trust each for two businesses and one property. *First*, he closed D&G and started making and installing signs under the name "Signmaker," an alleged common-law trust. Rhodes Dep., R.79-1, PageID 799. Johnson served as Signmaker's fiduciary owner, and Rhodes served as its general manager. *Id.*, PageID 799, 850. Rhodes ran Signmaker's day-to-day operations. It had no employees and hired "subcontractors" to install signs. *Id.*, PageID 850–51. Rhodes oversaw the hiring and firing of these subcontractors and maintained the trust's books and records. Rhodes's compensation for his services (his "main source of income") was listed "in the general manager's contract" that he drafted with Johnson. *Id.*, PageID 796, 852. He received this compensation by writing "checks" to himself from Signmaker's bank account. *Id.*, PageID 852–54. While checks from this account required Johnson's signature, Rhodes could not recall a time when Johnson refused to sign.

Second, Rhodes closed Rhodes Graphics and started creating "artwork for printed materials" using the name "Graphic Associates." *Id.*, PageID 799–800. Another alleged "common law trust," Graphic Associates had the same fiduciary owner (Johnson) and general manager (Rhodes). It operated in the same way. Rhodes was its sole employee who ran its day-

to-day operations with the help of his wife, Jeannie Parker-Rhodes. For his services, Rhodes received "checks" drawn on the Graphic Associates bank account in an amount that he set. *Id.*, PageID 839–41, 844. Although Johnson acted as the "fiduciary owner," he did "nothing" other than co-sign the Graphic Associates checks. *Id.*, PageID 840–41. And Johnson never second-guessed the checks that Rhodes drafted.

Third, Rhodes and his wife had paid $150,000 for their home on Harsens Island, Michigan, in 1992. Six years later, Rhodes transferred the home's ownership to a common-law trust that he named after a date of significance to him: "July Thirtyfirst." He made this transfer "to insulate" his home from "civil liability judgments from any court actions." *Id.*, PageID 820. Rhodes again hired Johnson as July Thirtyfirst's fiduciary owner.

Rhodes has not filed tax returns since 1997. He thus did not pay taxes on the income that he admits he received from Signmaker and Graphic Associates. In his "opinion," his income never reached a level triggering the duty to file a return (although he did not research that level). *Id.*, PageID 855–56. The IRS also has no record of "Signmaker" or "Graphic Associates" ever filing a tax return. Hoops Decl., R.79-14, PageID 1115.

Unfortunately for Rhodes, things did not work out as Johnson had promised him. Rhodes's failure to pay income taxes came to the IRS's attention around 2008. The IRS assigned Agent Nathaniel Reda to audit Rhodes for the tax years from 2003 to 2008. To add insult to injury, this IRS investigation led Johnson allegedly to kick Rhodes out of his Harsens Island home (but to allow Rhodes's wife to remain there).

At first, Rhodes resisted the IRS investigation. Reda sent two letters to alert him of the investigation and invite his voluntary participation. When Rhodes did not respond to either letter, the IRS sent him a summons to appear. Yet he still failed to participate. The IRS thus asked a district court to enforce the summons. Over Rhodes's opposition, the court did so. During his IRS appointment with Reda, though, Rhodes identified himself and then "plead[ed] the Fifth [Amendment] to all [other] questions asked[.]" Reda Dep., R.79-16, PageID 1354. He also did not produce any records.

Stymied by Rhodes, Reda obtained records associated with the "Signmaker" and "Graphic Associates" bank accounts from Fifth Third Bank. These records showed checks payable personally to Rhodes from these two accounts. They also showed checks that appeared to cover Rhodes's personal expenses—such as his utility bills, donations to a church, and a payment to his veterinarian. Reda thus concluded that Rhodes owned the two bank accounts.

As a result, Reda treated the deposits into these two accounts from 2003 to 2008 as Rhodes's income. To determine his total income, Reda conducted the type of "bank deposits analysis" that the IRS uses when taxpayers do not keep adequate records. This analysis adds up the total amount of deposits into an account for the tax year at issue and then subtracts the "known" non-revenue deposits. Under this method, Reda identified the net deposits into the Signmaker account (and so Rhodes's income) as $127,660.06, $74,600.10, $54,900.15, $38,129.25, $51,992.47, and $31,519.85 for the tax years 2003 through 2008. This method also showed that the Graphic Associates account had net deposits of $18,600.00, $15,085.00, $54,215.00, $31,405.00, $10,185.00, and $6,225.00 for those tax years. Using these amounts, Reda calculated Rhodes's unpaid income taxes as $46,161.00, $28,404.00, $34,874.00, $20,426.00, $17,465.00, and $8,851.00. With penalties and interest, Rhodes owed a total of $641,669.67 as of October 2, 2024.

In 2021, the United States sued Rhodes to obtain a judgment on these liabilities (Count I) and to enforce the tax liens placed on his Harsens Island home through a judicial sale (Count II). The district court resolved this case in two orders. In its first order, the court granted partial summary judgment to the United States. The court ruled for the United States on Count I, finding that all income in the Signmaker and Graphic Associates bank accounts belonged to Rhodes as a matter of law. But the court denied summary judgment on Count II. Although finding that July Thirtyfirst did not qualify as a valid trust, the court reasoned that the true owner of the Harsens Island home remained unclear and the United States had failed to give notice of its tax lien.

Because the court's first order found July Thirtyfirst invalid, the parties stipulated that the United States was entitled to summary judgment on Count II and asked the court to enter a final judgment. The court's second order did so. *See United States v. Rhodes*, 2025 WL 2428437, at

*12 (E.D. Mich. Jan. 22, 2025). It held that Rhodes owed $558,352.96 in taxes and penalties plus interest. The court also ordered the United States to sell the Harsens Island home and to distribute the proceeds in a specific order. Rhodes appealed after the court denied his motion to amend the judgment. *See United States v. Rhodes*, 2025 WL 2692039, at *5 (E.D. Mich. Aug. 25, 2025).

II. Jurisdiction

At the outset, the United States challenges our jurisdiction to hear this appeal. With a few exceptions, Congress has given circuit courts jurisdiction only over the "final decisions of the district courts[.]" 28 U.S.C. § 1291. "A final decision 'ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.'" *Hall v. Hall*, 584 U.S. 59, 64 (2018) (quoting *Ray Haluch Gravel Co. v. Cent. Pension Fund of Operating Eng'rs & Participating Emps.*, 571 U.S. 177, 183 (2014)).

A large body of law has applied this final-judgment rule in this foreclosure context. On the one hand, the Supreme Court has long held that a party may appeal from a judicial order directing the "sale" of a property if the order settles "the rights of the parties" and leaves "nothing" to do but undertake the "sale and pay out the proceeds." *R.R. Co. v. Swasey*, 90 U.S. 405, 409 (1874); *see Whiting v. Bank of the U. S.*, 38 U.S. 6, 15 (1839); *Ray v. Law*, 7 U.S. 179, 180 (1805); *MSCI 2007-IQ16 Granville Retail, LLC v. UHA Corp.*, 660 F. App'x 459, 460 (6th Cir. 2016); *United States v. Williams*, 796 F.3d 815, 817 (7th Cir. 2015). Under this rule, a case becomes final once a court orders the sale. *See Whiting*, 38 U.S. at 15. The party losing possession of the property need not wait for the sale before appealing because of the "irreparable mischief" that would arise if the party obtained a reversal only after the sale occurred. *Id.*; *see Forgay v. Conrad*, 47 U.S. 201, 203–04 (1848). The Court has followed this rule even when the order of sale contemplated additional post-sale proceedings to determine the priorities of the various creditors or to undertake an accounting. *See First Nat'l Bank of Cleveland v. Shedd*, 121 U.S. 74, 84–85 (1887); *see also Radio Station WOW v. Johnson*, 326 U.S. 120, 126–27 (1945).

On the other hand, preliminary decisions that do not order a sale and require more judicial actions do not qualify as final. *See Citibank, N. A. v. Data Lease Fin. Corp.*, 645 F.2d

333, 337–38 (5th Cir. 1981). The Supreme Court has held, for example, that a court did not issue a final order when it decided that a property owner owed a debt but did not calculate the debt's amount or identify the property that the creditor could sell to satisfy it. *See Swasey*, 90 U.S. at 409–10; *see also Grant v. Phoenix Mut. Life Ins.*, 106 U.S. 429, 431–32 (1882). Likewise, a court did not issue a final order when it concluded that a junior creditor still had a valid interest in a property because the court had not identified the amounts the property owner owed and had prohibited any creditor from selling the property without "further judicial action of the court." *Burlington, Cedar Rapids & N. Ry. v. Simmons*, 123 U.S. 52, 54 (1887); *see Parsons v. Robinson*, 122 U.S. 112, 115–16 (1887); *United States v. Allahyari*, 99 F.4th 486, 493–95 (9th Cir. 2024).

This case falls within the first group of cases, not the second. To start, the district court's judgment identified the precise amount of Rhodes's debt to the United States: "$558,352.96" plus interest. Am. Judgment, R.116, PageID 2138; *see Citicorp Real Est., Inc. v. Smith*, 155 F.3d 1097, 1101 (9th Cir. 1998). Next, the judgment contains what looks like a clear "decree of sale absolutely and without reserve, which could be carried into execution at once[.]" *Burlington*, 123 U.S. at 55 (discussing *Shedd*, 121 U.S. at 84–85). It indicates that the United States "*shall sell the entire real property*" on Harsens Island "at a judicial sale (including by a receiver if requested by the United States), free and clear of all rights, titles, or interests of the parties, including any rights of redemption." Am. Judgment, R.116, PageID 2138 (emphasis added). Lastly, the judgment even lists the various priorities of the proceeds from this sale. It instructs that the proceeds should first go toward the expenses of the sale. *Id.* Then they should pay "any real estate taxes due" to St. Clair County, Michigan. *Id.* Of the remainder, the United States must pay 50% to Rhodes's wife for her interest in the property. *Id.* It may keep the rest in satisfaction of the tax debts. *Id.* By all accounts, then, this judgment appears to decide on "the rights of the parties" and leave "nothing" to do but execute the "sale and pay out the proceeds." *Swasey*, 90 U.S. at 409.

The government has three rejoinders. It first argues that the district court has yet to issue a "decree of sale." Appellee's Br. 31 (quoting *Burlington*, 123 U.S. at 56). We do not understand this claim. The district court issued a final judgment ordering the government to sell

the Harsens Island property. So it has, in fact, issued such a decree. Indeed, the judgment looks like the decree of sale in *Shedd*, which "ordered that the whole property be sold as an entirety, at not less than $625,000" and added that the purchaser would own the property free "of the lien of the mortgages, receiver's certificates, costs, expenses, etc." 121 U.S. at 84; *see Burlington*, 123 U.S. at 56.

The government next claims that this order of sale does not suffice because it did not include "details" on how the government should execute the order and stated that the government could request a receiver. Appellee's Br. 33; *see* 26 U.S.C. § 7403(d). Yet the government does not cite a single case (and we are aware of none) that requires a court to provide these "execution" instructions before a judgment can become final. To the contrary, courts have recognized an order of sale's finality even when the government later filed a post-judgment motion to appoint a receiver to execute the order of sale. *See United States v. Gould*, 2026 WL 2075559, at *2 (9th Cir. July 17, 2026); *United States v. Byers*, 133 F.4th 824, 829 n.2 (8th Cir. 2025). And judgments for a sum of money likewise do not contain these types of instructions. But that does not render them nonfinal as long as they say "who is entitled to what from whom." *Horn v. Transcon Lines, Inc.*, 898 F.2d 589, 591 (7th Cir. 1990).

The government lastly points out that the order of sale has not "determined" the specific amount of St. Clair County's tax lien because it instructed only that this county lien must take priority over the United States' lien. Appellee's Br. 33. As a result, a post-judgment dispute might arise between the county and the United States over the sale's proceeds. But this uncertainty existed in *Shedd* as well. There, the order of sale left open "[a]ll disputes and controversies between the" various mortgagees, including disputes over "the priority of the lien of the said mortgages[.]" 121 U.S. at 84. Nevertheless, the judgment in *Shedd* was final because of the conclusive order of sale. *See Burlington*, 123 U.S. at 55. And that fact distinguished the Court's decision in *Parsons*, which found that an order was not final partially because of ongoing disputes over the priorities of various liens. 122 U.S. at 115. The Court reconciled *Shedd* and *Parsons* on clear grounds: "in *Shedd's Case* there was actually a decree of sale; in *Parson's Case* there was not." *Burlington*, 123 U.S. at 56.

This key question (does an order of sale exist?) also distinguishes the other cases that the government cites. *See Allahyari*, 99 F.4th at 491–95; *United States v. Simons*, 419 F. App'x 852, 855–56 (10th Cir. 2011). The district court in *Allahyari* made clear that it would enter a later "order for judicial sale" after further briefing. 99 F.4th at 493. And the district court in *Simons* "left unresolved the government's ultimate request for relief seeking a forced sale of the property." 419 F. App'x at 856. Without an order of sale, both cases fell on *Parsons*'s non-final side of the line. Yet here, as in *Shedd*, the district court awarded that final relief. We thus have jurisdiction.

III. Merits

Rhodes raises two main arguments on the merits. Starting with Count I, he claims that the district court committed several errors when holding him liable for the income in the Signmaker and Graphic Associates bank accounts. Turning to Count II, he contends that the court wrongly held that July Thirtyfirst was not a valid trust. At this summary-judgment stage, we review both arguments de novo. *See Davis v. Echo Valley Condo. Ass'n*, 945 F.3d 483, 489 (6th Cir. 2019).

A. Count I: Income Tax Liabilities

Rhodes does not dispute the basic rules that apply when the IRS issues an "assessment" to a taxpayer for "unpaid taxes." *United States v. Fior D'Italia, Inc.*, 536 U.S. 238, 242 (2002). He does not challenge the IRS's claim that his failure to keep adequate records allows the IRS to use any reliable "method" to determine his income. *United States v. Walton*, 909 F.2d 915, 918 (6th Cir. 1990) (citing 26 U.S.C. § 446(b)). Nor does Rhodes dispute that Reda's method to determine his income in this case—the "bank deposit method"—is reliable. *Clayton v. Comm'r*, 102 T.C. 632, 645 (1994); *see Langille v. Comm'r*, 447 F. App'x 130, 132 (11th Cir. 2011); *United States v. Ludwig*, 897 F.2d 875, 878 (7th Cir. 1990). And Rhodes does not dispute that Reda's use of this method triggered a "presumption" that the assessment correctly identified his income (and unpaid taxes). *Fior D'Italia*, 536 U.S. at 242; *see Helvering v. Taylor*, 293 U.S. 507, 513–14 (1935); *United States v. Rohner*, 634 F. App'x 495, 499 (6th Cir. 2015); *United*

States v. Besase, 623 F.2d 463, 465 (6th Cir. 1980); *Gasper v. Comm'r*, 225 F.2d 284, 288 (6th Cir. 1955).

Given this presumption, Rhodes bore an initial "burden" in this litigation "of producing contrary evidence" that he did not receive the income that Reda's assessment attributed to him. *Walton*, 909 F.2d at 918. Under our caselaw, however, taxpayers face "much less of a burden" when they must disprove the receipt of income (rather than prove the application of a deduction). *Besase*, 623 F.2d at 465 (quoting *Weir v. Comm'r*, 283 F.2d 675, 679 (6th Cir. 1960)); *see United States v. Hammon*, 277 F. App'x 560, 563 (6th Cir. 2008). To shift the burden of persuasion to the government, Rhodes could do one of two things. He could assert a "reasonable denial" of the receipt of the challenged income. *Hammon*, 277 F. App'x at 563; *see Besase*, 623 F.2d at 466. To be reasonable, though, Rhodes had to do more than make a "[v]ague" or "general" claim that he did not receive the income attributed to him. *Rohner*, 634 F. App'x at 499 (quoting *Hammon*, 277 F. App'x at 563). So this test matches our general summary-judgment rules: To shift the burden, Rhodes must present evidence from which "a rational trier of fact" could rule in his favor. *Viet v. Le*, 951 F.3d 818, 823 (6th Cir. 2020) (quoting *Ricci v. DeStefano*, 557 U.S. 557, 586 (2009)). Alternatively, Rhodes could prove the assessment's allocation of income to him lacked even a "minimal evidentiary foundation" to prevent its enforcement. *Walton*, 909 F.2d at 919.

Rhodes does not dispute that Reda's assessment had a "minimal evidentiary foundation." *Id.* Rather, he claims that his declaration in opposition to the government's summary-judgment motion made a "reasonable denial" that he received the income produced by the Signmaker and Graphic Associates businesses. *Hammon*, 277 F. App'x at 563. He is mistaken. At the outset, Rhodes does not dispute that these two "business[es]" generated taxable "[g]ross income[.]" 26 U.S.C. § 61(a)(2). He instead claims that he should not have to pay taxes on this income because he did not earn it. *See Comm'r v. Banks*, 543 U.S. 426, 433–34 (2005). But if not him, who? He does not argue that Signmaker and Graphic Associates should have paid because he says they are not "distinct legal entit[ies]" as trusts. Appellant's Br. 27 (quoting *Americold Realty Tr. v. ConAgra Foods, Inc.*, 577 U.S. 378, 383 (2016)). We thus may exclude these entities (or in

Rhodes's nomenclature "fiduciary relationships") from the inquiry. That fact leaves either Johnson or Rhodes as the person who earned the income and owed the taxes.

For several reasons, no "rational trier of fact" could conclude that Johnson—rather than Rhodes—earned the income that these businesses produced. *Viet*, 951 F.3d at 823 (citation modified). Start with the background. Before meeting Johnson, Rhodes had been running both a "graphic arts" business and a "signage" business. Rhodes Dep., R.79-1, PageID 797. He ensured that these companies paid their taxes and that he filed individual returns on his income from them. But he then met Johnson. Johnson marketed a common-law "trust" as "exempt from the income tax" (without citation to the Internal Revenue Code). Article, R.79-4, PageID 966. He also suggested that this trust structure allowed a businessowner to "maintain practical control" of a business as its general manager even if a fiduciary owner had "legal" (or on-paper) control. *Id.*, PageID 967. And Rhodes chose this format for his signage business (Signmaker) and graphic-arts business (Graphic Associates), appointing Johnson as the fiduciary owner and himself as the general manager.

Next consider how these new "trust" businesses operated. Rhodes admits that he continued to conduct the day-to-day operations just as he had done when the businesses were companies. He also admits that he received personal income for his services by paying himself money from the Signmaker and Graphic Associates accounts. Yet he paid no taxes on this income and offered only a "[v]ague and general" excuse for this failure. *Hammon*, 277 F. App'x at 563. We thus find it undisputed that he owed taxes on *at least* this part of the income from the businesses.

What about the income that Rhodes left in the Signmaker and Graphic Associates accounts and purportedly did not pay to himself? Here too, no "rational trier of fact" could conclude that Johnson earned this income. *Viet*, 951 F.3d at 823 (citation modified). Johnson neither benefitted from nor controlled the businesses or their bank accounts. As for any benefit, no evidence exists that Johnson ever took a penny of Signmaker's or Graphic Associates' earnings. Rhodes also could not identify any checks from the accounts paid to Johnson. As for any control, Rhodes could not offer a specific example of when Johnson refused to approve a check. And while Rhodes claims that he received Johnson's input for business decisions, these

"general allegations" would not permit any factfinder to conclude that Johnson earned the income in light of the overwhelming evidence that Rhodes ran the businesses. *Viet*, 951 F.3d at 823 (citation modified).

In sum, every rational trier of fact would reach the same conclusion: that Rhodes created these trusts (just as Johnson advertised) to avoid paying taxes on his earned business income. But the tax laws do not permit a party to "attribute[]" via contract "the fruits" of a business "to a different tree from that on which they grew." *Lucas v. Earl*, 281 U.S. 111, 115 (1930).

Rhodes's responses do not change things. He first criticizes the district court's decision to disregard his sworn declaration because he exercised his right to remain silent during the IRS audit. True, the district court suggested that Rhodes's decision to "invok[e] the Fifth Amendment" during the IRS audit barred him from testifying about his businesses in this case because the audit and the case qualified as the same proceeding. *Rhodes*, 2025 WL 2428437, at *8; *see Rhodes*, 2025 WL 2692039, at *2. We have our doubts about this conclusion, especially because Rhodes sat for a deposition and subjected himself to cross-examination during the case. *See In re Flint Water Cases*, 53 F.4th 176, 205 (6th Cir. 2022) (opinion of Griffin, J.); *id.* at 218 (Thapar, J., concurring). But we need not resolve this issue. The district court went on to conclude that Rhodes failed to create a genuine issue of material fact even accepting his declaration's allegations. *See Rhodes*, 2025 WL 2428437, at *8. We affirm on that basis alone.

Rhodes next turns to 26 U.S.C. § 7491(a). This statute (which dates to 1998) says that the IRS "shall have the burden of proof" on "any factual issue relevant to ascertaining the liability of [a] taxpayer" if the "taxpayer introduces credible evidence with respect to" that issue. 26 U.S.C. § 7491(a); *see* Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, § 3001(a), 112 Stat. 685, 726–27. And whether or not Rhodes's declaration makes a "reasonable denial," *Hammon*, 277 F. App'x at 563, he says it at least qualifies as "credible evidence" on the "issue" of who owns the income flowing into the Signmaker and Graphic Associates bank accounts, 26 U.S.C. § 7491(a). Yet § 7491(a) applies only if "the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the [IRS] for witnesses, information, documents, meetings, and interviews[.]" *Id.* § 7491(a)(2)(B). Rhodes did none of these things. He thus cannot avail

himself of § 7491(a)'s burden-shifting rule even if he did produce "credible evidence." Indeed, one might take this conclusion one step farther: If taxpayers may not shift the burden of proof under § 7491(a), why should they be able to do so under our preexisting "reasonable denial" standard? Put another way, how should § 7491(a)'s codified language affect our prior judicially created burden-shifting test? As in a prior case, we can save this question for another day because Rhodes's failure to satisfy that reasonable-denial test renders it unnecessary to decide. *See Rohner*, 634 F. App'x at 499 n.4.

Rhodes also disputes Reda's opinion that Rhodes wrote many checks from the Signmaker and Graphic Associates bank accounts to pay personal expenses. Reda, for example, suggested that Rhodes wrote the following personal checks from the accounts: a check to a veterinary hospital for a family pet, checks to utility companies for the gas and electricity at his Harsens Island home, checks to a local church for private religious donations, and checks to a health insurer for personal medical expenses. According to Reda, these checks confirmed that the bank accounts contained Rhodes's income that he spent as he pleased.

In his declaration, Rhodes asserted that all these items qualified as valid business expenses of Signmaker and Graphic Associates (seemingly in conflict with his claim that these trusts were fiduciary relationships rather than legal entities). He, for example, alleged that the veterinary care was for a "guard dog" that he kept at the "office space" for his businesses before he began to operate them out of his home. Rhodes Decl., R.81-2, PageID 1434. And he said that the businesses paid his home's "utility bills" only after he started working from home. *Id.*, PageID 1435. He also claimed that the checks he wrote to the local church were "small charitable donations" from the businesses (rather than from himself). *Id.*, PageID 1436. Lastly, he asserted that he paid the health insurer "for group health insurance for Signmaker and Graphic Associates workers." *Id.*

One might wonder whether a factfinder would believe these claims. For example, Rhodes testified that Graphic Associates had only one employee (himself) and that Signmaker had only a contractor and subcontractors, not employees. Rhodes Dep., R.79-1, PageID 839, 850–51. So why would these businesses have "group health insurance" for "workers"? Rhodes Decl., R.81-2, PageID 1436. That said, the district court found that Rhodes's declaration

contained "plausible explanations" for the checks. *Rhodes*, 2025 WL 2428437, at *7. And we may not "ignore" Rhodes's declaration on summary judgment "simply because [he] might find it difficult to convince a" factfinder. *Gambrel v. Knox County*, 25 F.4th 391, 404 (6th Cir. 2022).

But this conclusion does not change things. These explanations might suggest that Rhodes could have lowered his taxable income (as compared to the amount in Reda's assessment) by taking deductions for business expenses. *See* 26 U.S.C. § 63(a). Yet Rhodes concedes that he does not "challenge the *quantum* of the IRS's assessment." Reply Br. 9 (emphasis added). That is, he does not claim that he had taxable income that Reda's bank deposits method overestimated. Rather, Rhodes claims that he earned *none* of the taxable income in the Signmaker and Graphic Associates bank accounts. We do not need to rely on any of the specific checks to conclude that every "rational trier of fact" would reject this claim. *Viet*, 951 F.3d at 823 (citation modified).

* * *

The facts of this case are largely undisputed: Johnson convinced Rhodes that he could avoid paying taxes by restructuring his businesses using common-law trusts. But Rhodes then continued to operate his businesses in largely the same way (with the exception of occasionally speaking with Johnson about the businesses and getting his co-signatures on checks). For nearly 100 years, however, the Supreme Court has held that taxpayers cannot "escape[]" tax obligations through contractual arrangements. *Lucas*, 281 U.S. at 115. Indeed, many courts have upheld *criminal* convictions for similar schemes using purported common-law trusts or pure trust organizations. *See United States v. Sorensen*, 801 F.3d 1217, 1220–21 (10th Cir. 2015); *United States v. Beam*, 528 F. App'x 233, 236 (3d Cir. 2013); *United States v. Tranakos*, 911 F.2d 1422, 1430–31 (10th Cir. 1990). So Rhodes's civil liability breaks no new ground.

B. Count II: Property Lien

Rhodes likewise does not dispute the legal rules that apply when the government tries to collect unpaid taxes. Once the IRS issues an assessment, the "amount" that a taxpayer owes becomes "a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to" the taxpayer. 26 U.S.C. § 6321; *see id.* § 6322. The government

may then sue to enforce the lien and request a sale of the property. *See United States v. Davis*, 815 F.3d 253, 257 (6th Cir. 2016); 26 U.S.C. § 7403. Courts must ask both a state-law question and a federal-law question to resolve whether a tax lien has attached to specific real estate. State law determines the interests that a taxpayer possesses in that land because § 6321 does not itself create property rights. *See United States v. Craft*, 535 U.S. 274, 278 (2002). But federal law determines whether this state-law interest gives a taxpayer ownership of "property" or "rights to property" and thus whether a lien may attach to the land under § 6321. *See id.* at 278–79.

The government invoked § 6321 in this suit. It sought an order of sale for Rhodes's Harsens Island home, claiming that Reda's assessment created a lien on that home. But Rhodes responded that he did not own the Harsens Island "property" and had no "rights to" it because he had transferred the home to the July Thirtyfirst trust. 26 U.S.C. § 6321. The district court disagreed, reasoning that July Thirtyfirst was not a valid trust. *See Rhodes*, 2025 WL 2428437, at *10–11. If July Thirtyfirst were a nullity, Rhodes stipulated that he and his wife would still own the home. *Id.* at *11. But he now challenges the district court's ruling about this trust's validity.

Because § 6321 does not create property interests, we must turn to Michigan law to decide whether Rhodes properly established (and transferred his home to) July Thirtyfirst. *See Craft*, 535 U.S. at 278. To establish a trust under Michigan law, a "settlor" must satisfy five requirements. Mich. Comp. Laws § 700.7402(1) (2026). The settlor must have the "capacity to create a trust." *Id.* § 700.7402(1)(a). The settlor must show an "intention to create" one. *Id.* § 700.7402(1)(b). The trust must have "a definite beneficiary" (or satisfy other conditions that do not matter here). *Id.* § 700.7402(1)(c). The trustee must have "duties to perform." *Id.* § 700.7402(1)(d). And a person cannot be both "sole trustee and sole beneficiary." *Id.* § 700.7402(1)(e).

All agree that Johnson, in his capacity as the "fiduciary owner" of July Thirtyfirst, served as its trustee. This case instead turns on the third requirement: Did July Thirtyfirst also have a "definite beneficiary"? *Id.* § 700.7402(1)(c); *see* Helene S. Shapo et al., *Bogert's The Law of Trusts and Trustees* § 161, Westlaw (database updated May 2026). The articles creating this trust used the phrase "Certificate holder" rather than beneficiary. Articles, R.79-11, PageID

1044–45, 1049. And Rhodes and his wife were the first certificate holders. Rhodes Dep., R.79-1, PageID 827. If certificate holders had the same substantive interests in the trust property that beneficiaries must possess, Rhodes correctly notes that the "particular form of words" that he used likely would not affect the trust's validity. *In re Est. of Matusinski*, 2007 WL 1934791, at *2 (Mich. Ct. App. July 3, 2007) (per curiam) (quoting *Frost v. Frost*, 131 N.W. 60, 61 (Mich. 1911)).

Still, Rhodes's argument fails because the certificate holders lack the required interest. Under the relevant definition of "beneficiary" in Michigan trust law, the person designated as such must have "a present or future beneficial interest in [the] trust," whether "vested or contingent." Mich. Comp. Laws § 700.7103(l)(i). Given this interest, "a fundamental feature of a trust is the separation of legal and equitable title." *JPMorgan Chase Bank, N.A. v. Winget*, 942 F.3d 748, 750 (6th Cir. 2019). The trustee possesses the "[l]egal title" to trust property and must hold it "for the benefit of the beneficiary." *Apollinari v. Johnson*, 305 N.W.2d 565, 567 (Mich. Ct. App. 1981) (per curiam). But beneficiaries hold the "equitable title" to the property, *JPMorgan Chase*, 942 F.3d at 750, so they "may sue in equity" to protect it, *Apollinari*, 305 N.W.2d at 567.

Here, however, the articles creating the July Thirtyfirst trust disavowed that any certificate holder would have this equitable interest. The articles stated that no "present or future" "Certificate holders" would "have or possess any *beneficial interest* in the property or assets" of the trust. Articles, R.79-11, PageID 1044 (emphasis added). They added that "[o]wnership of Certificates" of the July Thirtyfirst trust "shall not entitle the holder to any legal or *equitable title* in or to" its assets. *Id.*, PageID 1049 (emphasis added). And they made clear that no certificate holder "shall be entitled to any distributions, as a matter of right, either from income or corpus." *Id.*, PageID 1054. Unsurprisingly, then, Rhodes testified that the trust had "no beneficiaries" and answered "[y]es" when asked if a certificate holder was "different from a beneficiary of a trust[.]" Rhodes Dep., R.79-1, PageID 826, 828. Nor did he try to satisfy Michigan law when creating July Thirtyfirst. To the contrary, the articles establishing the trust suggested that it was "formed under the Common Law of Contracts" rather than "under the trust laws of any state." Articles, R.79-11, PageID 1044. Ever since *Erie Railroad Co. v. Tompkins*,

304 U.S. 64 (1938), though, federal courts generally must rely on state common law. *Id.* at 78–80. And Michigan law required beneficiaries.

The course of events confirms that no beneficiaries existed. According to Rhodes, he and his wife were the "original certificate holders," which purportedly gave them the right to continue to live at their home. Rhodes Dep., R.79-1, PageID 814, 826–28; Rhodes Decl., R.81-2, PageID 1440–41. But they later signed over their certificates to Johnson to distance themselves from the home. Rhodes Dep., R.79-1, PageID 827. Johnson redistributed the certificates to a woman whom Rhodes did not know named Stephanie Barrett. *Id.*, PageID 827. Yet the record contains no evidence that Barrett gained anything by obtaining these certificates. And despite relinquishing the certificates, Rhodes admitted that he had a separate "verbal agreement" with Johnson that he (or at least his wife) could still stay in the home. *Id.*, PageID 828–29. Rhodes also points to no evidence that either of them ever paid rent. So Rhodes's right to benefit from the property existed independently of the trust or their certificate-holder status. All told, the certificate holders were not the trust's beneficiaries because they had no beneficial interest in its property.

In response, Rhodes starts with a legal point. He argues that the certificate holders could have qualified as valid beneficiaries under Michigan law even if they lacked an equitable title "*in*" the trust property, so long as they had a right to benefit "*from*" that property. Appellant's Br. 37–38. To support this claim, he points to our decision in *JP Morgan Chase*, which equated a beneficiary's "equitable title" with "the right to benefit from the trust property[.]" 942 F.3d at 750. But we do not think the prepositional phrase matters on this case's facts. Under the articles creating July Thirtyfirst, the certificate holders did not just lack an "equitable title" to the Harsens Island home. Articles, R.79-11, PageID 1044. They also lacked any "beneficial interest" in the property. *Id.* In short, even under Rhodes's legal test, July Thirtyfirst had no beneficiaries.

Rhodes counters that the articles creating July Thirtyfirst did give the certificate holders some benefits. The articles, for example, allowed them to pursue a claim against the fiduciary owners: "The rights of the Certificate holders . . . are limited merely to a claim against the Fiduciary Owners to carry out this Contract." *Id.*, PageID 1049. And other articles suggested

that the certificate holders could receive July Thirtyfirst's "assets" if the fiduciary owners decided to terminate or liquidate the trust—unless the "minutes" from the fiduciary owners' "meetings" offered "contrary instructions" on the distribution of this property. *Id.*, PageID 1045, 1047. Yet the ability to enforce a contract does not make a contracting party a beneficiary of a trust. The contrary rule would turn all contracts into trusts. And the articles gave the fiduciary owners discretion to issue "instructions" to distribute July Thirtyfirst's assets in a way different from the default method identified. *Id.*, PageID 1045; *see* Rhodes Dep., R.79-1, PageID 829. So the certificate holders have no more of a right to the trust's property than anyone else.

No better is Rhodes's comparison of July Thirtyfirst to a discretionary trust. Under Michigan law, this type of trust gives the trustee discretion over when (if ever) to disburse trust assets to beneficiaries. *See* Mich. Comp. Laws §§ 700.7103(d), 700.7505. Yet the trust still requires a beneficiary. *See id.* § 700.7103(d). And beneficiaries of these trusts likely could seek judicial review if a trustee abused its discretion in its disbursement decisions. Shapo, *supra*, § 228. Here, by contrast, July Thirtyfirst did not just give the fiduciary owners discretion. It also failed to identify any beneficiaries for whom these owners should exercise that discretion. So it did not qualify as a trust at all—discretionary or otherwise. And Rhodes agrees that he and his wife retained ownership of the Harsen Islands home if they did not establish a valid trust. A tax lien thus covered this home under § 6321, and the district court properly ordered its sale.

We affirm.