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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA,		:	
		:	
Plaintiff,		:	
		:	
v.		:	Case No. _____
		:	
DORIS E. BAULES,		:	
		:	
Defendant.		:	COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF
		:	
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The United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of a delegate of the Attorney General of the United States pursuant to 26 U.S.C. §§ 7401, 7402, 7407, and 7408, complains and alleges as follows:

1. The United States brings this complaint to enjoin Doris E. Baules and any other person working in concert or participation with her from directly or indirectly:

- (a) preparing or filing any federal tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than herself;
- (b) assisting or advising in the preparation of federal tax returns and amended returns;
- (c) understating taxpayers' liability as prohibited by 26 U.S.C. § 6694;
- (d) engaging in other activity subject to penalty under 26 U.S.C. §§ 6694, 6695(g), and 6701, or any other penalty provision of the Internal Revenue Code; and
- (e) engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407 and 7408.

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396 and 26 U.S.C. §§ 7407 and 7408 because the defendant, Doris E. Baules, resides and does business in Garfield, New Jersey, within this judicial district; the events giving rise to this claim occurred within this judicial district; and a substantial number of the customers for whom Baules prepared federal income tax returns reside within this judicial district.

Defendant

4. Doris E. Baules is a paid tax return preparer who resides in Garfield, New Jersey.

5. Baules taught herself to prepare federal tax returns by reading Internal Revenue Service publications. She has taken business administration courses at the Betty Owens School, and has worked as a paralegal.

6. Baules also receives income tax return preparation training through the IRS website, emails, and Drake Software notifications, where she learns about yearly income tax law changes.

7. Since 2010, Baules has operated a tax return preparation business known as D’Vazquez Tax Solutions LLC. Previously, Baules prepared tax returns through the D’Vazquez Agency, a business that she started in 2001.

Summary of Baules’s Activities

8. IRS records show that Baules prepared approximately 420 returns in 2009, 523 returns in 2010, 647 returns in 2011, and 666 returns in 2012, for a total of 2,256 returns between 2009 and 2012.

9. Baules knowingly or recklessly prepared federal income tax returns claiming the Earned Income Tax Credit (EITC) for her clients without verifying or substantiating her clients’ entitlement to the EITC. She knowingly or recklessly maximized the EITC for her clients by fabricating or failing to verify her clients’ income reported on their Schedule C Forms (these forms list a taxpayer’s profit and loss from a business), and/or by fabricating or failing to verify whether her clients had “qualifying children.”

10. Baules continually or repeatedly failed to comply with the due diligence requirements for determining her clients’ eligibility for the EITC.

11. By knowingly or recklessly failing to investigate her clients’ entitlement to the EITC, Baules engaged in conduct subject to penalty under Internal Revenue Code section 6695(g).

12. Since at least 2008, Baules has repeatedly and continually claimed a credit under section 32 of the Internal Revenue Code (26 U.S.C.), *i.e.*, the Earned Income Tax Credit

(“EITC”), on her clients’ returns to generate erroneous refunds for her clients or reduce their federal tax liabilities, without verifying that her clients are entitled to claim the EITC.

13. The EITC is a refundable credit, which means that it can generate a refund exceeding the amount of income tax paid by an individual taxpayer. The falsely or overstated EITC claims reported by Baules on her clients’ returns generate corresponding decreases in tax liability and/or increases in refunds.

14. The amount of the EITC that a taxpayer may claim increases in proportion to a taxpayer’s wages or other earned income up to a certain dollar amount and then levels off. Consequently, there is a “plateau” of earned income amounts that will result in the maximum possible EITC a taxpayer may claim. Because that “plateau” amount may be more than the income the taxpayer actually earned, a return falsely overstating income will, in certain circumstances, generate a larger refund.

15. The amount of the EITC that a taxpayer may claim increases for each “qualifying child” claimed by the taxpayer, up to three children.

16. A taxpayer may claim an individual as a “qualifying child” if that individual:

(a) is related to the taxpayer as one of the following: son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendent of any of them; and

(b) is under the age of 19 at the end of the tax year, or is under the age of 24 and a student at the end of the year, or is permanently and totally disabled; and

(c) shares the principal place of abode with the taxpayer for more than one-half of the year, and

(d) has not filed a joint federal income tax return for that tax year. *See* 26 U.S.C. §§ 32(c)(3) and 152(c).

17. Where a tax return preparer seeks to claim the EITC for a client, the tax return preparer must follow the due diligence requirements set forth in 26 U.S.C. § 6695(g) to determine a client's eligibility for the EITC and the proper amount of the EITC.

18. The due diligence a preparer must undertake, as set forth in section 1.6695-2(b) of the Treasury Regulations (26 C.F.R.), includes, *inter alia*, the duty to make reasonable inquiries if the information provided by the taxpayer appears to be incorrect, incomplete, or inconsistent, as well as a duty to contemporaneously document the inquiries made and the responses to these inquiries.

19. Baules knowingly or recklessly creates false or overstated EITC claims for her clients through her lack of due diligence, which includes her failure to verify or substantiate her clients' Schedule C income (this form lists a taxpayer's profit or loss by a business) and/or her failure to verify or substantiate whether her clients may legitimately claim "qualifying children" on their tax returns.

20. In 2010, the IRS reviewed tax returns prepared by Baules during 2009 to determine whether the due diligence requirements were being met with respect to (1) the eligibility of taxpayers to claim the EITC on the returns she prepared; and (2) whether the amount of the EITC claimed on the returns she prepared was correct.

21. During that investigation, the IRS determined that Baules failed to meet the due diligence requirements for 86% of the returns. She did not ask nor document follow-up questions regarding the information provided by her clients when such information appeared to be incomplete, incorrect, or inconsistent. Baules admitted to the IRS that she only requires documentation from a client if she is unfamiliar with the client's situation.

22. As a result of the 2010 IRS investigation described above, Internal Revenue Code section 6695(g) penalties totaling \$12,500 were assessed against Baules on or about April 18, 2011. Baules has paid the section 6695(g) penalties in full.

23. On or about February 8, 2012, Internal Revenue Agent Richard G. Brown interviewed Baules to determine if she was in compliance with the due diligence requirements with respect to her preparation of tax returns claiming the EITC. At that meeting, Baules provided to the IRS 20 tax returns that she had prepared for her clients for the 2010 tax year, along with the corresponding client files.

24. Despite being penalized for failing to comply with the due diligence requirements in 2010 with respect to returns prepared in 2009, the files produced by Baules to the IRS in February of 2012 demonstrate Baules's continued failure to comply with the Code's due diligence requirements with respect to claims for the EITC on her clients' returns:

(a) Baules failed to include the required documentation pertaining to the qualifying child in 19 of the 20 client files where the client claimed the EITC.

(b) In 16 cases, Baules claimed a qualifying child for a taxpayer father without including in the file any narrative or documentation regarding the location of the mother or why the mother was not claiming the qualifying child, in contravention of the due diligence requirements.

(c) In two cases, Baules claimed the EITC for a qualifying child who was not the son or daughter of the taxpayer. Her client files for those taxpayers did not contain any narrative or documentation of why the parent of the qualifying child was not claiming the EITC, as required.

(d) In one case, Baules claimed a “qualifying child” for a client even though the child’s birth certificate showed the child’s father was not the client. The client file contained no narrative or explanation to verify that the client was entitled to claim the minor as a “qualifying child.”

(e) In one case, Baules claimed a “qualifying child” on a client’s federal tax return even though the client’s Final Judgment of Divorce indicated that the non-client parent was the custodial parent, which would prevent a client from claiming a “qualifying child.” The client file contained no additional documentation or narrative to explain why the client was entitled to claim the “qualifying child.”

(f) In 15 instances, Baules did not include documentation in the client files pertaining to required inquiries regarding the legitimacy of the Schedule C businesses listed. Seven of those 15 client files contained a Schedule C that reported no business expenses, but there was no narrative that described any additional questions that were asked of the taxpayers as to why there were no business expenses.

(g) In one case, Baules created Schedule C income for a client who, when interviewed, stated that she provided Baules with no books and records for her cleaning business, and that she did not know how Baules calculated the income listed on the Schedule C attached to her federal tax return.

25. The Internal Revenue Service audited twenty-four federal income tax returns that Baules prepared for the 2008-2011 tax years, all of which contained EITC claims. One hundred percent (100%) of the audited returns were adjusted to either disallow the client’s EITC claim or reduce the amount of the client’s EITC claim, indicating that all of these returns prepared by Baules incorrectly or improperly claimed the EITC.

26. Baules continually or repeatedly prepared federal income tax returns claiming the EITC without following the due diligence requirements imposed by the Treasury Regulations.

Harm to the United States

27. Baules has caused substantial revenue losses to the United States.

28. Twenty-four IRS audits of returns prepared by Baules reporting an EITC claim resulted in adjustments totaling \$107,544, or approximately \$4,481 per return.

29. Spread over the 1,399 returns with EITC claims that Baules prepared during the 2009-2012 filing seasons, the IRS estimates the harm to the United States from Baules's misconduct to be as high as \$6.2 million.

Count I
Injunction Under IRC § 7407 for Conduct
Subject to Penalty Under IRC §§ 6694 and 6695

30. The United States incorporates by reference the allegations set forth above in paragraphs 1 through 29.

31. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a person who is a tax return preparer from engaging in certain prohibited conduct or from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, *inter alia*:

(a) engaging in conduct subject to penalty under Code section 6694, which penalizes a tax return preparer who recklessly and/or intentionally disregards the rules and regulations of the Internal Revenue Code in preparing a tax return; and

(b) engaging in conduct subject to penalty under Code section 6695(g), which penalizes a tax return preparer for failing to exercise due diligence in determining eligibility for the EITC.

32. Pursuant to 26 U.S.C. § 7407(b), a court should enjoin a preparer from engaging in prohibited conduct when it finds that:

- (a) the tax return preparer engaged in the prohibited conduct; and
- (b) injunctive relief is appropriate to prevent the recurrence of such conduct.

33. Pursuant to 26 U.S.C. § 7407(b), a court should enjoin a person from acting as a tax return preparer when it finds that:

- (a) the prohibited conduct is continual or repeated; and
- (b) a narrower injunction would not be sufficient to prevent the preparer's

interference with the proper administration of the internal revenue laws.

34. Baules has continually and repeatedly engaged in conduct subject to penalty under Code section 6694 by preparing returns taking an unreasonable position for which there was no authority that understate her clients' tax liabilities and overstate their refunds.

35. Baules has continually and repeatedly engaged in conduct subject to penalty under Code section 6695 by failing to exercise due diligence in determining her clients' eligibility for the EITC. Even after the IRS imposed \$12,500 in penalties against Baules for this conduct, she continues to claim the EITC on the returns she prepares for her clients without exercising due diligence.

36. Baules has continually and repeatedly engaged in conduct that violates Code sections 6694 and 6695 and which substantially interferes with the administration of the internal revenue laws.

37. Injunctive relief prohibiting Baules from preparing returns is necessary to prevent this misconduct because, absent an injunction, Baules is likely to continue her failure to exercise due diligence in the preparation of federal income tax returns, and to continue preparing federal

income tax returns for clients that may not be/are likely not entitled to claim the EITC at all or in the amounts proposed by Baules.

38. A narrower injunction would be insufficient to prevent Baules's interference with the administration of the federal tax laws. Baules's continued preparation of returns claiming false or inflated EITCs, and continued failure to comply with the due diligence requirements even after the imposition of penalties and the knowledge that the IRS would be monitoring her compliance, demonstrates the necessity of enjoining her from preparing returns.

39. A permanent injunction necessary to prevent future harm. If Baules is not permanently enjoined from preparing tax returns, the IRS will be required to spend additional scarce and unrecoverable resources to investigate and analyze returns she prepares in the future. In addition, the IRS will continue to be harmed through the loss of tax revenues resulting Baules's actions.

Count II
Injunction Under IRC § 7408 for
Conduct Subject to Penalty Under IRC § 6701

40. The United States incorporates by reference the allegations contained in paragraphs 1 through 29.

41. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under Code section 6701, which penalizes a person who aids or assists in the preparation of tax returns that the person knows will result in an understatement of tax liability or an overstatement of the net amount refundable through the EITC.

42. Baules has engaged in conduct subject to penalty under Code section 6701 by preparing or directing the preparation of income tax returns that claim an EITC when she knows

or should reasonably know that her clients are not eligible for that credit, or the credit in the full amount claimed.

43. Pursuant to 26 U.S.C. § 7408, the court should enjoin Baules's from preparing any returns that improperly claim or inflate a claim to the EITC. Injunctive relief is necessary to prevent the recurrence of this conduct.

Count III
Injunction Under IRC § 7402(a) for
Unlawful Interference with the Enforcement of the Internal Revenue Laws

44. The United States incorporates by reference the allegations contained in paragraphs 1 through 29.

45. Section 7402(a) of the Internal Revenue Code authorizes a court to issue orders, including injunctions, as may be necessary or appropriate for the enforcement of the internal revenue laws.

46. Baules's conduct has caused and will continue to cause substantial tax losses to the United States Treasury. Unless Baules is enjoined from preparing returns, the IRS will have to devote substantial and unrecoverable time and resources to auditing her clients individually to detect erroneous refund claims in future returns. Moreover, the IRS and the United States will also have to devote substantial resources attempting to collect the erroneous refunds, many of which may not be recoverable.

47. The detection, audit, and collection of erroneous EITC refund claims filed by Baules's clients will be a significant burden on IRS resources.

48. Baules has repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

49. Baules's continued conduct as a tax return preparer will result in irreparable harm to the United States, and the United States has no adequate remedy at law.

WHEREFORE, the plaintiff, the United States of America, respectfully prays:

A. That the Court find that Doris Baules has repeatedly and continually engaged in conduct subject to penalty under Internal Revenue Code sections 6694 and 6695, and that injunctive relief is appropriate under Code section 7407 to prevent the recurrence of that conduct.

B. That the Court find that Doris Baules has repeatedly and continually engaged in conduct subject to penalty under Internal Revenue Code section 6701, and that injunctive relief is appropriate under Code section 7408 to prevent the recurrence of that conduct.

C. That the Court find that Doris Baules has repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the internal revenue laws, and that injunctive relief is appropriate under Code section 7402(a) to prevent the recurrence of that conduct.

D. That the Court enter a permanent injunction prohibiting Doris Baules or any other person working at her direction, in concert, or in participation with her from directly or indirectly:

1. preparing or filing federal tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than herself;

2. assisting or advising in the preparation of federal tax returns and amended returns;

3. understating taxpayers' liabilities as prohibited by Internal Revenue Code section 6694;

4. engaging in other activity subject to penalty under Internal Revenue Code sections 6694, 6695(g), and 6701; and

5. engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws.

E. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Baules to contact, within 30 days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom she prepared, or assisted in preparing, federal tax returns to inform them of the permanent injunction entered against her;

F. That the Court enter an order allowing the United States to monitor Baules's compliance with the injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure;

G. That the Court retain jurisdiction over this civil action for the purposes of enforcing the final injunction entered in this action; and

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H. That the Court grant the United States such other and further relief as the Court may deem to be just and appropriate.

Dated: February 19, 2013

DESIGNATION PURSUANT TO LOCAL CIVIL RULE 101.1(f)

Per the requirements of Local Civil Rule 101.1(f), the undersigned hereby designates the United States Attorney for the District of New Jersey to receive service of all notices or papers in this action at the following address:

Chief, Civil Division
United States Attorney's Office
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