

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

UNITED STATES OF AMERICA,)	
)	Case No. 14-cv-1637
Plaintiff,)	
)	
v.)	
)	
JOHNNIE PERNELL, JR. and)	
THE TAX HELPER CORP.)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America seeks a permanent injunction against defendants Johnnie Pernell, Jr. (“Pernell”) and The Tax Helper Corp. (“Tax Helper”), permanently barring them from acting as federal tax return preparers.

Nature of Action

1. The United States commences this action to enjoin Pernell and Tax Helper, and all those in active concert or participation with them, from directly or indirectly:

A. Acting as federal tax return preparers, supervising or managing federal tax return preparers, or assisting with, or directing the preparation or filing of federal tax returns, amended tax returns, claims for tax refunds, or other related documents, for any person or entity other than themselves, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service (“IRS”);

B. Engaging in conduct subject to penalty under 26 U.S.C. (“I.R.C.”) § 6701, including aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or

advise) with respect to the preparation or presentation of any portion of a tax return, claim, or other document, that defendants know (or have reason to know) will be used as to a material matter arising under the federal tax laws, and will result in the understatement of the liability for tax of another person or entity;

C. Aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or advise) others to understate their federal tax liabilities or assert unreasonable, frivolous, or reckless positions, or preparing or assisting in the preparation or filing of tax returns for others that defendants know (or have reason to know) will result in the understatement of any tax liability as subject to penalty under I.R.C. § 6694;

D. Improperly aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who improperly aid, instruct, assist, encourage, enable, incite, or advise) others to avoid the assessment or collection of their federal tax liabilities or to claim improper tax refunds;

E. Engaging in any activity subject to penalty under I.R.C. § 6695; and

F. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

2. The Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 I.R.C. § 7402(a).
3. Venue is proper pursuant to 28 U.S.C. § 1391(b) because defendants reside or conduct business within this judicial district and because a substantial part of the events giving rise to this suit occurred or are taking place in this judicial district.

Authorization

4. This action has been requested by the Chief Counsel of the IRS, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7401, 7402, 7407 and 7408.

Facts

5. Pernell resides in Chicago, Illinois and co-owns and operates a tax preparation store with the brand name The Tax Helper, located at 5236 West North Avenue, Chicago, Illinois.
6. Defendant Tax Helper is an active corporation under Illinois law. The corporate agent's street address is the same as Tax Helper's store address – 5236 West North Avenue, Chicago, Illinois.
7. As a tax return preparer at Tax Helper, Pernell prepares fraudulent federal tax returns of his customers, including tax returns that, among other violations of the law, report improper filing statuses and claim deductions for false expenses, such as business, property, investment, and education expenses. These fraudulent tax returns report Tax Helper as the preparer firm and list the Electronic Identification Number issued to Tax Helper by the IRS.

Improper Tax Returns

8. The IRS Form 1040 individual tax return requires taxpayers to declare a filing status, such as single, married filing jointly, head-of-household, and married filing separately. For those who qualify, head-of-household status allows taxpayers to receive a higher standard deduction and, in most instances, a lower tax rate compared to taxpayers who file as single or married filing separately. Among the qualifications for claiming head-of-household status, taxpayers must be considered unmarried at the end of the calendar year,

pay more than half the cost of maintaining a home for the year, and with few exceptions, care for a qualified dependent living in their home for over half the year.

9. Pernell prepares and files tax returns of customers that claim false filing statuses, including head-of-household status. For example, in 2011 Pernell prepared and signed separate 2010 tax returns of a husband and wife (Customer 1). The husband's tax return improperly reports single status, and the wife's tax return falsely claims head-of-household status. When interviewed by the IRS, the couple confirmed that neither of them qualified for head-of-household status. The couple was married throughout 2010 and, except for two months during the year, lived in the same home, including at the end of 2010. Both tax returns identify Pernell as the preparer, report the same Chicago home address for each customer, and were separately signed by each customer on the same day – February 6, 2011. Although Pernell reported over \$75,000 as wages on the husband's tax return, he reported significantly lower income on the wife's return which, in combination with the false claim for head-of-household status, fraudulently qualified her for an Earned Income Tax Credit of \$3,420.
10. In order to understate income tax liabilities and claim improper tax refunds for his customers, Pernell prepares and files tax returns that include fraudulent claims for tax deductions based upon entirely fictitious or unsubstantiated expenses arising from customers' purported income sources, such as self-employment, employment, and real estate rentals. Examples include:
 - A. Customer 2. Pernell prepared the 2010 tax return of a resident of Chicago Illinois and reported on Form Schedule C of the return that Customer 2 owned a fictitious electrical business with no income and a net loss exceeding \$24,000. Specifically,

Pernell claimed various business expenses, such as \$1,500 for insurance, \$6,875 for car and truck expenses, \$2,500 for repairs and maintenance, \$2,600 for “fuel and oil change,” and \$2,600 for deductible meals and entertainment. When interviewed by the IRS, Customer 2 denied that he provided any documentation to Pernell to substantiate the expenses claimed on Schedule C. Customer 2 also admitted to the IRS that he was not self-employed in 2010 and never owned the electrical business described in the tax return Pernell prepared and filed;

B. A resident of Maywood, Illinois (Customer 3) who worked as an employee for a commercial refrigeration company and had his 2010 tax return prepared by Pernell. Customer 3 informed the IRS during an interview that not only does his 2010 tax return include multiple false entries unrelated to his employment, such as deductions for fictitious charitable contributions and a bogus claim for the Residential Energy Credit, the return also includes deductions for fake unreimbursed employee business expenses. Customer 3 admitted to government investigators that for 2010, he neither had unreimbursed employee business expenses, nor provided any documentation to Pernell to claim employee business expense deductions. Nonetheless, Pernell reported over \$13,000 in deductible employee business expenses in Customer 3’s 2010 tax return, including \$6,443 for vehicle expenses and \$3,600 for meals and entertainment; and

C. Customer 4. Pernell prepared the 2010 tax return of a resident of Chicago, Illinois and falsely reported that Customer 4 incurred \$24,793 in Schedule E deductible real estate losses. Customer 4 informed the IRS that she lives in a two-floor house in Chicago and allows her daughter to occupy the second floor for \$400 per month, which covers some of the home expenses. The IRS determined that Customer 4’s daughter does

not qualify as a renter under IRS rules because the daughter does not rent the space at or above market value. Moreover, Customer 4 admitted to the IRS that she did not provide documentation to Pernell to support the \$24,793 of itemized real estate expenses claimed on her 2010 tax return, such as \$3,800 for supplies, \$3,960 for utilities, and \$950 for cleaning and maintenance. Customer 4 informed the IRS that she does not know how Pernell determined these amounts.

11. Pernell also prepares tax returns of his customers that include other fraudulent claims for tax deductions, such as for false investment interest expenses and education expenses.

Examples include:

- A. Customer 5, a married couple from Cicero, Illinois. Pernell prepared a 2010 joint tax return of the couple that falsely claimed that each of them incurred \$4,000 in education expenses, which, in turn, qualified both of them for the American Opportunity Credit. When interviewed by the IRS, the couple denied that they incurred any educational expenses in 2010; and

- B. Customer 6, a resident of Chicago, Illinois. In 2011, Pernell prepared Customer 6's 2010 tax return, which reported multiple fraudulent expenses used to claim tax credits and deductions. For example, Pernell reported that Customer 6 incurred \$6,500 of investment interest expenses and \$4,000 in education expenses to qualify for the American Opportunity Credit. During an IRS interview, Customer 6 denied that he either had investment interest expenses in 2010, or incurred educational expenses that qualify for the American Opportunity Credit.

Other Fraudulent Conduct

12. Pernell's misconduct as a tax return preparer pre-dates 2011. On January 11, 2006, Pernell was indicted for participating in a tax fraud scheme involving the sale and use of social security numbers belonging to living and deceased children and stolen from a Chicago child welfare organization. The indictment describes how Pernell and others used these social security numbers to claim false dependents on federal tax returns. In response to the indictment, Pernell plead guilty to one criminal count of conspiring to defraud the government with respect to claims (18 U.S.C. § 286 and 2). In September 2006, the court sentenced Pernell to 4 years of probation and ordered him to pay restitution and fines exceeding \$75,000.
13. Although the tax returns Pernell prepared for 2010 typically identified him as the return preparer, on tax returns he prepared for 2011, Pernell often falsely listed other individuals as the preparer and included preparer identification numbers ("PTINs") that belong to other employees of Tax Helper. For example, Customer 7, a resident of Chicago, Illinois, had his 2011 tax return prepared and filed by Pernell in February 2012. During an interview with the IRS in January 2013, Customer 7 reported to government investigators that he hired Pernell to prepare his returns for the past 10 years, and although his 2011 return reports the PTIN of one of Tax Helper's employees, Customer 7 confirmed that Pernell prepared it. Based on an IRS audit of the 2011 return, the government determined that Customer 7 owed more than \$2,000, primarily due to unsubstantiated claims for Schedule A and Schedule E deductions. Similarly, the IRS determined that Customer 7 owed over \$3,300 for 2010, based on a tax return prepared and signed by Pernell.

Harm to the Public and Necessity of Injunction

14. As a tax return preparer for Tax Helper, Pernell's practices harm the United States Treasury and the public by illegally causing Tax Helper customers to incorrectly report their federal tax liabilities and underpay their taxes. Pernell further harms Tax Helper customers by subjecting them to possible sanctions resulting from the false and fraudulent tax returns he prepares.
15. As a tax return preparer for Tax Helper, Pernell's misconduct harms the United States and public by requiring the IRS to devote scarce resources to detecting that misconduct and assessing and collecting lost tax revenues from Tax Helper customers. Pernell further interferes with the proper administration of the internal revenue laws by failing to correctly identify preparers on Tax Helper customers' tax returns and falsely including other individuals' PTINs on returns.
16. Finally, as a tax return preparer for Tax Helper, Pernell's improper tax return preparation practices harm the public at large by undermining the public confidence in the federal tax system and encouraging violations of the internal revenue laws.
17. The harm to the government and the public will increase unless defendants are enjoined because – given the seriousness and pervasiveness of Pernell's illegal conduct – without an injunction, he is likely to continue to prepare improper federal income tax returns of customers. An injunction will serve the public interest because it will put a stop to the illegal conduct at Tax Helper and the harm that such conduct causes the United States and its citizens.

COUNT I

Injunction under I.R.C. § 7408

18. The United States incorporates by reference the allegations contained in paragraphs 1 through 17.
19. Section 7408 of the I.R.C. authorizes a court to enjoin conduct subject to penalty under I.R.C. § 6701 if the court finds that injunctive relief is appropriate to prevent recurrence of such conduct.
20. Section 6701 of the I.R.C. penalizes any person who prepares or aids, or assists, or advises with respect to the preparation of a document that he knows (or has to reason to believe) will be used in connection with any material matter arising under the internal revenue laws and who knows that the document, if so used, would result in an understatement of another person's tax liability.
21. As a tax return preparer for Tax Helper, Pernell prepares federal tax returns of Tax Helper's customers that he knows (or has reason to believe) will be filed with the IRS and that he knows will understate Tax Helper customers' tax liabilities by claiming, among other things, improper filing statuses, as well as deductions for false expenses.
22. If the Court does not enjoin defendants, they are likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Injunctive relief is, therefore, appropriate under I.R.C. § 7408.

COUNT II

Injunction under I.R.C. § 7407

23. The United States incorporates by reference the allegations in paragraphs 1 through 22.
24. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from, among other things, engaging in conduct subject to penalty under I.R.C. §§ 6694 or 6695,

or engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, if the court finds that the preparer has engaged in such conduct and that injunctive relief is appropriate to prevent the recurrence of such conduct.

25. Additionally, § 7407 provides that if the court finds that a tax return preparer has continually or repeatedly engaged in such conduct, and that an injunction prohibiting only such conduct would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a tax return preparer.
26. I.R.C. § 6694 imposes a penalty on any tax return preparer who prepares any return or claim for refund with respect to which any part of a resulting understatement of liability is due to: (a) an unreasonable position of which the preparer knew or reasonably should have known; (b) a willful attempt to understate the liability for tax on the return; or (c) a reckless or intentional disregard of rules or regulations.
27. I.R.C. § 6695 imposes penalties on any tax return preparer who fails to, among other things, comply with Treasury Regulations requiring the preparer to: (a) sign the returns he prepares; (b) furnish identifying numbers on returns he prepares; or (c) comply with due diligence requirements for determining eligibility for, or the amount of the Earned Income Tax Credit.
28. As a tax return preparer for Tax Helper, Pernell has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal income tax returns that understate Tax Helper customers' liabilities based on unreasonable, unrealistic or frivolous positions of which he knew or should have known, as well as his reckless or

intentional disregard of rules or regulations.

29. As a tax return preparer for Tax Helper, Pernell has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695 by, among other things, failing to comply with Treasury Regulations requiring him to sign all tax returns he prepares and provide his identification number on those returns. Pernell's conduct demonstrates a reckless or intentional disregard of these regulations.
30. As a tax return preparer for Tax Helper, Pernell has continually and repeatedly engaged in fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, including by understating his customers' tax liabilities and preparing tax returns that fail to identify the correct preparer.
31. If the Court does not enjoin defendants, they are likely to continue engaging in conduct subject to penalty under I.R.C. §§ 6694 and 6695, as well as engaging in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws. Pernell's preparation of fraudulent tax returns is particularly widespread. In spite of his criminal conviction in 2006 for conspiring to defraud the government by participating in a scheme to steal and use social security numbers to prepare fraudulent tax returns, he continued to prepare improper returns. Injunctive relief is therefore appropriate under I.R.C. § 7407.
32. The continuing and repetitive nature of Pernell's misconduct demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent continued interference with the proper administration of the tax laws. Thus, the Court should permanently enjoin defendants from acting as tax return preparers.

COUNT III

Injunction under I.R.C. § 7402

33. The United States incorporates by reference the allegations in paragraphs 1 through 32.
34. I.R.C. § 7402 authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.
35. Through the actions described above, as a tax return preparer for Tax Helper, Pernell has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.
36. Unless enjoined, defendants are likely to continue to engage in such conduct and interfere with the enforcement of the internal revenue laws.
37. If defendants are not enjoined from engaging in such conduct, the United States will suffer irreparable injury by mistakenly providing federal income tax refunds to individuals not entitled to receive them, as well as expending time and resources to identify the individuals, determine their proper federal tax liabilities, and recover the erroneous refunds from them, if possible.
38. Enjoining defendants from engaging in such conduct is in the public interest because an injunction, backed by the Court's contempt powers, is likely to stop defendants' illegal conduct and the harm it causes to their customers, the public, and the United States Treasury.
39. The Court should thus grant injunctive relief under I.R.C. § 7402.

WHEREFORE, the United States of America requests the following:

- I. That the Court find that defendants have continually or repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and continually and repeatedly engaged in fraudulent or deceptive conduct that substantially interferes with the proper administration of

the internal revenue laws;

- II. That the Court find that injunctive relief under I.R.C. § 7407 is appropriate to prevent the recurrence of such conduct and that a narrower injunction prohibiting only this specific misconduct would not be sufficient to prevent defendants' interference with the proper administration of the internal revenue laws;
- III. That the Court find that defendants have engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief under I.R.C. § 7408 is appropriate to prevent the recurrence of such conduct;
- IV. That the Court find that defendants have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws and that injunctive relief is necessary and appropriate to prevent the recurrence of such conduct pursuant to the Court's inherent equitable powers and I.R.C. § 7402;
- V. That the Court, pursuant to I.R.C. §§ 7402, 7407, and 7408, enter a permanent injunction prohibiting defendants and all those in active concert or participation with them, from:
 - A. Acting as federal tax return preparers, supervising or managing federal tax return preparers, or assisting with, or directing the preparation or filing of federal tax returns, amended tax returns, claims for tax refunds, or other related documents, for any person or entity other than themselves, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the IRS;
 - B. Engaging in conduct subject to penalty under I.R.C. § 6701, including aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or advise) with

respect to the preparation or presentation of any portion of a tax return, claim, or other document, that defendants know (or have reason to know) will be used as to a material matter arising under the federal tax law, and will result in the understatement of the liability for tax of another person or entity;

C. Aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or advise) others to understate their federal tax liabilities or assert unreasonable, frivolous, or reckless positions, or preparing or assisting in the preparation or filing of tax returns for others that defendants know (or have reason to know) will result in the understatement of any tax liability as subject to penalty under I.R.C. § 6694;

D. Improperly aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who improperly aid, instruct, assist, encourage, enable, incite, or advise) others to avoid the assessment or collection of their federal tax liabilities or to claim improper tax refunds;

E. Engaging in any activity subject to penalty under I.R.C. § 6695; and

F. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

- VI. That the Court, pursuant to I.R.C. § 7402, enter an order permanently barring Pernell from owning, or having any ownership interest in any business that provides tax preparation services or tax advice;
- VII. That the Court, pursuant to I.R.C. § 7402 and in conjunction with the Court's order prohibiting defendants from further acting as federal tax return preparers, bar defendants from selling or otherwise transferring any ownership interest in, or assets of Tax Helper,

without prior approval of the Department of Justice or this Court;

- VIII. That the Court, pursuant to I.R.C. §§ 7402, 7407, and 7408, enter an order requiring defendants, within 30 days of receiving the Court's order, to contact by U.S. mail and, if an e-mail address is known, by e-mail, all persons for whom defendants have prepared federal tax returns, amended tax returns, or claims for refund since January 2010, and to inform them of the permanent injunction entered against them by sending each of them a copy of the order of permanent injunction, with no other enclosures unless approved by the Department of Justice or the Court;
- IX. That the Court, pursuant to I.R.C. §§ 7402, 7407, and 7408, enter an order requiring defendants, within 30 days of receiving the Court's order, to produce to counsel for the United States a list that identifies by name, social security number, address, e-mail address (if known), telephone number, and tax period, all persons for whom they have prepared federal tax returns, amended tax returns, or claims for refund since January 2010;
- X. That the Court, pursuant to I.R.C. §§ 7402, 7407, and 7408, enter an order requiring defendants, within 45 days of receiving the Court's order, to file a declaration, signed under penalty of perjury, confirming that they have received a copy of the Court's order and complied with the terms described in Paragraphs VIII and IX of this Complaint;
- XI. That the Court retain jurisdiction over this action to enforce any permanent injunction against defendants;
- XII. That the Court order that the United States be entitled to conduct discovery to monitor defendants' compliance with the terms of any permanent injunction entered against them;
- and

XIII. That the Court grant the United States such other relief, including costs, as is just and proper.

Respectfully submitted,

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