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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH
CENTRAL DIVISION

| | | |
|-----------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA, |) | |
| Plaintiff, |) | Case No. 2:14-cv-00085 DB |
| |) | |
| v. |) | COMPLAINT FOR PERMANENT |
| |) | INJUNCTION AND OTHER RELIEF |
| RULON SANDOVAL, |) | |
| ANDREA R. ACOSTA HERNANDEZ, |) | Judge Dee Benson |
| LATINOS OFFICE, LLC, |) | |
| Defendants. |) | |
| _____ |) | |

The United States of America, for its Complaint for Permanent Injunction and Other Relief, through counsel, states the following claims against the defendants:

1. This is a civil action brought by the United States under 26 U.S.C. §§ 7402(a), 7407 and 7408 to enjoin Rulon Sandoval (“Sandoval”), Andrea R. Acosta Hernandez (“Acosta”), and

Latinos Office, LLC (“LOL”) and anyone in active concert or participation with Sandoval, Acosta or LOL (collectively “the Defendants”), from the following activities:

a. Directly or indirectly organizing, promoting, marketing, or selling, or assisting in organizing, promoting, marketing, or selling, any plan or arrangement that advises or encourages taxpayers to violate internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities, including plans or arrangements that promote, sell, or advocate the use of tax returns which fraudulently allege the existence of deductions or credits to which the taxpayers are not entitled.

b. Engaging in conduct subject to penalty under 26 U.S.C. § 6701, including preparing and filing tax returns and other documents that fraudulently underreport the tax liabilities of others;

c. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 or 6695 including preparing and filing tax returns and other documents that Defendants know or have reason to believe, will be used in any material matter arising under the internal revenue laws, which use would result in an understatement of the liability for another person;

d. Preparing or filing, or assisting in, or directing the preparation or filing of any federal tax return or amended return or other related documents or forms for any person other than himself;

e. Giving tax advice or assistance to anyone for compensation;

f. Engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws; and

g. Engaging in any activity subject to penalty under the Internal Revenue Code.

JURISDICTION AND VENUE

2. Pursuant to 26 U.S.C. §§ 7401, 7402, 7407 and 7408, this action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and is brought at the direction of the Attorney General of the United States.

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

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 26 U.S.C. §§ 7407 and 7408 because Defendants have engaged in activities related to his tax-fraud scheme in this district.

DEFENDANTS

5. Rulon Sandoval (“Sandoval”) is a defendant and was at all relevant times a resident of Utah residing within this judicial district. Sandoval owns and operates a tax return preparation business.

6. Andrea R. Acosta Hernandez (“Acosta”) is the wife and business partner of Rulon Sandoval and is or has engaged in the tax preparation activities and was at all relevant times a resident of Utah residing within this judicial district.

7. Latinos Office, LLC (“LOL”) is a Utah business entity formed by Sandoval and Hernandez, who are its only current members. Sandoval also purports to operate this business as a sole-proprietorship under the name “Latinos Office.”

DEFENDANTS’ ABUSIVE TAX SCHEME

8. Sandoval began preparing tax returns for others in West Jordan, Utah in 2008 using the name “Latinos Office.” In January 2011, Sandoval formed and registered LOL as a business entity. LOL has filed no returns on its behalf, rather Sandoval files returns using the Employer Identification Number (“EIN”) for an entity named “G&S Business Connection.”

9. Although the Defendants utilized a number of methods to improperly and unlawfully increase their clients' income tax refunds, the methods utilized the most were false filing status election (head of household rather than single) and falsely claiming or inflating claims related to the Earned Income Tax Credit (“EITC”). The Defendants also improperly and unlawfully inflated the number of allowable exemptions claimed and additional Child Tax Credits (“CTC”), reducing the clients' taxable income and resulting in a larger tax refund for the clients.

10. Not including amended returns filed for prior years, between 2008 and 2012, the Defendants prepared and/or signed approximately 6,514 federal income tax returns as tax return preparers for clients.

11. Of 47 individual income tax returns audited as of this date, nearly all of the audits resulted in a finding of a tax deficiency or claim disallowance. Of the 47 returns audited, the audits resulted in agreed tax deficiencies of \$142,606 for an average tax deficiency of \$3,304 per

return. Additionally, the Internal Revenue Service (“IRS”) expects to audit 392 returns with an estimated loss of \$1,331,926.

12. The Defendants systematically reported fabricated expenses not actually incurred in order to generate larger, false amounts to be claimed as deductions or credits.

13. For the majority of their clients, the Defendants prepared returns claiming false or inflated Earned Income Tax Credits.

14. The Defendants also created false Schedules C for their clients, reporting no income but improperly claiming various business expenses. Other Schedules C prepared by the Defendants improperly reported income but no Forms 1099 were filed with the IRS verifying the income and no information was retained by LOL.

15. Sandoval is listed as the paid return preparer on most of the returns prepared by LOL, but many returns identify Acosta as the paid preparer, including approximately 130 for the 2010 tax period. Sandoval and Acosta’s improper use of preparer identification numbers constitutes a violation of I.R.C. § 6695(c).

Examples of the Abusive Tax Scheme

16. Sandoval prepared the tax return of Taxpayer JE¹ for the 2010 tax period. After examination, the IRS determined that the number of exemptions claimed should be reduced from four to one. JE’s filing status was also determined to be incorrect after examination, requiring adjustment from head of household (“HOH”) to single, thus eliminating the benefit of the HOH

¹ Individual taxpayer’s names are indicated only by their initials to protect the identities and privacy of non-parties.

status. JE's claim for an Earned Income Tax Credit was disallowed in the amount of \$2,101. A CTC of \$2,505 was also disallowed.

17. LOL prepared the tax return of Taxpayer MVF for the 2010 tax period. After examination, the IRS determined that the number of exemptions claimed should be reduced from four to one. MVF's filing status was also determined to be incorrect after examination, requiring adjustment from HOH to single, thus eliminating the benefit of the HOH status. MVF's claim for an Earned Income Tax Credit was disallowed in the amount of \$5,564. A CTC of \$1,425 was also disallowed.

18. LOL prepared the tax return of Taxpayer CH for the 2010 tax period. After examination, the IRS determined that the number of exemptions claimed should be reduced from three to one. CH's filing status was also determined to be incorrect after examination, requiring adjustment from HOH to single, thus eliminating the benefit of the HOH status. CH's claim for an Earned Income Tax Credit was disallowed in the amount of \$4,599. A CTC of \$2,000 was also disallowed.

19. Sandoval prepared the tax return of Taxpayer JMO for the 2010 tax period. After examination, the IRS determined that the number of exemptions claimed should be reduced from four to one. JMO's filing status was also determined to be incorrect after examination, requiring adjustment from HOH to single, thus eliminating the benefit of the HOH status. JMO's claim for an Earned Income Tax Credit was disallowed in the amount of \$5,092. A CTC of \$2,429 was also disallowed.

20. Acosta prepared the tax return of Taxpayer AS for the 2010 tax period. Acosta prepared the return and provided a copy to AS using a preparer identification number which was not associated with Acosta. Acosta and/or LOL and Sandoval caused a different copy of this return to be filed listing Sandoval as the preparer.

**Count I: Injunction Under I.R.C. § 7408 for Engaging in Conduct
Subject to Penalty Under I.R.C. § 6701**

21. The United States incorporates by reference the allegations in paragraphs 1 through 20.

22. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin conduct subject to penalty under section 6701. Section 6701 imposes a penalty: (1) on any person who aids, assists, procures, or advises with respect to the preparation or presentation of any portion of a tax return, claim or other document; (2) when that person knows or has reason to believe that such portion will be used in connection with a material matter arising under the internal revenue laws; and (3) that person knows that such portion (if used) would result in an understatement of the liability for the tax of another person. Procuring the preparation of tax returns includes ordering (or otherwise causing) a subordinate to do an act, as well as knowing of, and not attempting to prevent, participation by a subordinate in an act.

23. Defendants, through their actions detailed above, knowingly caused the presentation and preparation of false returns and other documents that they knew or had reason to believe would result in an understatement of liability for their clients. Defendants prepared tax returns that claimed, *inter alia*, false or inflated Schedule C income and expenses to obtain an improper

Earned Income Tax Credit (EITC), improper education credits and false itemized deductions for customers and knew the false returns would understate their clients' correct tax liabilities. This conduct, therefore, is subject to penalty under I.R.C. § 6701.

24. If the Court does not enjoin Defendants, they will likely 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. §§ 7402 and 7407

25. The United States incorporates by reference the allegations in paragraphs 1 through 24.

26. Section 7402(a) of the Internal Revenue Code authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

27. I.R.C. § 7407 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, among other things, the following:

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

b. Engaging in conduct subject to penalty under I.R.C. § 6694(b), which among other conduct, penalizes a tax return preparer who recklessly or intentionally disregards IRS rules or regulations, or willfully attempts in any manner to understate for tax on a return or claim;

c. Engaging in conduct subject to penalty under I.R.C. § 6695(c), which penalizes tax return preparers who fail to furnish their identifying numbers on tax returns that they prepare;

d. Engaging in conduct subject to penalty under I.R.C. § 6695(g), which penalizes a tax return preparer who fails to comply with the statutory due diligence requirements for determining eligibility for the EITC;

e. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

28. In order for a court to issue an injunction under I.R.C. § 7407(b), the court must find: (1) that the tax return preparer engaged in the prohibited conduct; and (2) that injunctive relief is appropriate to prevent the recurrence of such conduct. If the court finds that a preparer has continually or repeatedly engaged in such conduct, the court may issue an injunction prohibiting that specific enumerated conduct or, if it determines that a conduct-specific injunction 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 federal tax return preparer.

29. Defendants, as shown above, are tax return preparers who have repeatedly and continually prepared or submitted tax returns or other documents to the IRS that contain unreasonable positions and substantially understate the liability for tax on the return by, *inter alia*, fabricating expenses, falsely claiming HOH status and/or dependents, and/or grossly

inflating the amount of Earned Income Tax Credit for which taxpayers were qualified resulting in improper claims tax refunds. Accordingly, Defendants knew (or reasonably should have known) of the unreasonable, unrealistic, frivolous and false positions. This conduct is subject to penalty under I.R.C. § 6694.

30. Defendants, as also detailed above, have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694(b) by intentionally or recklessly disregarding pertinent rules and regulations. This conduct is subject to penalty under I.R.C. § 6694.

31. Furthermore, Defendants have engaged in conduct subject to penalty under I.R.C. § 6695. Defendants have failed, *inter alia*, to satisfy the mandatory due diligence requirements of I.R.C. § 6695(g) and 26 C.F.R. § 1.6695-2(b).

32. In addition, Defendants continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws. Examples of such misconduct include knowingly preparing, assisting in preparing, and encouraging the preparation of tax returns containing false and fraudulent information. All of this constitutes conduct that may and should be enjoined under I.R.C. § 7407(b).

33. If Defendants are not enjoined, they are likely to continue to cause the filing of false and fraudulent tax returns and engaging in fraudulent conduct.

34. Defendants' activities, described above, substantially interfere with the enforcement of the internal revenue laws by promoting abusive tax schemes that result in customers not paying their true federal income tax liabilities and/or receiving improper tax refunds.

35. Defendants' continual and repeated conduct subject to an injunction under I.R.C. §§ 7402 and 7407, detailed above, shows that a narrow injunction prohibiting only specific conduct would be insufficient to prevent their interference with the proper administration of the internal revenue laws. Thus, Defendants should be permanently barred from acting as a federal tax return preparer.

36. Unless enjoined by this Court, Defendants are likely to continue to engage in illegal conduct, as described above. Defendants, if not enjoined, are likely not only to continue to engage in conduct subject to penalty under I.R.C. §§ 6694, 6695 and 6701, but also to engage in other conduct that substantially interferes with the enforcement of the internal revenue laws. Moreover, the United States will suffer irreparable harm from the underpayment of tax liability, the exhaustion of limited resources to enforce the internal revenue laws, and the tax losses caused by Defendants' actions will continue.

37. The substantial harm caused to the United States and the public by Defendants' misconduct outweighs the harm to the Defendants of being enjoined.

38. Enjoining the Defendants is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Defendants' predatory practices and illegal conduct and the harm that such actions cause the United States and its citizens.

RELIEF SOUGHT

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

A. That this Court find that Defendants engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief under I.R.C. § 7408 is appropriate to prevent recurrence of that conduct;

B. That the Court find that Defendants continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 and § 6695 that substantially interfered with the enforcement of the internal revenue laws, and that injunctive relief under I.R.C. § 7407 is therefore necessary and appropriate to prevent the recurrence of that conduct;

C. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Defendants from acting as federal tax return preparers, and expressly prohibiting Defendants from owning, managing, supervising, working in, or otherwise being involved in any tax return preparation business in any way;

D. That this Court, pursuant to I.R.C. §§ 7402, 7407 and 7408, enter a permanent injunction prohibiting defendants (individually and through any other name or entity), and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from directly or indirectly:

i. Acting as federal tax return preparers or assisting in, directing or advising others with the preparation or filing of any federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves, or appearing as representatives on behalf of any person or organization before the Internal Revenue Service, either individually or through an entity, inclusive of Latinos Office, LLC;

ii. Assisting or advising anyone in connection with any tax matter;

iii. Having an ownership interest in or working for (either as an employee or independent contractor) or profiting from any entity that prepares tax returns or represents clients before the Internal Revenue Service;

iv. Misrepresenting any of the terms of this Order;

v. Engaging in any other activity subject to penalty under I.R.C. § 6694, 6695, or 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position Defendants know will (if so used) result in an understatement of another person's tax liability; and

vi. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws and from promoting any false tax scheme.

F. That this Court order that Defendants produce to counsel for the United States within one week of the date of this order a list that identifies by name, social security number, address, e-mail address, telephone number, and tax period(s) all persons from for whom they prepared federal tax returns, forms, or claims for refund since January 1, 2012.

E. That this Court order that Defendants, within 30 days of this Order, shall send a letter (approved by counsel for the United States) to customers for whom each prepared federal tax returns since January 1, 2007, informing them that this permanent injunction has been entered and that Defendants are no longer permitted to prepare tax returns for others. Defendants shall certify, within 35 days of this Order, that they have complied with this provision.

G. That this Court enter an order retaining jurisdiction to enforce the injunction and ordering that the United States may conduct discovery using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45 or as otherwise provided in the Federal Rules of Civil Procedure to ensure compliance with this permanent injunction.

H. That this Court enter an order awarding to the government all costs incurred in prosecuting this action.

Dated this 7th day of February, 2014.

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/s/ John K. Mangum
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