

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 10-cv-5141
)	
CHARLIE WILSON, individually)	
and doing business as CBD TAX)	
SERVICE,)	
)	
Defendant.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Plaintiff, the United States of America, alleges against Defendant, Charlie Wilson, individually and doing business as CBD Tax Service, as follows:

1. This is a civil action brought by the United States under sections 7402(a), 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (“IRC”) to enjoin Defendant Charlie Wilson and anyone in active concert or participation with him, from:

- (a) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- (b) preparing or assisting in preparing federal tax returns that he knows or reasonably should have known would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by IRC § 6694;
- (c) engaging in any other activity subject to penalty under IRC §§ 6694, 6701, or any other penalty provision in the IRC; and
- (d) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a

delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to the provisions of IRC §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28, United States Code, and IRC §§ 7402(a), 7407, and 7408.

4. Venue is proper in this Court under 28 U.S.C. § 1391 because Charlie Wilson resides in Chicago, Illinois, and a substantial part of the actions giving rise to this suit took place in this district.

Defendant's Activities

5. Wilson is a commercial tax return preparer doing business under the name "CBD Tax Service." CBD Tax Service does business at 1543 S. Homan Ave., Chicago, IL 60623.

6. Wilson is the sole owner of CBD Tax Service. CBD Tax Service was started in 1992 and the initials "CBD" stand for the first names of Wilson, his wife, and his son. Since 2002, Wilson has had sole control of CBD Tax Service.

7. CBD Tax Service generally employs four secretarial employees and two to three other tax return preparers during tax return filing season. Wilson is responsible for hiring these employees and reviewing tax returns that they prepare.

8. The returns prepared by Wilson and CBD Tax Service report the paid preparer as CBD Tax Service. The returns prepared by Wilson and CBD Tax Service frequently do not indicate the identity of the paid tax return preparer through a social security number or preparer tax identification number, thus concealing the identity of the actual preparer.

9. Wilson has been identified by customers as the preparer of tax returns that identify the preparer only as CBD Tax Service.

10. Wilson, based on tax returns reporting his social security number as the paid preparer, prepared at least 951 federal income tax returns for customers between January 1, 2006 and December 21, 2009, with an unusually high refund rate of over 98 percent for the 951 returns. This includes at least 894 federal income tax returns for customers for 2009 alone, with a 98 percent refund rate.

11. CBD Tax Service prepared approximately 6,527 federal income tax returns for customers between January 1, 2006 and December 21, 2009, with an unusually high refund rate of over 98 percent.

12. The IRS has examined a sample of 114 returns that CBD Tax Service prepared for tax years 2005, 2006, 2007, and 2008. Of these 114 examined returns, 112 were found to have false claims, an error rate of over 98 percent. The average tax deficiency for these 112 returns was \$4,687.

Charitable Contribution and Employee Business Expense Fraud

13. Wilson often prepares tax returns for customers on which he fraudulently inflates the amount of a customer's charitable contribution and makes false claims for purported business expenses that do not qualify under the Internal Revenue Code. Section 170 of the Internal Revenue Code governs charitable contributions. Section 170(a) provides that qualifying charitable contributions, as defined by I.R.C. § 170(c), are allowable only if verified. Wilson prepares returns for clients that report a fraudulently inflated amount of contributions, frequently in the identical amount of \$5,500. Of the sample of 114 CBD Tax Service-prepared returns that the IRS examined, 83 had improper deductions for charitable contributions.

14. Section 162 of the Code governs trade or business expenses. Wilson frequently

prepares returns for customers that claim deductions for fraudulently inflated or non-qualifying business expenses. IRS Publication 529 provides examples of qualifying business expenses, including “Union dues and expenses” and “Work clothes and uniforms *if required and not suitable for everyday use.*” See IRS Publication 529 (2009) (available online at: <http://www.irs.gov/publications/p529/ar02.html>) (emphasis added). Publication 529 also provides examples of expenses that do not qualify as business expenses, including “Commuting expenses,” “Lunches with co-workers,” “Meals while working late,” and “Personal, living, or family expenses.” Of the sample of 114 CBD Tax Service-prepared returns that the IRS examined, 80 had improper Schedule A deductions for employee business expenses.

15. For example, on the 2007 tax return of one of his customers, Darrin Jackson, a sanitation employee for the City of Chicago, Wilson included a bogus charitable deduction in the amount of \$5,500 on the Schedule A attached to the return. In reality, Jackson made a \$500 charitable deduction. Wilson thus inflated the amount provided by the customer by 1000 percent.

16. Jackson also informed Wilson that in 2007, he had approximately \$200 in non-reimbursed business expenses and \$1,440 in union dues and no other business expenses. However, Wilson subsequently reported on Jackson’s tax return that Jackson had business expenses in the bogus inflated amount of \$4,540.

17. Wilson also claimed on Jackson’s 2007 tax return that the customer had \$9,700 of vehicle expenses related to his employment, even though the customer does not use his own vehicle to collect garbage. Finally, Wilson also claimed on that tax return deductions for meals and entertainment expenses in the amount of \$1,100, even though Jackson did not have any such

work-related expenses, and did not inform Wilson that he had any such expenses. Jackson did not become aware that Wilson reported any of these expenses until his tax return was audited.

18. Jackson's Wilson-prepared 2008 tax return reported similar deductions fabricated by Wilson and contrary to the documentation that Jackson provided to Wilson. For example, the 2008 tax return again reported \$5,500 in charitable deductions, when the amount was actually \$500; \$5,500 in non-reimbursed business expenses when the actual amount was \$3,700; \$10,900 in bogus business vehicle expenses; and \$1,150 in false meals and entertainment expenses.

19. Wilson prepared a 2007 tax return for another customer, Darnell Barnes, a manager of a liquor store, and his wife, which claimed \$7,000 in cash charitable contributions. In reality the documentation provided by Barnes to Wilson showed charitable contributions in the amount of \$3,377, less than half of the bogus inflated amount that Wilson claimed on the return. Wilson did not provide Barnes the opportunity to review the tax return before Wilson filed it.

20. Wilson also fraudulently claimed that Barnes' personal vehicle was used entirely for business purposes, and thus entitled Barnes to a deduction for expenses related to a business vehicle, even though it is Barnes' personal vehicle and seldom used to transport liquor from a warehouse to the store. Wilson made other bogus business expense claims on the Schedule A attached to the return for uniforms, even though Barnes had no uniform and dressed in casual clothing, and \$500 in meals and entertainment, despite the fact that Barnes had no such expenses.

21. Wilson also prepared a 2007 tax return for a customer, Elmaire Carter, whose adjusted gross income was \$10,810 after Wilson claimed itemized deductions in the amount of \$14,679. The itemized deductions included \$5,500 in cash charitable contributions, even though Carter, a child care provider, made only \$500 of contributions. Carter was unaware of the large

contribution claimed by Wilson on her tax return because she did not provide this number to Wilson. Moreover, Carter's modest income would not allow her to make a contribution of this size.

22. Wilson claimed cash charitable contributions in the amount of \$2,000 on the 2006 tax return of another customer, Eunice Parker, even though Parker actually made only \$270 of charitable contributions in 2006 and reported that actual amount to Wilson. On the same return, Wilson also falsely claimed \$6,500 as a non-cash charitable contribution when no such contribution was made and no such information was provided to Wilson by Parker. Parker did not review the return before it was filed and was surprised to see this reported amount when the return was examined by the IRS. Parker's 2007 tax return similarly reported \$2,000 in cash charitable contributions when Parker's actual contributions totaled \$280. Wilson also reported bogus business expenses on Parker's 2006 and 2007 tax returns in the amounts of \$750 and \$1,225, respectively, purportedly for a uniform and shoes, when Parker - a record clerk for the county - had no uniform or shoe expenses. Parker did not carefully review her 2006 and 2007 tax returns and did not learn of these bogus expenses until the returns were audited.

23. Wilson claimed \$5,901 in cash charitable contributions on the 2006 tax return of a customer, Martha Rosario, even though Rosario did not make any charitable contributions whatsoever, and did not report to Wilson that she made any charitable contributions. Wilson also claimed on the return and without Rosario's knowledge that Rosario, a secretary at a law firm, had employee business expenses in the amount of \$5,075, even though Rosario had no such expenses, and any business expenses (had they existed) would have been reimbursed by the law firm and hence would not have been deductible. Rosario did not carefully review the return

before it was filed and did not learn of the bogus deductions until being audited.

24. Wilson similarly claimed \$4,629 in bogus business expenses on the 2006 tax return of another customer, Debra Belgon. This amount was comprised of \$2,104 in bogus uniform expenses, even though Belgon is an accounts receivable clerk and dresses in business attire, and \$2,525 in other unspecified business expenses. Belgon did not review her 2006 tax return and did not become aware of the bogus expenses until being audited.

Fraudulent Claims for Non-Qualifying Charitable Deductions

25. In addition to falsely inflating his customers' charitable contributions, Wilson also claimed charitable contributions for his customers for expenses that did not qualify as deductible contributions under I.R.C. § 170(c). Wilson often claimed these bogus deductions in instances when the customer gave money to relatives, which does not qualify as a charitable contribution. IRS Publication 526 provides examples of contributions that do not qualify as charitable contributions and cannot be deducted, including a "contribution to a specific individual." *See* IRS Publication 526 (2009) (available online at: http://www.irs.gov/publications/p526/ar02.html#en_US_publink1000229693).

26. For example, in response to Wilson asking whether a customer, David Johnson, donated any money during 2006, Johnson replied that he gave approximately \$7,000 to his relatives. Wilson thus reported a bogus charitable contribution in the amount of \$7,000 on Johnson's 2006 tax return. Johnson was audited by the IRS, and after the audit confronted Wilson about this bogus claim. Wilson falsely told Johnson that there had been a change in the tax law and that was the reason that the gifts to relatives (falsely claimed as charitable contributions) were now not deductible.

27. Similarly, Wilson included bogus deductions for charitable contributions in the amount of \$10,000 on the 2006 tax return of another customer, Greta Johnson. These contributions were, in actuality, non-deductible gifts made to Johnson's mother. Johnson's return also included bogus business expenses in the amount of \$2,175 purportedly for clothing, even though Johnson had no such business expenses because, as a trust officer at a bank, she wears professional business clothing for which the expenses are not deductible. However, Wilson, during a meeting with Johnson prior to preparing her tax return, told Johnson that these clothing expenses were deductible, and Johnson then computed the cost of the clothing she wore to work and provided that amount to Wilson, who in turn reported it on Johnson's tax return.

Other Bogus Deductions

28. Wilson's bogus claims are not limited to charitable contributions and business expenses. Wilson, and those acting at his direction, has also prepared tax returns for customers that claim other false deductions designed to fraudulently reduce the customer's taxable income.

29. For example, on the 2007 tax return of customer Johnnie Rush, CBD Tax Service claimed bogus expenses on the Schedule C, Profit or Loss From Business, attached to the tax return even though Rush does not own or operate a business, but is an employee at General Mills. The Schedule C included bogus expenses of \$4,000 for "Other automotive repair & maintenance," \$1,000 for office expenses, \$1,826 utilities, and \$2,240 for car and truck expenses. Rush did not report any of these expenses to CBD Tax Service. The Schedule A also claimed \$3,890 in charitable contributions, even though Rush told CBD Tax Service that he made no more than \$1,500 in contributions in 2007.

30. Wilson, or a CBD Tax Service employee acting at his direction, claimed bogus

expenses on a customer's 2007 and 2008 tax returns for business expenses totaling \$27,741 and \$5,200, respectively. The false Schedule E deductions included claims for cleaning and maintenance, interest, taxes, insurance, utilities, extermination, snow removal, and lawn care. Although the customer received copies of the returns before they were filed, she did not carefully review the returns, even though the refund was larger than she typically received in previous years when her returns were prepared by a different tax return preparer.

31. Additional improper claims and deductions present on Wilson-prepared tax returns include improper filing status, bogus dependents, and false claims for medical and education expenses.

32. For example, Wilson informed a customer, Bettie Johnson, who was married but not living with her husband, that she could receive a greater tax benefit by filing as head of household rather than married filing separately, despite the fact that Johnson did not qualify to file as head of household because she was married. Johnson's 2007 and 2008 tax returns, prepared by CBD Tax Service, thus list her filing status as head of household.

33. Similarly, Wilson told two married customers that they should file separate tax returns for 2005 and 2006 in order to maximize their refund. Thus, on the CBD Tax Service-prepared 2005 and 2006 tax returns for these customers, the husband, Gregory Gatewood, filed as head of household and the wife, Tiki Gatewood, filed a separate return. Also on Gatewood's 2005 and 2006 tax returns, an exemption for a dependent was claimed for the wife's brother, even though the dependent is actually Gatewood's handicapped son, and the wife's brother is the individual who at times provided care for Gatewood's son. Gatewood relied on Wilson's advice that the returns be filed in this manner and with these deductions.

Harm Caused by Wilson

34. Wilson's customers have been harmed because they paid Wilson fees to prepare proper tax returns, but Wilson prepared returns that substantially understated their correct tax liabilities. Many customers now face large income tax deficiencies and may be liable for sizeable penalties and interest.

35. Wilson's conduct harms the United States because his customers are under-reporting and under-paying their correct tax liabilities. The IRS has identified 112 fraudulent federal income tax returns (of a sample of 114 that were examined) that CBD Tax Service prepared for tax years 2005 through 2008, with a total of \$524,965 in lost revenue (an average of over \$4,687 per return) based on false claims and deductions.

36. In addition to the direct harm caused by preparing tax returns that understate customers' tax liabilities, Wilson's activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

37. Wilson further harms the United States because the Internal Revenue Service must devote its limited resources to identifying Wilson's customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting any additional taxes and penalties.

Count I Injunction under IRC § 7407

38. The United States incorporates by reference the allegations in paragraphs 1 through 37.

39. Section 7407 of the IRC authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under IRC § 6694 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 the conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e., prohibiting only that specific enumerated 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 federal income tax preparer.

40. Wilson has continually and repeatedly engaged in conduct subject to penalty under IRC § 6694 by preparing federal income tax returns that understate his customers' liabilities based on unrealistic, frivolous, and reckless positions.

41. Wilson's continual and repeated violations of IRC § 6694 fall within IRC § 7407(b)(1)(A) and (D), and thus are subject to an injunction under IRC § 7407.

42. If he is not enjoined, Wilson is likely to continue to prepare and file false and fraudulent tax returns.

43. Wilson's continual and repeated conduct subject to an injunction under IRC § 7407, including his continual and repeated misapplication of expenses and deductions, demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Wilson's interference with the proper administration of the internal revenue laws. Thus, he should be permanently barred from acting as a return preparer.

Count II
Injunction under IRC § 7408

44. The United States incorporates by reference the allegations in paragraphs 1 through 43.

45. Section 7408 of the IRC authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either IRC § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

46. Section 6701(a) of the IRC penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability.

47. Wilson prepares federal tax returns for customers that he knows will understate their correct tax liabilities, because Wilson knowingly prepares returns claiming improper expenses and deductions. Wilson's conduct is thus subject to a penalty under IRC § 6701.

48. If the Court does not enjoin Wilson, he is likely to continue to engage in conduct subject to penalty under IRC § 6701. Wilson's preparation of returns claiming improper expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under IRC § 7408.

Count III
Injunction under IRC § 7402(a)
Necessary to Enforce the Internal Revenue Laws

49. The United States hereby incorporates by reference the allegations in paragraphs 1 through 48.

50. Section 7402 of the IRC authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

51. Wilson, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

52. Unless enjoined, Wilson is likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Wilson is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them.

53. While the United States will suffer irreparable injury if Wilson is not enjoined, Wilson will not be harmed by being compelled to obey the law.

54. Enjoining Wilson is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Wilson's illegal conduct and the harm it causes the United States.

55. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

WHEREFORE, the United States of America prays for the following:

A. That the Court find that Charlie Wilson has continually and repeatedly engaged in conduct subject to penalty under IRC § 6694, and has continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to IRC § 7407, enter a permanent injunction prohibiting Charlie Wilson from acting as a federal tax return preparer;

C. That the Court find that Charlie Wilson has engaged in conduct subject to a penalty under IRC § 6701, and that injunctive relief under IRC § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Charlie Wilson has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and IRC § 7402(a);

E. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Charlie Wilson, and all those in active concert or participation with him, from:

- (1) acting as a federal tax return preparer, or assisting in or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination by the Internal Revenue Service;
- (2) understating customers' liabilities as prohibited by IRC § 6694;
- (3) engaging in any other activity subject to penalty under IRC §§ 6694, 6701, or any other penalty provision in the IRC; and
- (4) 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 the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter an order requiring Charlie Wilson to contact, within fifteen 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 he prepared federal tax returns or claims for a refund for tax years 2006 through 2009 to inform them of the permanent injunction entered against him;

G. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter an order requiring Charlie Wilson and CBD Tax Service to produce to counsel for the United States, within fifteen days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom he prepared federal tax returns or claims for a refund for tax years 2006 through 2009;

H. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter an injunction requiring Charlie Wilson to provide a copy of the Court's order to all of Wilson's principals, officers, managers, employees, and independent contractors within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person whom Wilson provided a copy of the Court's order;

I. That the Court retain jurisdiction over Charlie Wilson and over this action to enforce any permanent injunction entered against him;

J. That the United States be entitled to conduct discovery to monitor Wilson's compliance with the terms of any permanent injunction entered against him; and

K. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

DATED: August 16, 2010

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United States Attorney

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