

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

11 5080

NO SUMMONS ISSUED

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil No.

NAFEESAH H. HINES (individually and  
d/b/a Clear Vision Financial Solutions), and  
RODNEY N. CHESTNUT,

BLOCK, J.

Defendants.

GO, M.J.

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ OCT 19 2011 ★  
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BROOKLYN OFFICE

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

The United States of America seeks a permanent injunction against defendants Nafeesah H. Hines, individually and doing business as Clear Vision Financial Solutions ("Hines"), and Rodney N. Chestnut ("Chestnut") to bar them from, *inter alia*: (1) organizing, implementing, promoting or selling the 1099 redemption scheme described below, and any other plan or arrangement that advises or assists others to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities; (2) preparing or filing federal tax returns or forms for any person or entity other than themselves; and (3) advising or assisting others with respect to federal tax matters or forms.

Defendants promote and implement a tax-fraud scheme based upon a frivolous and fraudulent theory that taxpayers can draw funds from secret accounts held by the Treasury of the United States to pay tax debts or other debts to creditors using Internal Revenue Service ("IRS") Forms 1099-OID, Forms 1099-A, or other documents. This process, often termed "redemption" or "commercial redemption" by promoters of this tax-fraud scheme, results in huge, bogus refund

claims submitted by taxpayers to the IRS. In furtherance of their tax-fraud scheme, Hines has submitted thousands of false IRS Forms 1099-OID or Forms 1099-A to the IRS on behalf of her customers, and Chestnut has prepared federal tax returns for others that claim fraudulent refunds based upon those forms.

### **Jurisdiction and Venue**

1. 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 the provisions of I.R.C. (26 U.S.C.) §§ 7402, 7407 and 7408.

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

3. This is a civil action brought by the United States under I.R.C. §§ 7402(a), 7407 and 7408 to enjoin defendants, and anyone in active concert or participation with them, from:

- a. directly or indirectly organizing, promoting, selling or participating in any plan or arrangement that advises or assists taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities based on false claims that:
  - i. taxpayers can draw on the Treasury of the United States to pay their tax debt or other debt using Forms 1099-OID, Forms 1099-A, or other documents and filing false federal tax returns;
  - ii. taxpayers can issue false Forms 1099-OID to a creditor and report the amount on the false Forms 1099-OID as income taxes withheld on their behalf; and
  - iii. taxpayers have a secret account with the Treasury Department, which they can use to pay their debts or which they can draw on for tax refunds;
- b. engaging in conduct subject to penalty under 26 U.S.C. § 6700, i.e., by making or furnishing, in connection with the organization or sale of a plan or arrangement, a statement about the securing of a tax benefit that defendants know or have reason to know to be false or fraudulent as to any material matter under the federal tax laws;

- c. engaging in conduct subject to penalty under 26 U.S.C. § 6701, including preparing and filing tax returns and other documents used to understate the tax liabilities of others;
- d. preparing or filing, or assisting in, or directing the preparation or filing of any federal tax return or amended return or other related federal tax documents or federal tax forms for any other person or entity other than themselves;
- e. giving tax advice or assistance to anyone for compensation or promise of compensation;
- f. preparing their own federal income tax returns claiming false income tax withholding and refunds based on amounts shown in false Forms 1099-OID, Forms 1099-A, or other tax forms;
- g. representing anyone before the IRS;
- h. engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws; and
- i. engaging in any activity subject to penalty under the Internal Revenue Code.

4. Venue is proper in this Court under 28 U.S.C. § 1391 because defendants Hines and Chestnut reside in this district.

#### **The Parties**

5. Defendant Hines resides in Jamaica, New York and is a database administrator for the United States Food and Drug Administration. Clear Vision Financial Solutions is a sole proprietorship owned and operated by Hines.

6. Defendant Chestnut resides in Middle Island, New York and is a former captain with the New York City Department of Corrections.

### **The Facts**

7. Defendants' tax-fraud scheme, often termed "redemption" or "commercial redemption," involves helping customers file frivolous tax returns and bogus Forms 1099-OID, Forms 1099-A, or other forms with the IRS in an attempt to steal from the U.S. Treasury. This tax-fraud scheme is based on the frivolous theory that taxpayers can draw funds from secret accounts held by the Treasury of the United States.

8. Proper Forms 1099-A (Acquisition or Abandonment of Secured Property) are filed by lenders who lend money in connection with their trade or business and, in full or partial satisfaction of a debt, the lender acquires an interest in property that is security for the debt, or if the lender has reason to know that the property has been abandoned. Under some circumstances, such as a foreclosure of property, a borrower may realize a reportable, taxable gain from the sale of the property and the information on the Form 1099-A should be incorporated into the taxpayer's tax return.

9. Original issue discount ("OID") income refers to the difference between the price for which a debt instrument is issued and its stated redemption price at maturity. OID income is generally included in a taxpayer's income as it accrues over the term of a debt instrument, regardless of whether the taxpayer receives payments from the issuer of the debt instrument. OID income is treated like a payment of interest and a party issuing a financial instrument generating OID income must issue a Form 1099-OID.

10. Hines works with multiple tax return preparers, including Chestnut, to prepare and/or submit to the IRS for others false Forms 1099-OID and Forms 1099-A. Hines also prepared and/or filed Forms 1099-OID for customers of former tax return preparer Penny Lea Jones, who

implemented the 1099-OID tax-fraud scheme and, at summary judgment, was permanently enjoined on July 7, 2011 by the United States District Court for the District of Idaho (Civil No. 4:09-cv-00547-EJL) from, *inter alia*: (a) “acting as a federal tax return preparer”; (b) “[g]iving tax advice or assistance to anyone for compensation”; (c) “preparing her own federal income tax returns claiming false income tax withholding and refunds based on amounts shown in false Forms 1099 issued to her creditors”; and (d) “[d]irectly or indirectly organizing, promoting, marketing, or selling any plan or arrangement that ... advocat[es] the use of false Forms 1099” to claim fraudulent refunds based on “redemption” or “commercial redemption.”

11. Hines prepares and/or files bogus Forms 1099-A for others that falsely name her customer as the lender, a financial institution as the borrower, and improperly report to the IRS sums as outstanding balances and the fair market value of property. The fraudulent Forms 1099-OID that Hines also prepares and/or files for others falsely report large sums as OID income – all or nearly all of which is identified as withheld for federal income taxes. The information reported on these bogus Forms 1099-OID and Forms 1099-A is then incorporated into federal tax returns, including tax returns prepared by Chestnut for his customers. In most instances, Chestnut uses false information on both a Form 1099-A and a Form 1099-OID to prepare a fraudulent tax return.

12. In some instances, Chestnut’s customers prepare their own tax returns, but obtain false information and instructions from Chestnut about how to implement defendants’ tax-fraud scheme.

13. Chestnut arranges for Forms 1099-OID or Forms 1099-A to be prepared and/or transmitted by Hines to the IRS for his customers. Chestnut has made payments by check to Hines, directly or through payments to Clear Vision Financial, to prepare and/or transmit Forms 1099-OID or Forms 1099-A to the IRS.

14. Chestnut has promoted his tax-fraud scheme to others, including to his former co-workers at the New York City Department of Corrections. Chestnut falsely claims to his customers that they are entitled to large refunds and that the tax-fraud scheme he promotes is legal. In an attempt to give the appearance of legitimacy to the 1099-OID/1099-A tax-fraud scheme, Chestnut has falsely stated to his customers that he is a former IRS employee and that his tax-fraud scheme is supported by information he purportedly obtained by attending legitimate tax seminars in Washington, D.C.. Chestnut also has provided copies of court decisions to his customers and has falsely claimed that they support the frivolous tax positions he advises his customers to adopt.

15. Both Hines and Chestnut personally have used the 1099-OID/1099-A tax-fraud scheme to try to get tax refunds for themselves. For example:

- a. Using 1099 forms prepared and/or transmitted by Hines to the IRS during 2008 and 2009, Chestnut filed original or amended tax returns for the 2005-2008 tax years that claim over \$625,000 as improper refunds; and
- b. In 2008, Hines amended her tax returns for 2004, 2005, 2007 and filed a 2006 Form 1040 tax return that, in total, erroneously claim over \$1 million in refunds based on fraudulent 1099 forms.

16. The United States is harmed by defendants' tax-fraud scheme because the IRS must continually devote its limited resources to detecting and examining inaccurate tax returns prepared by Chestnut and to identify fraudulent Forms 1099-OID, Forms 1099-A or other documents prepared and/or submitted by Hines to the IRS. In some instances, the United States has been harmed by issuing erroneous tax refunds to defendants' customers who participate in this tax-fraud scheme. When erroneous refunds are issued, the United States must devote additional resources to obtain repayment to the Treasury by the customer.

17. For 2009 and 2010, Hines prepared and/or submitted over 3,000 fraudulent 1099 forms.

Forms 1099-OID prepared and/or submitted by Hines for others in 2009 and 2010, for example, fraudulently report over \$54 million as withheld OID income. Based on 1099 forms prepared and/or submitted by Hines, the United States erroneously refunded over \$850,000 to her customers.

18. Hines prepared and/or filed Forms 1099-OID or Forms 1099-A for at least a dozen former or current employees of the New York City Department of Corrections.

19. Although Chestnut fails to identify himself as a preparer on tax returns he prepares for others and has denied to government investigators that he prepares tax returns for others, Chestnut customers verified that he prepared their tax returns, promised large refunds, and as payment demanded a sizeable percentage of any refund obtained by the customers.

*Example: Former NYC Department of Corrections Captain*

20. A former captain with the New York City Department of Corrections, who resides in Hollis, New York and knew Chestnut as a co-worker, participated in defendants' tax-fraud scheme.

21. Chestnut falsely claimed to the customer that the United States government owed money to the customer and indicated that if he provided Chestnut with personal financial documents, including mortgage payment and car loan records, that Chestnut would provide these materials to Chestnut's "tax man" to obtain a refund for the customer. In fact, Chestnut prepared the customer's 2008 tax return.

22. Hines prepared and/or submitted to the IRS multiple 1099 forms, including Forms 1099-OID, that falsely report withheld OID income, name Chestnut's customer as payee, and identify various banks as payer.

23. This customer's 2008 tax return, filed jointly with his wife, incorporates the 1099 forms

prepared and/or submitted to the IRS by Hines and claims a \$112,764 refund, which the IRS erroneously paid to the customer.

24. After the customer received the \$112,764, Chestnut informed him that the cost of obtaining the refund was \$22,552.80, which the customer paid to Chestnut.

25. Soon after the customer received the refund, the IRS contacted the customer, informed him that the refund was erroneously disbursed and was based on a frivolous claim. The IRS obtained repayment of the \$112,764.

26. The customer informed Chestnut of the IRS's actions and requested that Chestnut return the \$22,552.80 fee. Chestnut told the customer that he purportedly no longer had the funds and would not refund any portion of them.

*Example: Bookkeeper From Bronx, New York*

27. A bookkeeper, who resides in Bronx, New York, also participated in defendants' tax-fraud scheme.

28. Chestnut falsely claimed to this customer that: (a) he was a former employee of the IRS; (b) her bank was using her money under false pretenses; and (c) based upon certain amendments to the tax laws, the customer could legally obtain large tax refunds if she allowed him to prepare her 2008 Form 1040 tax return and amend her 2006 and 2007 tax returns.

29. As compensation, Chestnut demanded 10 percent of any refund the customer received.

30. At Chestnut's request, the customer provided him with various financial documents regarding her bank account at Amalgamated Bank, as well as other documents, such as the customer's Form W-2.



31. In collusion with Hines, Chestnut used Forms 1099-OID and Forms 1099-A prepared and/or transmitted by Hines to the IRS to prepare this customer's tax returns and claim fraudulent refunds. For example, 2006 and 2007 Forms 1099-OID submitted by Hines to the IRS falsely report that this customer had over \$110,000 withheld as taxes on purported OID income.

32. The tax returns Chestnut prepared for this customer for 2006, 2007 and 2008 claim fraudulent refunds of \$41,162 for 2006, \$42,823 for 2007 and \$34,378 for 2008

33. The IRS rejected this customer's 2006-2008 claims for refund and assessed penalties against the customer for filing frivolous tax returns.

34. After the IRS informed this customer that her tax returns included baseless refund claims, Chestnut provided the customer with frivolous correspondence that he advised she send to the IRS to further impede the internal revenue laws.

**Count I**  
**(Defendant Chestnut)**  
**Injunction Under I.R.C. § 7407**

35. The United States incorporates by reference the allegations in paragraphs 1 through 34.

36. I.R.C. § 7407 authorizes a district court to enjoin a federal tax return preparer from, *inter alia*:

- a. engaging in conduct subject to penalty under I.R.C. § 6694;
- b. engaging in conduct subject to penalty under I.R.C. § 6695; and
- c. 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 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 tax return preparer entirely.

37. Chestnut has continually or repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by willfully and knowingly preparing federal tax returns for customers that improperly understate customers' tax liabilities based on unreasonable, frivolous, and reckless positions, as detailed above.

38. Chestnut has continually or repeatedly engaged in conduct subject to penalty under I.R.C. § 6695 by failing to sign tax returns and furnish proper identifying numbers on tax returns.

39. Chestnut has continually or repeatedly engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the federal tax laws.

40. Chestnut's violations of I.R.C. §§ 6694 and 6695 fall within I.R.C. § 7407(b)(1)(A), (B), (C) and (D) and thus are subject to an injunction under I.R.C. § 7407.

41. If Chestnut is not enjoined, he is likely to continue filing false and fraudulent federal tax returns and engaging in additional fraudulent conduct.

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

**Count II**  
**(Defendants Chestnut and Hines)**  
**Injunction Under I.R.C. § 7408**

43. The United States incorporates by reference the allegations in paragraphs 1 through 42.

44. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. §§ 6700 or 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

45. Section 6700 of the Internal Revenue Code imposes a penalty on any person who organizes or participates in the sale of a plan or arrangement and in so doing makes a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by participating in the plan or arrangement which that person knows or has reason to know is false or fraudulent as to any material matter.

46. Chestnut promoted, organized and participated in the sale of the Form 1099-OID/1099-A tax-fraud scheme and in doing so, made statements to his customers about securing tax benefits - including promises of improper tax refunds - that he knew or had reason to know were false and fraudulent.

47. Chestnut falsely promised his customers tax refunds from the government, which he knew or had reason to know were predicated on the submission of false and frivolous documents to the IRS.

48. As a result, Chestnut engaged in conduct subject to penalty under 26 U.S.C. § 6700.

49. Section 6701 of the Internal Revenue Code 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 a 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.

50. For multiple customers, as well as for themselves, Hines prepared or aided or assisted in the preparation and/or filing of fraudulent Forms 1099-OID or Forms 1099-A, and Chestnut aided or assisted in the preparation and filing of fraudulent federal tax returns claiming bogus refunds based on these 1099 forms. Therefore, defendants knowingly and willfully understated their customers' correct tax liabilities. This conduct is subject to penalty under I.R.C. § 6701.

51. 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 III**  
**(Defendants Chestnut and Hines)**  
**Injunction Under I.R.C. § 7402**  
**Necessary to Enforce the Internal Revenue Laws**

52. The United States incorporates by reference the allegations of paragraphs 1 through 51.

53. Section 7402, I.R.C., authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

54. Chestnut has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws by promoting and selling the Form 1099-OID/1099-A tax-fraud scheme. Both defendants have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws by personally participating in, implementing and organizing the Form 1099-OID/1099-A tax-fraud scheme, including by, *inter alia*, preparing and/or submitting to the IRS false Forms 1099-OID, Forms 1099-A, and preparing fraudulent tax returns.

55. Unless enjoined, defendants are likely to continue to engage in this improper conduct.

If defendants are not permanently enjoined, the United States will suffer irreparable injury for which it has no adequate remedy at law.

56. Permanently enjoining defendants is in the public interest because an injunction, backed by the Court's contempt powers, if needed, will stop their illegal conduct and the harm they cause the United States.

57. The Court should impose injunctive relief under 26 U.S.C. § 7402.

WHEREFORE, the United States prays for the following:

A. That the Court find that Chestnut has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695 and that injunctive relief is appropriate under 26 I.R.C. § 7407 to permanently bar Chestnut from acting as a tax return preparer;

B. That the Court find that Chestnut has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701 and that injunctive relief is appropriate under I.R.C. § 7408 to permanently bar Chestnut from engaging in conduct subject to penalty under I.R.C. §§ 6700 and 6701;

C. That the Court find that Hines has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief is appropriate under I.R.C. § 7408 to permanently bar Hines from engaging in conduct subject to penalty under I.R.C. § 6701;

D. That the Court find that Chestnut and Hines have 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 I.R.C. § 7402(a);

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407 and 7408, enter a permanent

injunction prohibiting defendants, and all those in active concert or participation with them, from:

1. Directly or indirectly organizing, promoting, selling or participating in any plan or arrangement that advises or assists taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities based on false claims that:
    - i. taxpayers can draw on the Treasury of the United States to pay their tax debt or other debt using Forms 1099-OID, Forms 1099-A, or other documents and filing false federal tax returns;
    - ii. taxpayers can issue false Forms 1099-OID to a creditor and report the amount on the false Forms 1099-OID as income taxes withheld on their behalf; and
    - iii. taxpayers have a secret account with the Treasury Department, which they can use to pay their debts or which they can draw on for tax refunds;
  2. engaging in conduct subject to penalty under 26 U.S.C. § 6700, i.e., by making or furnishing, in connection with the organization or sale of a plan or arrangement, a statement about the securing of a tax benefit that defendants know or have reason to know to be false or fraudulent as to any material matter under the federal tax laws;
  3. engaging in conduct subject to penalty under 26 U.S.C. § 6701, including preparing and filing tax returns and other documents used to understate the tax liabilities of others;
  4. preparing or filing, or assisting in, or directing the preparation or filing of any federal tax return or amended return or other related federal tax documents or federal tax forms for any other person or entity other than themselves;
  5. giving tax advice or assistance to anyone for compensation or promise of compensation;
  6. preparing their own federal income tax returns claiming false income tax withholding and refunds based on amounts shown in false Forms 1099-OID, Forms 1099-A, or other tax forms;
  7. representing anyone before the IRS;
  8. engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws; and
  9. engaging in any activity subject to penalty under the Internal Revenue Code.
- F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407 and 7408, enter an injunction

requiring defendants, within 30 days of entry of the injunction, to contact by United States mail all persons for whom they have prepared, or assisted in preparing, a federal tax return, Form 1099-OID, Form 1099-A, or other tax document since January 1, 2008, enclosing a copy of the executed injunction against them, and file with the Court, within 5 days thereafter, sworn certificates stating that they have complied with this requirement;

G. That the Court, pursuant to I.R.C. §§ 7402(a), 7407 and 7408, enter an injunction requiring defendants to produce to counsel for the United States within 30 days of the injunction order a list that identifies by name, social security number, address and telephone number and tax period(s), all persons for whom defendants have prepared, or assisted in preparing, and/or filed federal tax returns or other tax documents since January 1, 2008;

H. That the Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an injunction requiring defendant Hines to produce to counsel for the United States within 30 days of the injunction order a list that identifies by name, address and telephone number and tax period(s), all persons who have engaged her to prepare or file a Form 1099-OID or Form 1099-A on behalf of a third-party;

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

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

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

Respectfully submitted,

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United States Attorney



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