

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

|                              |   |           |
|------------------------------|---|-----------|
| UNITED STATES OF AMERICA,    | ) |           |
|                              | ) |           |
| Plaintiff,                   | ) |           |
|                              | ) |           |
| v.                           | ) | Civil No. |
|                              | ) |           |
| FRANK D. LIGHTY and LIGHTY & | ) |           |
| ASSOCIATES, INC.,            | ) |           |
|                              | ) |           |
| Defendants.                  | ) |           |

**Complaint and Request for Injunctive Relief**

Plaintiff, the United States of America, for its complaint against Frank D. Lighty and Lighty & Associates, states as follows:

**Jurisdiction and Venue**

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.
2. This suit is brought under Sections 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) to restrain and enjoin defendants from preparing federal income tax returns for others, engaging in any activity subject to penalty under 26 U.S.C. § 6694, 6695, or 6701, and engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.
3. 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 under 26 U.S.C. §§ 7402, 7407, and 7408.

4. Frank Lighty resides in Port Richey, Florida, within this judicial district.

5. Lighty & Associates is a Florida corporation that conducts business in Port Richey, Florida, within this judicial district.

**Defendants Have Continually and Repeatedly  
Prepared False and Fraudulent Federal Income Tax Returns**

6. Lighty is the President of Lighty and Associates and has prepared taxes for approximately 20 years.

7. Since 2003, Lighty has prepared federal income tax returns through Lighty & Associates, which is located at his personal residence.

8. Lighty, who is the only person at Lighty & Associates who prepares federal income tax returns, has prepared an estimated 889 federal income tax returns for the 2005 through 2007 tax years.

9. For the 2005 through 2007 tax years, Lighty continually and repeatedly prepared federal income tax returns containing false or inflated Schedule A deductions for medical expenses, charitable deductions, employee business expenses, and other items, as well as false Schedule C claims for non-deductible personal expenses such as commuting.

10. The IRS initially examined 36 federal income tax returns prepared by Lighty for the 2005 through 2007 tax years.

11. For every return examined, the IRS discovered improper Schedule A deductions and improper claimed Schedule C business expenses, which the IRS

disallowed, resulting in additional taxes owed.

12. Based on the IRS's initial examination, the average tax deficiency per return prepared by Lighty is \$6,568, with total additional tax owed of \$236,545 with respect to the 36 returns.

13. If this average tax deficiency per return of \$6,568 is applied to all 889 returns prepared by Lighty for the 2005 through 2007 tax years, the estimated tax loss to the United States by defendants' bogus-deduction scheme could be almost \$6 million.

14. Based on this initial examination, the IRS assessed \$46,000 in return-preparer penalties against Lighty under 26 U.S.C. §§ 6694(a) and (b), which Lighty has agreed to pay.

15. In addition to the original 36 returns examined by the IRS, the IRS later examined an additional 28 returns prepared by Lighty, and found similar improper deductions. Disallowance of these deductions resulted in a total of \$1,221,785 in additional tax due.

### **False or Inflated Schedule A and C Deductions**

16. In one representative example, Lighty prepared the 2005 and 2006 federal income tax returns of Bruce and Susan Borden, a Tarpon Spring, Florida couple, falsely claiming that this couple was entitled to large Schedule A deductions for medical expenses, charitable contributions, unreimbursed employee expenses, and other items.

17. Lighty's false claims included \$12,130 in charitable deductions and \$5,769 for medical and dental expenses, even though the couple never told Lighty that they had

incurred these expenses. Lighty also falsely claimed \$18,007 and \$2,540 for “business travel” based on the miles the couple reported driving, without asking the couple whether this travel was deductible business travel or non-deductible commuting.

18. After an audit where the IRS disallowed the false Schedule A deductions, the couple agreed on September 22, 2008 to pay the IRS \$7,546.41 and \$10,013.35 in additional tax for the 2005 and 2006 tax years.

19. In another representative example, Lighty prepared the 2005 and 2006 federal income tax returns of Nicole and Antonio Ianni, a New Port Richey, Florida couple, falsely claiming the husband had a Schedule C business and incurred various deductible expenses; overstating the wife’s Schedule C business expenses, including falsely claiming personal commuting as a deductible business expense; and overstating the couple’s Schedule A deductions for medical expenses and charitable contributions.

20. In an affidavit signed by the couple on September 26, 2008, the couple stated that they had provided to Lighty donation receipts for Salvation Army and other charitable entities substantiating charitable contributions of approximately \$2,500, and did not know why Lighty claimed almost \$13,000 in charitable contributions on their return.

21. After an audit where the IRS disallowed the false or overstated Schedule A and C deductions, the IRS determined on September 26, 2008 that this couple owed additional tax of \$7,011.19 and \$847.21 for the 2006 and 2007 tax years.

**Lighty Continually and Repeatedly  
Misrepresented to His Customers his  
Experience and Education as a Return Preparer**

22. Lighty has continually and repeatedly misrepresented to his customers that he is a former IRS agent.

23. Lighty misrepresented to a customer that he has a Masters Degree in Tax Administration from Temple University.

24. Lighty's resume does not reflect that he has worked for the IRS or that he has received any degrees from Temple University.

25. Lighty's resume states that he received a Bachelor of Science in Accounting from Almeda University in 2005 and a Master of Business in Accounting from the same university in 2007.

26. Almeda University is an unaccredited institution that offers online degrees at [almedauniversity.org](http://almedauniversity.org).

**Count I**

**Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701**

27. The United States incorporates by reference the allegations in paragraphs 1 through 26.

28. Section 7408 of 26 U.S.C. authorizes a court to enjoin persons who have engaged in conduct subject to penalty under 26 U.S.C. § 6701 from engaging in further such conduct. Section 6701 imposes a penalty on any person who aids in the preparation of any portion of a return or other document, who knows the portion or document will be

used in connection with any material matter under the internal revenue laws, and who knows the portion or document (if so used) would result in understating another person's tax liability.

29. Defendants prepared tax returns and assisted in preparing tax returns and other documents for customers that were intended to be used (and were used) in connection with material matters arising under the internal revenue laws.

30. Defendants knew that these returns and other documents (if so used) would result in understatements of customers' tax liabilities. Defendants thus engaged in conduct subject to penalty under 26 U.S.C. § 6701.

## **Count II**

### **Return-preparer injunction under 26 U.S.C. § 7407**

31. The United States incorporates by reference the allegations in paragraphs 1 through 30.

32. 26 U.S.C. § 7407 authorizes a court to enjoin a person from, among other things,

- (1) engaging in conduct subject to penalty under 26 U.S.C. § 6694 (which penalizes a return preparer who prepares or submits a return that contains an unrealistic position);
- (2) misrepresenting his eligibility to practice before the Internal Revenue Service, or otherwise misrepresenting his experience or education as an income tax return preparer;

If the return preparer's conduct is continual or repeated and the Court finds that a narrower injunction (*i.e.*, prohibiting specific enumerated conduct) would not be

sufficient to prevent that person's interference with the proper administration of federal tax laws, the Court may enjoin the person from further acting as a return preparer.

33. Defendants have continually and repeatedly prepared or submitted federal tax returns that contain unrealistic positions subject to penalty under 26 U.S.C § 6694.

34. Lighty has continually and repeatedly misrepresented his experience or education as an income tax return preparer.

### **Count III**

#### **(Unlawful Interference with the Enforcement of the Internal Revenue Laws)**

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

36. Through the conduct described above, defendants have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws. Unless enjoined by this Court, defendants are likely to continue to engage in such conduct.

Defendants' conduct is causing irreparable injury to the United States, and the United States has no adequate remedy at law:

- a. Defendants' conduct, unless enjoined, is likely to cause a substantial loss of revenue to the United States Treasury. Unless the defendants are enjoined the IRS will have to expend substantial time and resources to detect future customers' returns with substantial understatements, and may be unable to detect all of them.
- b. The detection and audit of returns filed by defendants' customers will place a serious burden on the IRS's resources.
- c. If defendants are not enjoined, they likely will continue to engage in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701 that substantially interferes with the enforcement of the internal revenue laws.

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

A. That the Court find that defendants have engaged in repeated and continual conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar defendants from acting as an income-tax-return preparer;

B. That the Court find that defendants engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent them from engaging in further such conduct;

C. That the Court find that defendants engaged in conduct that interferes with the enforcement of the internal revenue laws and substantially interferes with the proper administration of the internal revenue laws, and that injunctive relief against them is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. §§ 7407 and 7402(a);

D. That the Court, under 26 U.S.C. § 7407, enter a permanent injunction permanently barring defendants from acting as a federal income tax return preparers;

E. That the Court, under 26 U.S.C. §§ 7402, 7407 and 7408, enter a permanent injunction prohibiting defendants and their representatives, agents, servants, employees, attorneys, independent contractors, and those persons in active concert or participation with them, from directly or indirectly:

(1) engaging in any conduct subject to penalty under 26 U.S.C. § 6694, *i.e.*,



preparing any part of a return or claim for refund that includes an unrealistic position;

- (2) acting as federal-income-tax return preparers;
- (3) misrepresenting Lighty's experience and education as a return preparer;
- (4) engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws; and
- (5) engaging in conduct subject to penalty under 26 U.S.C. § 6701, *i.e.*, assisting others in the preparation of any tax returns, forms, or other documents to be used in connection with any material matter arising under the internal revenue laws and which they know will (if so used) result in the understatement of income tax liability; and

F. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring defendants to contact all persons and entities for whom they prepared any federal income tax returns or other tax-related documents after January 1, 2006, and inform those persons of the entry of the Court's findings concerning the falsity of representations made by defendants on their customers' tax returns, and that a permanent injunction has been entered against defendants.

G. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring defendants to turn over to the United States a list of the names, addresses, e-mail addresses, phone numbers, and Social Security numbers of all individuals or entities for whom defendants prepared or assisted in the preparation of any tax-related documents, including claims for refund or tax returns since January 1, 2006.

H. That this Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and

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

Dated: March 12, 2009.

A. BRIAN ALBRITTON  
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