

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 HARROLD EUGENE JONES,)
 EVELYN P. JOHNSON,)
 individually and d/b/a)
 EVELYN’S SECRETARIAL AND)
 TAX SERVICE and ASAP SPEEDEE)
 TAX SERVICE,)
)
 Defendants.)

Civil No. 06-1032-MLB

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, the United States of America, in its complaint against defendants Harrold Eugene Jones a/k/a Harold G. Jones and Evelyn P. Johnson, individually and d/b/a Evelyn’s Secretarial and Tax Service and ASAP Speedee Tax Service, states as follows:

Nature of Complaint

1. This is a civil action brought by the United States of America pursuant to 28 U.S.C. §§ 1340 and 1345, and Internal Revenue Code (I.R.C.) §§ 7402, 7407, and 7408 to enjoin defendants Harrold Eugene Jones a/k/a Harold G. Jones and Evelyn P. Johnson, individually and d/b/a Evelyn’s Secretarial and Tax Service, from:

- a. preparing federal income tax returns, amended returns, and other related documents and forms for others;

- b. engaging in any activity subject to penalty under I.R.C. §§ 6694, 6695, or 6701, or any other section of the I.R.C.;
- c. engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;
- d. assisting in the preparation of federal tax returns that defendants know will result in the understatement of any tax liability.

Jurisdiction

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 of the United States, pursuant to the provisions of I.R.C. §§ 7402, 7407, and 7408.

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

Defendants

4. Harrold Eugene Jones resides in Wichita, Kansas.

5. Evelyn P. Johnson currently resides in Dallas, Texas, but has, until recently, resided in Wichita, Kansas. Most of Johnson's conduct that is complained of in this suit occurred in Kansas.

6. Jones and Johnson do business as Evelyn's Secretarial and Tax Service, located at 5110 E. 21st Street, N., Wichita, Kansas. Johnson also does business as ASAP Speedee Tax Service, located at 4303 S. Lancaster, Suite B, Dallas, Texas. Jones continues to prepare and

e-file 2005 federal individual tax returns through A&J Battle Tax and Bookkeeping without identifying himself on the return as the preparer.

7. Harrold E. Jones has been preparing federal income tax returns for about fifty years.

8. Jones was convicted by a federal court in the State of California in 1973 of one count of preparing false tax returns. After his conviction he moved to Wichita, Kansas and continued preparing federal income tax returns.

9. The IRS revoked Jones's privilege to electronically file returns in 1992 because of his felony conviction. Thereafter, Jones used his daughter Evelyn P. Johnson, to electronically file returns that he prepared. Jones also uses other return preparers to electronically file returns he prepared.

10. Johnson has been preparing returns with her father for about twenty years.

11. Jones is not a lawyer. Jones in 1993 was permanently enjoined by the United States Bankruptcy Court for the District of Kansas from the unauthorized practice of law in any bankruptcy case or proceeding filed in this District. *In re Robinson*, 162 B.R. 319 (Bankr. D. Kan. 1993).

12. Jones has told customers he is certified, bonded, and a Certified Public Accountant. Jones is not a Certified Public Accountant, nor is he bonded, certified or an enrolled tax preparer.

Jones and Johnson's Fraudulent Tax Preparation Scheme

13. Jones and Johnson prepare federal income tax returns containing false information to improperly reduce their customers' reported tax liabilities and claim tax refunds to which the customers are not entitled.

14. Jones and Johnson claim these refunds in part by fraudulently offsetting their customers' taxable income with fictitious Schedule C losses. Defendants fabricate businesses for their customer, and then take improper, inflated tax deductions for those businesses, which improperly create losses. Examples of Defendants' improper reporting on Schedule C include the following:

- a. For many customers, defendants claimed deductions of \$20,000 to \$24,000 for "Depreciation and Section 179 Deductions," although the customers were not entitled to such deductions. For one customer, the improper deduction claimed for depreciation and section 179 deductions was \$111,000. The entire amount was disallowed on audit.
- b. On many returns Defendants claimed deductions for 100 % of the customer's utility expenses for their residence, regardless of whether the customers used any part of their residence for a business;
- c. On some returns defendants claimed deductions for expenses which had already been claimed as deductions on a Form 1120S subchapter S information return.

15. In addition to false and fraudulent Schedule C losses, Defendants made other false and improper entries on their customers' tax returns:

- a. Claiming an exemption for a "foster child" for a customer when the child was the customer's niece;
- b. Claiming false or inflated Schedule E deductions;
- c. Claiming deductions for moving expenses when the customer moved three blocks away;
- d. Claiming supplementary social security income as Schedule C income in order to improperly claim an earned income tax credit.

16. Jones and Johnson prepare fraudulent Subchapter S information returns (Form

1120-S) along with Schedules K-1 reporting losses. These forms are not always filed with the IRS but the fraudulent losses generated on the Forms 1120-S and Schedules K-1 are improperly deducted on the individual customers' federal income tax returns (Form 1040).

17. Jones and Johnson continually and repeatedly fail to furnish a copy of the completed tax return to their customers in violation of § 6695(a).

Jones and Johnson's Knowledge of the Illegality of their Conduct

18. Jones and Johnson know or should know that their conduct is illegal.

19. Jones has taken courses at University of California at Los Angeles in business administration, and has taken courses in accounting at Wichita State University.

20. Jones has been in the tax preparation business since the 1950s.

21. Jones told the IRS that he worked for a Certified Public Accountant briefly in Los Angeles, and that he worked as a seasonal clerical employee for the IRS in California for approximately seven months in 1951. Jones owned his own tax-return-preparation business in Los Angeles until he moved to Wichita in 1979.

22. Jones claims to receive and read publications on taxation.

23. Johnson has taken classes in accounting at Wichita State University and claims to have taken an H& R Block tax course.

24. Johnson has worked with Jones for twenty years.

Harm to the United States

25. Jones and Johnson have prepared 5,231 federal income tax returns for customers for the 1999 through 2003 tax years.

26. The IRS has conducted audits of federal income tax returns Jones and Johnson prepared. Of the 129 audits the IRS has completed, 125 (97%) resulted in a determination of deficiency.

27. The IRS determined that a conservative estimate of the understated tax liability from Jones and Johnson-prepared federal income tax returns (Forms 1040), from the 1999 through 2003 tax years, is approximately \$12,666,000. This number does include the returns that did not claim a refund but still understated taxes. Some of these liabilities may never be recovered.

28. In addition to the direct loss to the Treasury defendants cause by their preparation of false and fraudulent returns, the government is harmed because it must devote scarce IRS resources to the detection, audit and collection of underreported taxes of defendants' customers.

29. The harm to the government will increase if Defendants are not stopped because unless they are enjoined the Defendants will continue to prepare returns that fraudulently understate their customer's tax liabilities.

Count I: Injunction under I.R.C. § 7408

30. The United States incorporates by reference the allegations contained in paragraphs 1 through 29 above.

31. Section 7408 authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under 26 U.S.C. § 6701 from engaging in further such conduct if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct. Section 6701 imposes a penalty on any person who aids in the preparation of any portion of a return or other document, having reason to know that the portion will be used to assert a position under the

internal revenue laws, and knowing the portion, if used, will result in an understatement of another person's tax liability.

32. Jones and Johnson have prepared federal income tax returns that they know will result in the understatement of another person's federal income tax liabilities. Unless enjoined by this Court, Jones and Johnson are likely to continue to engage in this conduct. Injunctive relief is appropriate under 26 U.S.C. § 7408.

Count II: Injunction under I.R.C. § 7407

33. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 29 above.

34. Section 7407, I.R.C., authorizes a district court to enjoin income tax return preparers from:

- a. Engaging in conduct subject to penalty under I.R.C. § 6694 (which penalizes a return preparer who knowingly prepares or submits a return that contains an unrealistic position);
- b. Engaging in conduct subject to penalty under 26 U.S.C. § 6695 (which penalizes a return preparer who wilfully fails to sign a return when required, who fails to furnish an identifying number as required, or who fails to keep a customer list as required by 26 U.S.C. § 6107(b));
- c. Misrepresenting their experience or education as an income tax return preparers; or
- d. 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 injunctive relief is appropriate to prevent recurrence of such conduct.

Additionally, if the Court finds that the preparer has continually or repeatedly engaged in such misconduct and if 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 federal tax laws, the Court may enjoin the person from further acting as a federal income tax return preparer.

35. Jones and Johnson have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing returns (Forms 1040) claiming frivolous and fraudulent deductions. Jones and Johnson knew the positions asserted on income tax returns they prepared were frivolous and unrealistic.

36. Jones and Johnson have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695 in that Jones failed to identify himself as the preparer for the returns submitted under Johnson's electronic filing number.

37. Jones and Johnson have continually and repeatedly engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

38. Jones and Johnson have continually and repeatedly failed to provide copies of the returns they prepare to their customers.

39. Jones has continually and repeatedly misrepresented his credentials as an income tax return preparer.

40. Jones and Johnson's actions described above fall within I.R.C. §§ 7407(b)(1)(A), (B), and (D), and are thus subject to injunction under § 7407.

41. Because of Jones and Johnson's continual and repeated conduct subject to injunction under I.R.C. § 7407, combined with their other conduct described in this complaint, they should be permanently enjoined from acting as income tax return preparers.

Count II: Injunction Under I.R.C. § 7402

42. The United States incorporates herein by reference the allegations in paragraphs 1 through 29 above.

43. Jones and Johnson, through the conduct described above, have engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws. Unless enjoined by this Court they will likely to continue to engage in such conduct. Their conduct causes irreparable injury to the United States for which the United States has no adequate remedy at law. The United States is entitled to injunctive relief under I.R.C. § 7402(a) to prevent such conduct.

Appropriateness of Injunctive Relief

44. Unless enjoined by the Court, Jones and Johnson are likely to continue to engage in the conduct described in paragraphs 1 through 29 above.

45. Jones and Johnson's conduct, as described in paragraphs 1 through 29 above, causes irreparable harm to the United States for which the United States has no adequate remedy at law. Specifically, Jones and Johnson's conduct is causing and will continue to cause substantial revenue losses to the United States Treasury, some of which may never be recovered, thus resulting in a permanent loss. Unless Jones and Johnson are enjoined, the IRS will continue to have to devote its limited resources to detecting and auditing future fraudulent Jones and Johnson-prepared returns.

46. If Jones and Johnson are not enjoined, they likely will continue to engage in conduct subject to penalty under I.R.C. §§ 6694, 6695, and 6701.

47. If Jones and Johnson are not enjoined, they likely will continue to engage in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

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

A. That the Court find that defendants Harrold Eugene Jones and Evelyn P. Johnson, individually and d/b/a Evelyn's Secretarial and Tax Services, continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and that injunctive relief is appropriate under I.R.C. § 7407 to prevent Jones and Johnson from acting as income tax return preparers;

B. That the Court find that defendants Harrold Eugene Jones and Evelyn P. Johnson, individually and d/b/a Evelyn's Secretarial and Tax Services, 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 Jones and Johnson from engaging in any further such conduct;

C. That the Court find that defendants Harrold Eugene Jones and Evelyn P. Johnson, individually and d/b/a Evelyn's Secretarial and Tax Services, engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against Jones and Johnson is appropriate pursuant to I.R.C. § 7402(a) and I.R.C. § 7407 to prevent recurrence of that conduct;

D. That the Court, pursuant to I.R.C. § 7407 and 7408, enter a permanent injunction prohibiting defendants Harrold Eugene Jones and Evelyn P. Johnson, individually and d/b/a Evelyn's Secretarial and Tax Services, from acting as income tax return preparers and engaging in any activity subject to penalty under I.R.C. §§ 6694, 6695, or 6701, or any other section of the I.R.C.;

E. That the Court, pursuant to I.R.C. § 7402 enter an injunction requiring Jones and Johnson to contact all persons for whom they prepared federal income tax returns or any other federal tax forms after January 1, 2000, and inform those persons of the entry of the Court's findings concerning the falsity of their representations, the falsity of the tax returns prepared on their behalf, the possibility of the imposition of penalties against them, the possibility that the United States may seek to collect any additional federal income taxes, penalties, and interest which they may owe, and the entry of the permanent injunction against Jones and Johnson;

F. That the Court, pursuant to I.R.C. §§ 7402 and 7407 enter an injunction requiring Jones and Johnson to turn over to the United States all copies of returns or claims for refund and the name, address, e-mail address, phone number and social security number or other taxpayer identification number of all customers for whom such returns or claims for refund were prepared since January 1, 2000;

G. That the Court enter an injunction ordering that the Government, to monitor Jones and Johnson's compliance with the injunction, may engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

H. That the Court grant the United States such other and further relief as the Court deems appropriate.

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