

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FILED

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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN LEWIS, ARTELS JAMES, and
PERRY WRIGHT,

Defendant.

Civil No.

CV-10-H-0972-S

COMPLAINT

Plaintiff, the United States of America, alleges as follows:

1. The United States brings this action to enjoin each of defendants John Lewis, Artels James, and Perry Wright from:
 - a. preparing or assisting in the preparation of any other person's federal income tax return, amended return, or other related documents or forms;
 - b. preparing or assisting in the preparation of federal tax returns that he knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
 - c. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694 or 6695;
and
 - d. engaging in any fraudulent or deceptive conduct which substantially interferes with the proper administration and enforcement of internal revenue laws.

2. This action is authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and is brought at the direction of a delegate of the Attorney General of the United States, in accordance with 26 U.S.C. §§ 7401, and 7407.

JURISDICTION, PARTIES, AND VENUE

3. Each defendant prepared returns for the 2007, 2008, and 2009 tax years and continues to prepare returns under the trade name "Tax World," located at 8321 First Ave, N., Birmingham, Alabama 35206.

4. Most – if not all – returns transmitted to the IRS by Tax World are not signed by an individual preparer and do not bear the identifying number of the individual preparer, but instead list only Tax World's federal employee identification number and e-file identification number, in violation of 26 U.S.C. §§ 6109(a)(4) and 26 C.F.R § 1.6109-2(a).

5. All returns prepared and transmitted to the IRS by Tax World were prepared by at least one of the defendants, although the specific defendant cannot be identified at this time because of defendants' failure to comply with the statutes and regulations governing tax return preparers, as explained in paragraph 4.

6. For the 2007 tax year, 452 returns were prepared by at least one of the defendants and transmitted to the IRS bearing the Tax World identification numbers. For the 2008 tax year, 102 returns were prepared by at least one of the defendants and transmitted to the IRS bearing the Tax World identification numbers.

7. Defendants have prepared tax returns for the 2009 tax year, although the total number is unknown at this time.

8. Defendant John Lewis resides and has his principal place of business in Jefferson County, Alabama.

9. Lewis has prepared tax returns for others since at least the 2005 tax year. Lewis prepared 573 returns for 2005, 183 returns for 2006, as well as some of the 2007, 2008, and 2009 returns referred to in paragraphs 6 and 7, above.

10. Defendant Artels James resides and has his principal place of business in Jefferson County, Alabama.

11. James prepared some of the 2007, 2008, and 2009 returns referred to in paragraphs 6 and 7, above.

12. Defendant Perry Wright resides and has his principal place of business in Jefferson County, Alabama.

13. Wright prepared some of the 2007, 2008, and 2009 returns referred to in paragraphs 6 and 7, above.

14. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1340, 1345 and 26 U.S.C. §§ 7402(a), 7407.

15. Venue is proper in this Court under 26 U.S.C. §§ 7407 and 28 U.S.C. § 1391 because the defendants reside and have their principle place of business within the jurisdiction of this Court.

DEFENDANTS HAVE UTILIZED AT LEAST THREE SCHEMES TO GENERATE
OVERSTATED REFUNDS

16. Defendants have used at least three schemes to generate erroneously large refunds for their clients. Two schemes generate false or overstated claims to the credit under 26 U.S.C. § 32, i.e. the Earned Income Tax Credit (EITC), and generate correspondingly excessive refunds. The

EITC is a refundable credit, which means that it can generate a refund exceeding the amount of income tax paid by an individual taxpayer. The third scheme involves the creation of fictitious business deductions to reduce the client's tax liability and generate an excessive refund of money withheld from the client's pay throughout the tax year.

17. 100 percent of the returns transmitted by Tax World for the 2007 and 2008 tax years sought a refund.

18. 95 percent of the returns transmitted by Tax World for the 2007 tax year claim an EITC.

19. 99 percent of the returns transmitted by Tax World for the 2008 tax year claim an EITC.

20. Based upon a review of some returns transmitted by Tax World, it is believed that almost all of the EITC credits claimed are false or overstated.

21. In regard to the EITC, one of defendants' schemes is to falsely claim dependent or qualifying children, which increases the maximum EITC which can be claimed. The other scheme is to prepare returns which falsely overstate their client's earned income, which creates a larger EITC than the individual is entitled to under the Internal Revenue Code.

22. Defendants' third scheme is to prepare returns with fabricated business losses, reported on a Schedule C, which falsely reduces the taxpayer's reported income and corresponding income tax liability. This creates an excessive refund of taxes paid throughout the year via withholding from paychecks.

23. Beginning with the 2007 tax year, defendants have repeatedly and regularly prepared returns utilizing at least one of the schemes referred to in paragraphs 21 and 22, above.

24. Defendants knew or should have known the positions taken on the returns as a result of the schemes referred to in paragraphs 21 and 22, above, were unreasonable.

25. Defendants failed to satisfy the due diligence requirements for preparing returns in which the EITC is claimed.

26. Tax World charged its wage-earning customers \$500 and customers with self-employment earnings \$560 to prepare returns.

EITC SCHEME - FALSELY CLAIMING DEPENDENTS

27. Prior to the investigation which led to this action, the IRS examined a number of returns prepared by at least one of the defendants for the 2007 tax year. As a result of that examination, EITC credits claimed in 76 returns were disallowed.

28. The taxpayers for each of the 76 returns did not substantiate, during the IRS examination and notwithstanding requests for supporting information, that a person claimed as a dependent or qualifying child on the tax return actually qualified under the Internal Revenue Code.

EITC SCHEME - OVERSTATED INCOME

29. The amount of the EITC credit increases in proportion to a taxpayer's wages or other earned income up to a certain dollar amount. As such, there is a "plateau" of earned income amounts which will result in the maximum possible EITC credit for each taxpayer. Because that "plateau" amount may be more than the amount of income the taxpayer actually earned, a taxpayer in certain circumstances can obtain a larger refund by overstating his earned income.

30. Defendants obtained falsely increased EITC refunds for their clients by reporting fictitious wages to obtain the maximum possible credit. Several specific examples are listed below:

- a. At least one of defendants prepared the 2007 tax year income tax return for a customer named Jessica McGinnis, which reported income of \$12,031 from false,

undocumented, or unconfirmed sources. The return showed adjusted gross income of \$13,313, resulting in an EITC of \$4,716, the maximum amount for a person with at least two qualifying children in the 2007 tax year. The entire \$4,716 was refunded to McGinnis. Forms filed by McGinnis's employers reported that she earned wages of only \$804.00. McGinnis also reported additional "business income" of \$478 on a Schedule C attached to her Form 1040. Both her Form 1040 and Schedule C indicated that her occupation was "babysitter." There was no explanation or source for the additional \$12,031 in income reported on her Form 1040. If McGinnis claimed only the \$1,282 in income documented from her employers and Schedule C, she would have received a refund of approximately \$500, instead of the \$4,716 she received.

- b. At least one of defendants prepared the 2007 tax year income tax return for a customer named Ursala Johnson, which reported income of \$12,750 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$12,975, resulting in an EITC of \$2,853, the maximum amount for a person with one qualifying child in the 2007 tax year. The entire \$2,853 was refunded to Johnson. No forms were filed by any employer of Johnson indicating that she earned wages. She reported additional "business income" of \$225 on a Schedule C. Both her Form 1040 and Schedule C indicated that her occupation was "sitter." There was no explanation or source for the additional \$12,750 in income reported on her Form 1040. If Johnson claimed only the \$225 in income on her Schedule

C, she would have received a refund of approximately \$90, instead of the \$2,853 she received.

- c. At least one of defendants prepared the 2007 tax year income tax return for a customer named Nikitris Harper, which reported income of \$12,350 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$12,600, resulting in an EITC of \$4,716, the maximum amount for a person with at least two qualifying children in the 2007 tax year. The entire \$4,716 was refunded to Harper. No forms were filed by any employer of Harper indicating that she earned wages. She reported additional "business income" of \$250 on a Schedule C. Her occupation was reported as "private sitter" or "sitter." There was no explanation or source for the additional \$12,350 in income reported on her Form 1040. If Harper claimed only the \$250 in income on her Schedule C, she would have received a refund of approximately \$100, instead of the \$4,716 she received.
- d. At least one of defendants prepared the 2007 tax year income tax return for a customer named Rachel Broaden, which reported income of \$10,241 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$11,615, resulting in an EITC of \$4,650, all of which was refunded to Broaden. Forms filed by Broaden's employers reported that she earned wages of only \$1,174. She reported additional "business income" of \$200 on a Schedule C. Both her Form 1040 and Schedule C indicated that her occupation was "babysitter." There was no explanation or source for the additional \$10,241 in income reported

on her Form 1040. If Broaden claimed only the \$1,374 in income documented from her employers and Schedule C, she would have received a refund of approximately \$470, instead of the \$4,650 she received.

- e. At least one of defendants prepared the 2007 tax year income tax return for a customer named Claireca Brown, which reported income of \$8,667 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$12,380, resulting in an EITC of \$4,716, the maximum amount for a person with at least two qualifying children in the 2007 tax year. The entire \$4,716 was refunded to Brown. Forms filed by Brown's employers reported that she earned wages of only \$3,513. She reported additional "business income" of \$200 on a Schedule C. Both her Form 1040 and Schedule C indicated that her occupation was "hairdresser." There was no explanation or source for the additional \$8,667 in income reported on her Form 1040. If Brown claimed only the \$3,713 in income documented from her employers and Schedule C, she would have received a refund of approximately \$1500, instead of the \$4,716 she received.
- f. At least one of defendants prepared the 2007 tax year income tax return for a customer named Patrice Rich, which reported income of \$7,456 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$9,741, resulting in an EITC of \$2,853, the maximum amount for a person with one qualifying child in the 2007 tax year. The entire \$2,853 was refunded to Rich. Forms filed by Rich's employers reported that she earned wages of only \$2,110. She reported additional "business income" of \$175 on a Schedule C, listing her

occupation as “bartender.” Her occupation on her Form 1040 was listed as “McDonalds.” There was no explanation or source for the additional \$7,456 in income reported on her Form 1040. If Rich claimed only the \$2,285 in income documented from her employers and Schedule C, she would have received a refund of approximately \$915, instead of the \$2,853 she received.

- g. At least one of defendants prepared the 2007 tax year income tax return for a customer named Denesha Hutton, which reported income of \$11,354 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$11,601, resulting in an EITC of \$2,853, the maximum amount for a person with one qualifying child in the 2007 tax year. The entire \$2,853 was refunded to Hutton. No forms were filed by any employer of Hutton indicating that she earned wages. She reported additional “business income” of \$247 on a Schedule C. Both her Form 1040 and Schedule C indicated that her occupation was “catering.” There was no explanation or source for the additional \$11,354 in income reported on her Form 1040. If Hutton claimed only the \$247 in income on her Schedule C, she would have received a refund of approximately \$100, instead of the \$2,853 she received.
- h. At least one of defendants prepared the 2007 tax year income tax return for a customer named James Dennis, which reported income of \$8,655 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$8,820, resulting in an EITC of \$2,853, the maximum amount for a person with one qualifying child in the 2007 tax year. The entire \$2,853 was refunded to

Dennis. No forms were filed by any employer of Dennis indicating that he earned wages. He reported additional “business income” of \$165 on a Schedule C. Both his Form 1040 and Schedule C indicated that his occupation was “construction.” There was no explanation or source for the additional \$8,655 in income reported on his Form 1040. If Dennis claimed only the \$165 in income on his Schedule C, he would have received a refund of approximately \$65, instead of the \$2,853 he received.

- i. At least one of defendants prepared the 2007 tax year income tax return for a customer named Sylvia Stallworth, which reported income of \$12,448 from false, undocumented, or unconfirmed sources. The return showed adjusted gross income of \$12,793, resulting in an EITC of \$4,716, the maximum amount for a person with one qualifying child in the 2007 tax year. The entire \$4,716 was refunded to Stallworth. No forms were filed by any employer of Stallworth indicating that she earned wages. She reported additional “business income” of \$345 on a Schedule C. Both her Form 1040 and Schedule C indicated that her occupation was “babysitter.” There was no explanation or source for the additional \$12,448 in income reported on her Form 1040. If Stallworth claimed only the \$345 in income on her Schedule C, she would have received a refund of approximately \$140, instead of the \$2,853 she received.

31. The income reported by each of the taxpayers in paragraph 30, above, on a Schedule C are unverified and may be fictitious.

32. In each of the returns referred to in paragraph 30, above, there was no explanation as to why the reported adjusted gross income of the taxpayer exceeded the amount reported by that taxpayer's employers or reported as additional income by the taxpayer.

33. In the returns referred to in paragraph 30, above, a total of \$34,926 in EITC credits was claimed. Almost all of this amount is attributable to false, unexplained, or undocumented income.

FABRICATION OF BUSINESS DEDUCTIONS

34. The defendants fabricate and inflate business expense deductions reported on a taxpayer's Schedule C (Form 1040). By fabricating and inflating these deductions, the defendants reduce a client's taxable income, which results in a reduced tax liability. Because these clients often have had taxes withheld from their paychecks, their reduced liability often results in a higher refund.

35. Most of the fabricated or inflated deductions reported on defendants' clients' Schedule C are for "Car and Truck Expenses."

36. Upon being interviewed by employees of the IRS, several taxpayers whose returns reported such Schedule C deductions stated under oath that they never had any business income or expenses and did not tell any of the Defendants to prepare returns claiming such deductions.

For example:

a. Defendant Artels James prepared a 2007 return for a customer named Brenda Brown. The return reported total business losses of \$8,594, which reduced Brown's adjusted gross income to \$13,054. As a result, Brown received a refund of \$977 in payments withheld from her paycheck throughout the year. The return listed Brown's occupation as "sales clerk." The Schedule C on which the false business losses were reported listed Brown's principal

business as “gift basket” and claimed \$9,094 in car and truck expenses, \$325 in advertising expenses, \$450 in repairs and maintenance, and \$225 for rent or lease of vehicles, machinery or equipment, against income of \$1,500. After being contacted by the IRS, Brown signed an affidavit stating that she has no business aside from being employed as a sales clerk and that she did not tell James that she had any business income or expenses. In addition, Brown stated that James did not review her return with her before she signed it. Brown subsequently filed an amended income tax return in which she did not claim the false Schedule C loss.

b. Defendant John Lewis prepared a 2007 tax return for a customer named Tia Barganier. The return reported total business losses of \$26,990, which reduced Barganier’s adjusted gross income to \$21,012. As a result, Barganier received a refund of all of the \$3,958 in payments withheld from her paycheck throughout the year, as well as an EITC of \$3,529. The return listed Barganier’s occupation as “mailhandler.” The Schedule C on which the false business losses were reported listed Barganier’s principal business as “courier” and claimed \$26,990 in car and truck expenses, and no income. After being contacted by the IRS, Barganier signed an affidavit stating that she has no business aside from being employed as a mailhandler, and that she did not tell Lewis that she had any business income or expenses. In addition, Barganier stated that Lewis did not review her return with her before she signed it.

FAILING TO SIGN PREPARED TAX RETURNS OR
PROVIDE IDENTIFICATION NUMBER

37. Each of defendants has failed to sign tax returns that he has prepared under the business name of “Tax World.”

38. Each of defendants has failed to put his own tax return preparer identification number, or social security number, on the returns he prepared, in violation of I.R.C. § 6109(a)(4) and the accompanying regulations.

39. Defendants' failure to identify themselves on the returns they individually prepared furthers their schemes because it interferes with the IRS' ability to track the returns they prepared.

HARM TO THE UNITED STATES

40. Defendants have caused substantial revenue losses to the United States.

41. Defendants' tax preparation may have caused government losses exceeding one million dollars. All of the 554 returns prepared by defendants for 2007 and 2008 have resulted in a refund to the individual taxpayer. While some of those refunds may have been legitimate, the vast majority of those refunds are likely incorrect. In the 76 returns referred to in paragraphs 27 and 28, above, over \$200,000 in erroneous EITC refunds were claimed.

42. Aside from the financial loss from defendants' schemes, the IRS is also specifically harmed by their improper conduct. The IRS must continue to devote scarce resources to detect and examine inaccurate returns prepared by each of the defendants on behalf of others. The IRS must also expend valuable resources in an attempt to assess and collect the unpaid taxes from the defendants' clients. In particular, the defendants failure to fulfill their due diligence requirements for preparing returns in which the EITC is claimed imposes a tremendous burden on the IRS, as the determination of whether a person is entitled to the EITC involves factual questions which can be time-consuming and expensive to investigate.

43. In light of the number of returns prepared by the defendants, the high percentage of returns understating tax liability, the great financial harm to the United States, and the variety of schemes employed by the defendants to effectuate this end, it is necessary to permanently enjoin them from continuing to prepare tax returns.

Count I - Injunction Under 26 U.S.C. § 7407

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

45. 26 U.S.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 26 U.S.C. § 6694, which penalizes a return preparer who prepares a return that contains an understatement of tax liability that is due to an unreasonable position which the return preparer knew or should have known was unreasonable;
- b. engaging in conduct subject to penalty under 26 U.S.C. § 6695(b), which penalizes a tax return preparer for failing to sign a return he prepared;
- c. engaging in conduct subject to penalty under 26 U.S.C. § 6695(c), which penalizes a tax return preparer for failing to furnish an identifying number for a return he prepared;
- d. engaging in conduct subject to penalty under 26 U.S.C. § 6695(g), which penalizes a tax return preparer for failing to exercise due diligence in determining eligibility for the EITC; and

e. engaging in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws.

46. In order for a court to issue such an injunction, 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.

47. The court may permanently enjoin a person from acting as a tax return preparer if it finds that the preparer has continually and repeatedly engaged in conduct prohibited by the statute, and that a narrow injunction, e.g. only against the schemes identified herein, would not be sufficient to prevent the person's interference with the proper administration of the federal tax laws.

48. Defendants have repeatedly and continually prepared or submitted returns that contained understatements of tax liability that were due to positions that they knew or reasonably should have known were unreasonable and subject to penalty under 26 U.S.C. § 6694(a).

49. Defendants have repeatedly and continually failed to sign returns they prepared for others.

50. Defendants have repeatedly and continually failed to furnish an individual identifying number on the returns they prepared for others.

51. Defendants have repeatedly and continually failed to exercise due diligence in determining their customers' eligibility for the EITC and prepared returns incorrectly claiming the EITC.

52. A narrow injunction against only the defendants' schemes identified herein would be insufficient to prevent their interference with the proper administration of the federal tax laws, because they have understated their clients' liability in the vast majority of returns they prepared and used several different schemes to do so.

53. Only a permanent injunction is sufficient to prevent future harm. If defendants are not permanently enjoined from preparing tax returns, the IRS will be required to spend additional resources to investigate, analyze, and determine additional schemes they may devise in the future.

54. Because defendants engaged in conduct prohibited by 26 U.S.C. § 7407(b)(1), they are subject to an injunction for those activities.

55. Moreover, because defendants have repeatedly and continually engaged in activities subject to injunction under 26 U.S.C. § 7407(b)(1), and because a narrower injunction would not be sufficient to prevent their interference with the proper administration of the federal tax laws, they should each be permanently enjoined from acting as an income tax return preparer.

Count II - Injunction under 26 U.S.C. § 7402

56. The United States incorporates by reference the allegations in paragraph 1 through 55.

57. 26 U.S.C. § 7402(a) authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of internal revenue laws.

58. Each of the defendants, as described above, has repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of internal revenue laws.

59. If each defendant continues to act as a tax return preparer, his conduct will result in irreparable harm to the United States, and the United States has no adequate remedy at law.

60. Each of the defendants' conduct has caused and will continue to cause substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable. Moreover, unless each defendant is enjoined from preparing returns, the IRS will have to devote

substantial unrecoverable time and resources auditing his clients individually to detect future returns understating the clients' income.

61. The detection and audit of erroneous EITC refund claims filed by defendants' customers will place a serious burden on IRS resources.

62. If each defendant is not enjoined, he will continue to engage in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that otherwise substantially interferes with the enforcement and administration of the internal revenue laws.

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

A. That the Court find that James Lewis, Artels James, and Perry Wright have each repeatedly and continually engaged in 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 prevent recurrence of that conduct.

B. That the court find that each defendant has repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the internal revenue laws, and that injunctive relief against each defendant is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. §§ 7402(a).

C. That the Court enter a permanent injunction prohibiting each defendant from directly or indirectly:

1. preparing or assisting in the preparation of any other person's federal income tax returns and other related documents and forms for others;

2. preparing or assisting in the preparation of federal tax returns that he knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
3. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694 or 6695; and
4. engaging in any fraudulent or deceptive conduct which substantially interferes with the proper administration and enforcement of internal revenue laws.

D. That the Court enter an injunction:

1. Requiring each defendant, at his own expense, to send by certified mail, return receipt requested, a copy of the final injunction entered against him in this action to each person for whom he prepared federal income tax returns or any other federal tax forms after January 1, 2007;
2. Requiring each defendant to turn over to the United States copies of all returns or claims for refund that he prepared for customers after January 1, 2007;
3. Requiring each defendant to turn over to the United States a list with the name, address and telephone number, e-mail address (if known), and social security number or other taxpayer identification number of all customers for whom they prepared returns after January 1, 2007;

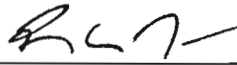
4. Requiring each defendant, within forty-five (45) days of entry of the final injunction in this action, to file a sworn statement with the Court evidencing his compliance with the foregoing directives;
5. Requiring each defendant to keep records of his compliance with the foregoing directives, which may be produced to the Court, if requested, or to the United States pursuant to paragraph E, below; and
6. Requiring each defendant to identify under oath each return he individually prepared or assisted in preparing and was transmitted to the IRS by Tax World.

E. That the Court enter an order allowing the United States to monitor each defendant's compliance with this injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

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

Date: April 14, 2010

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