

Feb. 25, 2009

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
ROBERT CUSENZA, individually and)
doing business as C R INSURANCE)
AGENCY, INC.,)
)
Defendant.)
_____)

Case Number:

09-80302-Civ-RYSKAMP/VITUNAC

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Plaintiff United States of America complains against defendant Robert Cusenza, individually and doing business as C R Insurance Agency, Inc., as follows:

Nature of the Action

1. 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 Internal Revenue Code (I.R.C.) (26 U.S.C.) §§ 7402, 7407, and 7408.

Jurisdiction and Venue

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 Cusenza and anyone in active concert or participation with him from:

- A. acting as a federal income tax return preparer or assisting in, or directing the preparation or filing of federal tax returns for any person or entity other

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than himself, or appearing as a representative on behalf of any person or organization before the Internal Revenue Service;

- B. preparing or filing (or helping to prepare or file) federal tax returns, amended returns, or other related documents or forms for others;
- C. engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision of the I.R.C.; and
- D. engaging in other conduct that interferes with the proper administration and enforcement of the internal revenue laws.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because Cusenza resides in Fort Lauderdale, Florida, within this judicial district and a substantial part of the actions giving rise to this suit took place in this district.

Defendant and Basic Facts

5. Robert Cusenza is a paid federal tax preparer, d/b/a C R Insurance Agency, operating at 1195 N. Military Trail, Suite 1B, West Palm Beach, Florida.

6. Cusenza’s only training in tax preparation was a course taught in Fort Lauderdale, Florida, approximately eight years ago.

7. Cusenza prepares approximately 400-500 tax returns each year for compensation. Since 2004, 96% of the returns Cusenza prepared have claimed a refund.

8. Cusenza is a federal income tax return preparer who prepares fraudulent tax returns that improperly claim fictitious and exaggerated fuel tax credits, earned income credits (“EITC”), child tax credits, and education tax credits.

Fuel Tax Credit Fraud

9. Cusenza has prepared blatantly fraudulent tax returns for customers using IRS Form 4136, “Credit for Federal Tax Paid on Fuels.” In using and preparing these forms Cusenza

misapplied I.R.C. § 6421(a) (“fuel tax credit”). The fuel tax credit is a credit available only to taxpayers who operate farm equipment or other off-highway business vehicles. The equipment or vehicles must not be registered for highway uses; meaning, that fuel purchased by truck drivers and companies for commercial transport does not qualify.

10. The IRS has identified at least 28 federal tax returns Cusenza prepared claiming more than \$200,000 in fraudulent fuel tax credits.

Overview of I.R.C. § 6421(a): Credit for Federal Tax Paid on Fuels

11. Cusenza fraudulently claims the fuel tax credit for customers for purported personal or business motor fuel purchases even though those customers do not qualify for the credit.

12. Section 6421(a), I.R.C., provides a credit for fuel used in an off-highway business use. Off-highway business use is any off-highway use of fuel in a trade or business or in an income-producing activity where the equipment or vehicle is not registered and not required to be registered for use on public highways. IRS Publication 225 provides the following examples of off-highway business fuel use: (1) in stationary machines such as generators, compressors, power saws, and similar equipment; (2) for cleaning purposes; and (3) in forklift trucks, bulldozers, and earthmovers. *See* IRS Publication 225 (2006), Farmer’s Tax Guide, Chapter 14 (2006) (available online at: <http://www.irs.gov/publications/p225/ch14.html#d0e19048>).

13. Highway vehicles are not eligible for the fuel tax credit. IRS Publication 510 defines a highway vehicle as any “self-propelled vehicle designed to carry a load over public highways, whether or not it is also designed to perform other functions.” A public highway includes any road in the United States that is not a private roadway. This includes federal, state, county, and city roads and streets. Publication 510 provides the following as examples of

highway vehicles, which are not eligible for the fuel tax credit: passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. *See* IRS Publication 510 (2006), Excise Taxes for 2006, Chapter 2 (2006) (available online at: <http://www.irs.gov/publications/p510/ch02.html#d0e3533>) IRS

14. In addition, IRS Publication 510 provides the following example of an appropriate application of the fuel tax credit:

Caroline owns a landscaping business. She uses power lawn mowers and chain saws in her business. The gasoline used in the power lawn mowers and chain saws qualifies as fuel used in an off-highway business use. The gasoline used in her personal lawn mower at home does not qualify.

15. In short, the fuel tax credit does not apply to passenger cars, commercial trucks, or other vehicles that are registered or required to be registered to drive on public highways.

Cusenza's Fraudulent Claims of the Fuel Tax Credit

16. Cusenza prepares federal income tax returns for individuals who are part or full-time wage earners, and improperly reduces his customers' tax liabilities by claiming a bogus fuel tax credit under I.R.C. § 6421.

17. Cusenza prepares Forms 4136 for his customers falsely stating that the customer has used gasoline for off-highway business purposes. Cusenza claimed the fuel tax credit for city residents who purportedly have jobs as truck drivers.

18. Cusenza claimed absurdly large credits by falsely reporting purchases of huge quantities of gasoline.

19. For example, Cusenza fraudulently prepared a 2005 tax return for Mirlando Cruz with a claimed fuel tax credit. On the return, Cusenza claimed that in 2005 Cruz purchased

exactly 48,000 gallons of gasoline for “off-highway business use of gasoline” and “other nontaxable use of gasoline.” Cruz, whose total reported income for the year was \$12,012 (\$88,663 in gross receipts with expenses totaling \$76,651), would have to have spent approximately \$96,000 to purchase that amount of gasoline. Moreover, to use that volume of gasoline, assuming mileage of 20 miles per gallon, Cruz would had to have driven 960,000 business miles – off-highway – during the year. This mileage equals over 2,000 miles each day of the year, seven days a week. This example shows the blatantly fraudulent nature of Cusenza’s use of the fuel tax credit.

20. The following chart shows five more examples of Cusenza’s fraudulent preparation of federal income tax returns for the 2005 year using the fuel tax credit:

Taxpayer	Job	Amount of off-highway business use of gas claimed	Cost of claimed business use of gasoline*	Estimated yearly/daily mileage non-highway driving**	Schedule C Income (or Loss)	Amount of gas credit claimed
Lazaro Rodriguez and Claribel Guerr	Drivers (husband & wife)	32,000 gallons	\$64,000	Year = 328,500 Day = 900	\$4,593	\$5,889
Felipe Diaz	Truck Owner	25,679 gallons	\$51,358	Year = 513,580 Day = 1,407	– \$744	\$6,253
Rosendo Ledouz Chapeaux	Truck Driver	36,090 gallons	\$72,180	Year = 721,800 Day = 1,977	\$8,472	\$6,625
Cecilio Farinas	Truck Driver	53,100 gallons	\$106,200	Year = 1,062,000 Day = 2,909	\$5,886	\$9,770
Ricardo Vega	Truck Driver	48,000 gallons	\$96,000	Year = 960,000 Day = 2,630	– \$698	\$8,832

* Estimated total cost based on \$2.00 per gallon.

** Estimated mileage based on 20 miles per gallon.

Other Bogus Tax Credits and/or Deductions

21. Cusenza's fraudulent federal tax return preparation is not limited to preparing returns with bogus fuel tax credits. Cusenza also prepares returns claiming bogus earned income tax credits ("EITC"), child tax credits, and education tax credits.

22. The Service has audited 39 tax returns for issues other than the "fuel tax credit" scheme discussed above. All 39 of those audits have resulted in denial, in full or in part, of the earned income tax credit claimed by Cusenza's customers. The total amount of EITC claimed by Cusenza's customers and disallowed by the IRS was \$107,064. Moreover, of those 39 returns, 24 contained excessive or false claims for a child tax credit, resulting in a total of \$19,581 in child tax credits disallowed in full or in part. In addition, 20 of the 39 audits resulted in additional tax assessments totaling \$20,356, for other unsubstantiated claims.

Earned Income Tax Credit and Child Tax Credit Fraud

23. Cusenza has fabricated income and/or expenses in order to maximize earned income tax credit and child tax credit claims.

24. The earned income tax credit is a refundable credit for people who work and have low wages. A refundable tax credit reduces the amount of tax owed and if the credit is larger than the tax owed, it results in a refund. The earned income tax credit is calculated based on the individual's earned income and number of dependents, with a maximum of two dependents. As an example, in 2007, for a single person with two dependents the credit gets larger as the individual's income rises until it reaches \$11,750 of earned income; the income range from

\$11,750 to \$15,399 received the maximum credit, \$4,716; and anyone with earned income beyond \$15,399, received a lesser credit, phasing down to zero as earnings pass \$37,783.

Therefore, for a single person with two dependents, the EITC “sweet spot,” meaning the income amount that would generate the most credit, was between \$11,750 and \$15,399. This “sweet spot” was lower if the individual had fewer dependents.

25. The child tax credit is a *non-refundable* tax credit of \$1,000 per child that is distinct from the earned income tax credit and is in addition to the dependency exemption deduction taxpayers receive for each child. The amount of a taxpayer’s child tax credit depends on both the taxpayer’s tax liability and modified adjusted gross income and filing status. Unlike the EITC, the child tax credit can not exceed the taxpayer’s tax liability. In other words, once the tax liability is reduced to zero by allowable credits for qualifying children, the credit ceases to be allowable. Additionally, the child tax credit phases out once the taxpayer’s modified adjusted gross income is above a certain amount for their filing status. The maximum modified adjusted gross income amounts for the corresponding filing status is as follows: Married Filing Jointly is \$110,000; Head of Household, Single, or Qualifying Widow(er) is \$75,000; and Married Filing Separately is \$55,000. Therefore, keeping a taxpayer’s modified adjusted gross income below those levels is key to accessing the full child tax credit.

26. However, the law provides an additional child tax credit if the taxpayer is not able to use the entire credit of \$1,000 per qualifying child. This additional credit is *refundable*. Under the additional child tax credit requirements, a taxpayer with a tax liability of less than the amount of their child tax credit, might qualify for a refund by using the additional tax credit, thereby obtaining the full \$1,000 for each qualifying child. The amount of the *refundable* credit is

determined to be whichever is lower: (1) 15% of the taxpayer's taxable earned income that is over \$11,750, or (2) the amount of unused child tax credit (caused when tax liability is less than allowed credit). An example of this would be if "Joe the Taxpayer" had one qualifying child, a modified AGI of \$25,000 and a tax liability of \$250, Joe would qualify for the additional child tax credit. "Joe the Taxpayer's" additional tax refund would be the lesser of \$750 ($\$1,000 - \250) or $\$1,987.50$ ($15\% \text{ of } \$25,000 - \$11,750$). Therefore, Joe would get a refundable tax credit of \$750.

27. Cusenza prepares returns which fabricated earned income and/or expenses for his customers in order to hit the "sweet spot" and improperly maximize the earned income tax credit. Cusenza also prepares returns which fraudulently claim both the non-refundable and the refundable child tax credits.

28. For example, Cusenza prepared the 2004 tax return for Ruben Arboleda claiming that Arboleda's filing status was "Head of Household" and that he claimed two dependents. As a result, Cusenza claimed an earned income tax credit, the child tax credit, and the refundable additional child tax credit on Arboleda's return. When audited, however, the IRS determined that Arboleda had no dependents and was not entitled to claim "head of household" status, the earned income credit, or any child tax credit. The tax deficiency that resulted from these fraudulent claims was \$5,905.

29. Cusenza also prepared the 2006 tax return for Kevin Luna falsely claiming "head of household" status and two dependents whom Luna was not entitled to claim. In addition to the false filing status and dependency deductions, Cusenza claimed that Luna qualified for a \$3,564 EITC, as well as a \$438 child tax credit and a \$1,217 in refundable additional child tax credit.

Upon audit, the IRS determined that Luna was not entitled to claim any earned income tax credit or child tax credits. The total deficiency because of Cusenza's fraudulent claims was \$6,204.

30. The following chart shows more examples of Cusenza's returns falsely claiming the earned income tax credit and the child tax credits:

Customer	<u>Tax Year</u>	<u>EITC Falsely Claimed</u>	<u>Child Tax Credit Falsely Claimed</u>
Erick Huertas	2006	\$2,241.00	\$999.00
Alex Hernandez	2005	\$2,085.00	\$662.00
Lourdes Montoya	2005	\$2,082.00	\$2,000.00
Reina Ponce	2004	\$3,292.00	\$764.00
Ricardo Bell	2005	\$4,400.00	\$330.00

31. Of the 43 tax returns examined by the IRS where Cusenza claimed the earned income tax credit, *all 43 returns* resulted in a disallowance of all or part of the earned income tax credit claimed by Cusenza's customers.

Education Tax Credit Fraud

32. Education Tax Credits are based on education expenses paid for the taxpayer, the taxpayer's spouse, or his/her dependents. During any particular year, the taxpayer can claim only one of the credits for each student. The amount of the credit is determined by the amount the taxpayer pays for "qualified tuition and related expenses" for each student and the amount of the taxpayer's modified adjusted gross income (modified AGI).

33. Expenses that qualify include tuition and fees required for enrollment or attendance at an accredited college, university, vocational school, or other post-secondary educational institution that is eligible to participate in a student aid program administered by the Department

of Education. Qualified expenses do not include room and board, insurance, transportation, or other similar personal, living, or family expenses. Qualified expenses may include fees for books, supplies, and equipment only if the fees must be paid to the school for the student's enrollment or attendance.

34. Educational institutions are required to report to the IRS the amounts paid for all qualified education expenses via a Form 1098-T.

35. During the filing season following tax year 2006, Cusenza prepared returns with fictitious education tax credit claims. Cusenza utilized this credit fraudulently in order to effectively eliminate any tax liability for his customers.

36. For example, on customer Peng Li's 2006 income tax return Cusenza claimed an education credit in the amount of \$1,321, which eliminated Li's tax liability. However, no accredited university reported, via the required Form 1098-T, any tuition paid by or for Peng Li.

37. Moreover, Cusenza claimed the precise amount needed to eliminate tax liability as an education credit for at least two other customers. No accredited university has reported a Form 1098-T for any of these customers.

Additional Bogus Credits/Deductions

38. Cusenza also prepared tax returns for tax years 2005 and 2006 that claimed fictitious and/or inflated Schedule A deductions (such as mortgage interest, real estate taxes, and job-related expenses) which resulted in fraudulently understated tax liabilities on his customers' returns.

39. Cusenza prepared the 2005 return for Lupe V. Machado and Elimey Crespo, husband and wife. On it Cusenza reported \$17,878 in wages and \$780 in Schedule C income.

Yet, Cusenza reported that Machado and Crespo paid \$2,132,287 in home mortgage interest and \$1,803 in real estate taxes. This is economically impossible and it illustrates the blatantly fictitious and inflated nature of Cusenza's returns.

40. Cusenza prepared a return for customer Michael Ward reporting \$11,711 in unreimbursed employee business expenses, specifically for travel. Upon questioning Ward's employer, the IRS learned that the employer never required any employee to travel at the employee's own expense.

Harm to the public

41. Cusenza's fraudulent federal tax return preparation is not limited to preparing returns with false fuel tax credits, erroneous earned income tax credits, and concocted child tax credits. Cusenza also falsely claims education tax credits, over-inflated home mortgage interest and real estate taxes, and unreimbursed employee business expenses.

42. The IRS has audited 72 tax returns prepared by Cusenza for bogus fuel tax credit claims as well as the fraudulent EITC and CTC claims. These audits determined that the earned income tax credit claims were overstated by \$2,771.23 on average and the child tax credit claims were overstated by \$821.92 on average. Given the IRS's limited resources, identifying and recovering all revenues lost from Cusenza's preparation of false and fraudulent returns may be impossible.

43. Cusenza's preparation of false and fraudulent tax returns, to the extent that the Internal Revenue Service has not detected them, has resulted in customers receiving substantial federal income tax refunds to which they are not entitled and in not reporting and paying taxes that they owe. The Service's investigation thus far has revealed that Cusenza has filed returns for

customers seeking more than \$200,000 in fraudulent fuel tax credits and over \$100,000 in bogus earned income tax credits. Consequently, Cusenza has caused over \$300,000 in loss to the U.S. Treasury.

44. Cusenza's conduct harms the United States because his customers are receiving refunds to which they are not entitled.

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

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

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

47. The United States incorporates by reference the allegations in paragraphs 1 through 46.

48. Section 7407, I.R.C., authorizes a district court to enjoin an income tax preparer from:

- A. engaging in conduct subject to penalty under I.R.C. § 6694;
- B. engaging in conduct subject to penalty under I.R.C. § 6695;
- C. misrepresenting his experience or education as a tax return preparer; 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 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 income tax return preparer.

49. Cusenza has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal income tax returns that understate his customers' liabilities based on unrealistic and frivolous positions.

50. Cusenza's continual and repeated violations of I.R.C. § 6694 fall within I.R.C. § 7407(b)(1)(A) and (D), and thus are subject to an injunction under I.R.C. § 7407.

51. Cusenza has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695(g) by failing to comply with the due diligence requirements imposed by internal revenue regulations regarding the determination of eligibility for, or the amount of, the earned income tax credit. As described above, many of the tax returns prepared by Cusenza fabricate his customers income and/or expenses in order to maximize their earned income tax credit.

52. Cusenza's continual and repeated violations of I.R.C. § 6695(g) fall within I.R.C. § 7407(b)(1)(A) and (D), and thus he is subject to an injunction under I.R.C. § 7407.

53. If he is not enjoined, Cusenza is likely to continue to file false and fraudulent tax returns.

54. Cusenza's continual and repeated conduct is subject to an injunction under I.R.C. § 7407 including his flagrant misuse of the fuel tax credit, the earned income tax credit, the child tax credit, the education credit, as well as other deductions, demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Cusenza'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 I.R.C. § 7408

55. The United States incorporates by reference the allegations in paragraphs 1 through 54.

56. Section 7408, I.R.C., authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

57. Section 6701(a), I.R.C., 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.

58. Cusenza prepares federal tax returns for customers that he knows will understate their correct tax liabilities. Cusenza's conduct is thus subject to a penalty under I.R.C. § 6701.

59. If the Court does not enjoin Cusenza, he is 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
Injunction under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

60. The United States incorporates by reference the allegations of paragraphs 1 through 59.

61. 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.

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

63. Unless enjoined, Cusenza is likely to continue to engage in such improper conduct. If Cusenza is not enjoined from engaging in fraudulent and deceptive conduct the United States will suffer irreparable injury because revenue losses caused by Cusenza will continue.

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

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

WHEREFORE, the United States prays for the following:

A. That the Court find that Robert Cusenza has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 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 find that Robert Cusenza has continually and repeatedly engaged in conduct subject to penalty under IRC § 6695(g) 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;

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

D. That the Court find that Robert Cusenza 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 I.R.C. § 7402(a);

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Robert Cusenza, and all those in active concert or participation with him from:

1. acting as a federal income tax return preparer or assisting in, or directing the preparation or filing of federal tax 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. engaging in activity subject to penalty under IRC § 6701, including advising with respect to, preparing, or assisting in the preparation of a documents related to a material matter under the internal revenue laws that includes a position he knows will result in an understatement of tax liability;

3. understating customers' liabilities or failing to comply with due diligence requirements as subject to penalty under IRC §§ 6694 or 6695(g);
4. engaging in any other conduct or activity subject to penalty under any other penalty provision of the IRC; and
5. engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Robert Cusenza, within fifteen days, to contact 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 since January 1, 2004, to inform them of the Court's findings concerning the falsity of Cusenza's prior representations and enclose a copy of the permanent injunction against him;

G. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Robert Cusenza to produce to counsel for the United States within fifteen days 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 since January 1, 2004;

H. That the Court retain jurisdiction over Robert Cusenza and over this action to enforce any permanent injunction entered against Cusenza;

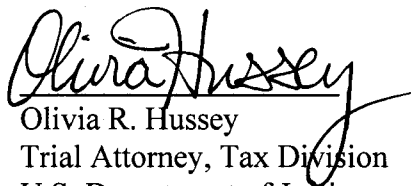
I. That the United States may conduct discovery to monitor Cusenza's compliance with the terms of any permanent injunction entered against him; and

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

DATED: February 23, 2009

Respectfully submitted,

R. ALEXANDER ACOSTA
United States Attorney

A handwritten signature in black ink, appearing to read "Olivia R. Hussey". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Olivia R. Hussey
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JS 44 (Rev. 2/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

NOTICE: Attorneys MUST Indicate All Re-filed Cases

Feb. 25, 2009

STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Olivia R. Hussey, US DOJ, Tax Division, P.O. Box 7238, Washington, D.C. 20044. 202-616-1972

DEFENDANTS

Robert Cusenza d/b/a C R Insurance Agency

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) Palm Beach County

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

Attorneys (If Known)

Bruce E. Reinhart, 250 S Australian Avenue, Suite 1400, West Palm Beach, Florida 33401. 561-202-6360

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business status (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business, etc.)

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IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (see VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

a) Re-filed Case YES NO b) Related Cases YES NO JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

IRC s. 7401, 7402, 7407, and 7408

LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE

Handwritten signature: Olivia R. Hussey

Handwritten date: 2/23/09

FOR OFFICE USE ONLY

AMOUNT RECEIPT # IFP