FILED by INTAKE D.C.
DEC 07 2006
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

06-22962

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	
v.	)	
	)	
LILIA A. GOMEZ and 1 TAX PREP, INC., f/k/a LILIA A. GOMEZ TAX PREP, INC.,	)	CIV-SEITZ
	)	
Defendants.	)	

COMPLAINT FOR PERMANENT INJUNCTION McALILEY

The United States of America, by and through R. Alexander Acosta, United States Attorney for the Southern District of Florida, hereby files this complaint for permanent injunction and alleges as follows:

1. This is a civil action brought by the United States of America to enjoin Lilia A. Gomez and 1 Tax Prep, Inc., formerly known as Lilia A. Gomez Tax Prep, Inc., from:

   a. Preparing or assisting in the preparation of any federal income tax return for any other person or entity;

   b. Providing any tax advice or services for compensation, including preparing returns, providing consultative services, or representing customers;

   c. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 or 6701, including preparing a return or claim for refund that includes an unrealistic or frivolous position or preparing a return or claim for refund that willfully or recklessly understates a tax liability;

   d. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the preparation of false tax returns.

AUTHORIZATION

2. This action has been authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of the Attorney General of the United States, pursuant to the provisions of 26 U.S.C. §§ 7401, 7402, 7407 and 7408.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396, and 26 U.S.C. §§ 7407 and 7408.

DEFENDANTS

5. Defendant Gomez currently resides at 691 S.E. 3rd Place, Hialeah, Florida 33010, within the Southern District of Florida.

6. 1 Tax Prep, Inc., formerly known as Lilia A. Gomez Tax Prep, Inc., is a corporation organized under the laws of the State of Florida. 1 Tax Prep, Inc. has its principal place of business at 707 E. 9th Street, Hialeah, Florida 33010, within the Southern District of Florida.

DEFENDANTS' FRAUDULENT TAX PREPARATION SCHEME

7. Defendant Gomez and 1 Tax Prep, Inc. prepare federal income tax returns for clients. Defendant Gomez has been preparing tax returns on behalf of clients for approximately twenty years.

8. The majority of defendants' clients are immigrants, many of whom do not speak English and rely on the defendants to properly prepare their tax returns. Defendants' clients pay an average of fifty dollars per return for defendants' tax preparation services.

9. Defendants have each client complete a questionnaire, which requests information from which a tax return can be prepared.

10. Defendants engage in a fraudulent tax preparation scheme by preparing tax returns that disregard the information provided by clients on their completed questionnaires. Defendants knowingly ignore or modify the information provided by their clients for the purpose of increasing their clients' tax refund or decreasing their liability.

11. Defendants' fraudulent tax preparation scheme involves, among other things, filing amended tax returns that claim a refund based on the education credit in circumstances where defendants know or should know that the education credit is not allowable.

12. During a four-month span between November 2003 and February 2004, defendants filed 1,284 amended returns claiming education credit refunds on behalf of clients, all of them for tax years 2000 through 2002. Ninety-five percent of the claims for refund were disallowed in full following an audit by the Internal Revenue Service.

13. Defendants' fraudulent tax preparation scheme also involves fabricating information on clients' original tax returns, including filing status, Schedule A deductions, and credits.

14. Upon information and belief, the majority of defendants' clients are unaware of the material fabrications made on their respective tax returns by the defendants.

DEFENDANTS' KNOWLEDGE OF THE ILLEGALITY OF THEIR SCHEME

15. Defendants know or should know that their conduct is illegal.

16. As described above, defendants have each of their clients complete a questionnaire prior to preparing their tax return, but knowingly ignore or modify the information provided for the purpose of increasing their clients' tax refund or decreasing their liability.

17. Defendant Gomez was assessed tax preparer penalties by the IRS for tax years 1995 and 1996, and agreed to tax preparer penalties for tax years 1999 and 2000. Nevertheless, defendant Gomez and her company, defendant 1 Tax Prep, Inc., have continued to engage in a pattern of fabricating deductions and other information on tax returns they have prepared on behalf of clients.

HARM TO THE UNITED STATES

18. The United States estimates that the tax loss to the Government arising from amended returns prepared by the defendants on behalf of their clients between November 2003 and February 2004 is $1.2 million.

19. The United States estimates that the tax loss to the Government arising from original tax returns prepared by the defendants during tax years 2003 and 2004 alone is over $6 million.

COUNT I: INJUNCTION UNDER § 7407

20. The United States incorporates by reference the allegations contained in paragraphs 1 through 19 above.

21. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin income tax return preparers from, among other things, (a) engaging in conduct subject to penalty under I.R.C. § 6694, which penalizes return preparers who knowingly prepare a return that contains an unrealistic position, who willfully attempt to understate tax liability on a return that they prepare, or who prepare a return that understates tax liability as a result of their reckless or intentional disregard of rules or regulations; and (b) engaging in any fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

22. Defendants have engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing income tax returns based on unsubstantiated and fraudulent deductions, credits, and filing status. Defendants know that these tax returns do not have a realistic possibility of being sustained on the merits if questioned by the Internal Revenue Service.

23. Defendants engage in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

24. Defendants' actions described above fall within 26 U.S.C. § 7407(b)(1) and thus is subject to injunction under § 7407.

25. Because of defendants' continued and repeated conduct subject to injunction under 26 U.S.C. § 7407, they should be permanently enjoined from acting as income tax return preparers.

COUNT II: INJUNCTION UNDER 26 U.S.C. § 7408

26. The United States incorporates by reference the allegations contained in paragraphs 1 through 25 above.

27. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin tax return preparers from, among other things, engaging in conduct subject to penalty under I.R.C. § 6701, which penalizes a person for aiding or assisting in the preparation of a return or other document which the person knows will result in an understatement of tax liability.

28. Defendants have engaged in conduct subject to penalty under I.R.C. § 6701 by preparing income tax returns based on unsubstantiated and fraudulent deductions, credits, and filing status. Defendants know that these deductions do not have a realistic possibility of being sustained on the merits if questioned by the Internal Revenue Service.

29. Defendants' actions described above fall within 26 U.S.C. § 7408(c)(1), and injunctive relief is appropriate to prevent recurrence of their conduct.

30. Accordingly, defendants should be permanently enjoined from acting as income tax return preparers, pursuant to 26 U.S.C. § 7408(b).

COUNT III: INJUNCTION UNDER 26 U.S.C. § 7402

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

32. Section 7402(a) of the Internal Revenue Code authorizes a district court to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

33. Defendants, 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 are likely to continue to engage in such conduct. Defendants'

conduct causes significant injury to the United States. The United States is entitled to injunctive relief under 26 U.S.C. § 7402(a) to prevent such conduct.

APPROPRIATENESS OF INJUNCTIVE RELIEF

34. Unless enjoined, defendants are likely to continue to engage in the conduct described above.

35. Defendants' conduct, as described above, causes irreparable harm to the United States. Specifically, defendants' conduct has caused 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 the defendants are enjoined, the IRS will have to devote a substantial amount of its limited resources detecting and auditing future fraudulent returns prepared by the defendants.

36. If the defendants are not enjoined, they likely will continue to engage in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701.

37. If the defendants 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 Lilia A. Gomez and 1 Tax Prep, Inc. and its predecessor, continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701, or otherwise engaged in conduct that interfered with the enforcement of the internal revenue laws, and that injunctive relief against them is appropriate pursuant to 26 U.S.C. §§ 7402(a), 7407 and 7408 to prevent recurrence of that conduct;

B. That the Court enter a permanent injunction prohibiting the defendants from directly or indirectly:

1. Preparing or assisting in the preparation of any federal income tax return for any other person or entity;

2. Providing any tax advice or services for compensation, including preparing returns, providing consultative services, or representing customers;

3. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 or 6701, including preparing a return or claim for refund that includes an unrealistic or frivolous position or preparing a return or claim for refund that willfully or recklessly understates a tax liability; or

4. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the preparation of false tax returns;

C. That the Court enter an injunction:

1. Requiring the defendants, at their own expense, to send by certified mail, return receipt requested, a copy of the final injunction entered against them in this action to each person for whom they, or anyone at their direction or in their employ, prepared federal income tax returns or any other federal tax forms after January 1, 2000;

2. Requiring the defendants, and anyone who prepared tax returns at the direction of or in the employ of the defendants, to turn over to the United States copies of all returns or claims for refund that they prepared for customers after January 1, 2000;

3. Requiring the defendants, and anyone who prepared tax returns at the direction of or in the employ of the defendants, to turn over to the United States a list with the name, address, telephone number, e-mail address (if known), and social security number or other taxpayer identification number of all customers for whom they prepared returns or claims for refund after January 1, 2000;

4. Requiring the defendants, within forty-five days of entry of the final injunction in this action, to file a sworn statement with the Court evidencing their compliance with the foregoing directives; and

5. Requiring the defendants to keep records of their compliance with the foregoing directives, which may be produced to the Court, if requested, or to the United States pursuant to paragraph D, below;

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

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

Respectfully submitted,

R. ALEXANDER ACOSTA
United States Attorney

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JS 44 (Rev. 11/05)

CIVIL COVER SHEET

06 - 22962

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 law, except as provided 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 Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

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)

Steven D. Grimberg, U.S. Department of Justice, Tax Division, PO Box 14198, Washington, DC 20044, (202) 514-5892

DEFENDANTS

LILIA A. GOMEZ and 1 TAX PREP, INC.

County of Residence of First Listed Defendant Miami-Dade
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Dade 06-22962 CIV PAS/ McALILEY McALILEY

CIV-SELTZ

(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) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability
☐ 196 Franchise

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury

PERSONAL INJURY
☐ 362 Personal Injury - Med. Malpractice
☐ 365 Personal Injury - Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/ Accommodations
☐ 444 Welfare
☐ 445 Amer. w/Disabilities - Employment
☐ 446 Amer. w/Disabilities - Other
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence
Habeas Corpus:
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prison Condition

FORFEITURE/PENALTY
☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC 881
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs.
☐ 660 Occupational Safety/Health
☐ 690 Other

LABOR
☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt.Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 480 Consumer Credit
☐ 490 Cable/Sat TV
☐ 810 Selective Service
☐ 850 Securities/Commodities/ Exchange
☐ 875 Customer Challenge 12 USC 3410
☐ 890 Other Statutory Actions
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State 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).

(See instructions second page):

a) Re-filed Case ☐ YES ☑ NO — JUDGE

b) Related Cases ☐ YES ☑ NO — 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**):

26 U.S.C. 7407 and 8408; action to enjoin federal tax preparer.

LENGTH OF TRIAL via 3 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 December 6, 2006

FOR OFFICE USE ONLY

AMOUNT _____ RECEIPT # _____ IFP _____