

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
)	
v.)	
)	
RICHARD E. ALMY, individually)	
and d/b/a R.E. ALMY ASSOCIATES, INC.)	
and PINNACLE TAX ADVISORS LLC;)	
and REA ASSOCIATES, INC.,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America, by and through Paul Ignatius Perez, United States Attorney for the Middle 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 defendant Richard E. Almy, individually and doing business as R.E. Almy Associates, Inc. and Pinnacle Tax Advisors LLC, and defendant REA Associates, Inc., from:

- a. Preparing, filing, or assisting in the preparation or filing of any federal income tax return for any other person or entity;
- b. Providing any tax advice or services for compensation, including preparing or filing returns, providing consultative services, or representing customers;
- c. Engaging in conduct subject to penalty under 26 U.S.C. § 6694, including preparing or filing a return or claim for refund that includes an unrealistic or frivolous position, or preparing or filing 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 or filing 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 and 7407.

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.

DEFENDANTS

5. Defendant Almy currently resides and operates his tax return preparation business at 2100 McClellan Parkway, Sarasota, Florida 34239-3709.

6. Defendant REA Associates, Inc. is listed as an inactive Florida corporation with the Florida Department of State, Division of Corporations. REA Associates, Inc. has its principal place of business at defendant Almy's residence, 2100 McClellan Parkway, Sarasota, Florida 34239-3709. Defendant REA Associates, Inc. can be served through its registered agent, Rachael Almy, at this address.

DEFENDANTS' FRAUDULENT TAX PREPARATION SCHEME

7. Defendant Almy, individually and doing business as R.E. Almy Associates, Inc. or Pinnacle Tax Advisors LLC, or through defendant REA Associates, Inc., has prepared federal income and payroll tax returns for clients for over 30 years.

8. Since at least the year 2000, the defendants have overstated, duplicated, and fabricated deductions on their clients' tax returns in order to reduce their clients' tax liabilities and/or increase their refunds.

9. During this time period, defendants' clients provided the defendants with summary sheets of their income and expenses for the applicable tax year. Defendants prepared tax returns that claimed increased, duplicated, or fabricated expenses as compared to the information provided by the clients on their summary sheets.

DEFENDANTS' KNOWLEDGE OF THE ILLEGALITY OF THEIR SCHEME

10. Defendants knew or should have known that their tax preparation scheme was illegal.

11. Since the year 2000, the Government has assessed over \$180,000 in tax preparer penalties against defendant Almy, without any deterrent effect. The defendants have continued to prepare fraudulent returns through tax year 2005.

12. Defendants' knowledge of the illegality of their scheme is further evidenced by the actions they took to seek to prevent the Government from identifying those federal tax returns that they prepared. Defendant Almy substituted a variety of names for his own in the "paid-preparer" section of his clients' tax returns, including R.E. Almy Associates, Inc., Pinnacle Tax

Advisors LLC, and defendant REA Associates, Inc. The defendants also identified themselves on the returns with fictitious employer identification numbers and social security numbers, or legitimate employer identification numbers for firms with which the defendants are not associated.

13. The defendants eventually stopped completing the “paid-preparer” section of their clients’ tax returns entirely, except to type or stamp the words “self-prepared” in this section. Defendant Almy misrepresented to at least one client the reason for the “self-prepared” notation.

HARM TO THE UNITED STATES

14. Since 2001, the defendants have prepared 700 to 800 federal tax returns per year.

15. The IRS examined 175 tax returns that were prepared by the defendants for tax year 2003, and all required audit adjustments that increased the tax owed. The average audit adjustment for the 175 examined federal income tax returns resulted in increased tax and penalties owed of \$6,897.

16. Assuming that an average of 2,324 returns were prepared for tax years 2001 through 2003, and assuming that examination of all returns prepared by the defendants during these tax years would yield a similar average increase in tax and penalties of \$6,897, the defendants’ actions resulted in a cost to the Government of over \$16 million during these three tax years alone.

COUNT I: INJUNCTION UNDER § 7407

17. The United States incorporates by reference the allegations contained in paragraphs 1 through 16 above.

18. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin an income tax return preparer from, among other things, (a) engaging in conduct subject to penalty under I.R.C. § 6694, which penalizes a return preparer who knowingly prepares a return that contains an unrealistic position, who willfully attempts to understate tax liability on a return that he prepares, or who prepares a return that understates tax liability as a result of his 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.

19. Defendants have engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing income tax returns based on overstated, duplicated and fabricated deductions. Defendants knew that these deductions did not have a realistic possibility of being sustained on the merits if questioned by the Internal Revenue Service.

20. Defendants engaged in fraudulent and deceptive conduct that substantially interfered with the proper administration of the internal revenue laws.

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

22. 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. § 7402

23. The United States incorporates herein by reference the allegations in paragraphs 1 through 22 above.

24. 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.

25. 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

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

27. 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.

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

29. 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 defendant Richard E. Almy, individually and doing business as R.E. Almy Associates, Inc. and Pinnacle Tax Advisors LLC, and defendant REA Associates, Inc., continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694, 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) and 7407 to prevent recurrence of that conduct;

B. That the Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting defendant Richard E. Almy, individually and doing business as R.E. Almy Associates, Inc. and Pinnacle Tax Advisors LLC, and defendant REA Associates, Inc., from directly or indirectly:

1. Preparing, filing or assisting in the preparation or filing of any federal income tax return for any other person or entity;
2. Providing any tax advice or services for compensation, including preparing or filing returns, providing consultative services, or representing customers;
3. Engaging in conduct subject to penalty under 26 U.S.C. § 6694, including preparing or filing a return or claim for refund that includes an unrealistic or frivolous position, or preparing or filing 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 or filing of false tax returns;

C. That the Court, pursuant to 26 U.S.C. § 7402, 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 or filed federal income tax returns or any other federal tax forms after January 1, 2000;

2. 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 customer notification requirement; and
3. Requiring the defendants to keep records of their compliance with this provision, which may be produced to the Court, if requested, or to the United States pursuant to paragraph E, below;

D. That the Court, pursuant to 26 U.S.C. §§ 7402 and 7407, enter an injunction:

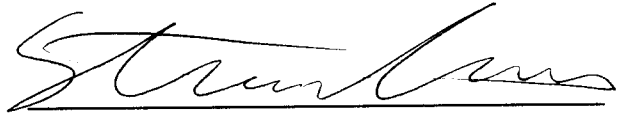
1. Requiring the defendants, and anyone who prepared or filed tax returns at the direction of or in the employ of the defendants, to turn over to the United States copies of all returns or claims for refund that they prepared or filed for customers after January 1, 2000;
2. Requiring the defendants, and anyone who prepared or filed 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, and social security number or other taxpayer identification number of all customers for whom they prepared or filed returns or claims for refund after January 1, 2000; and
3. 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 directive;

E. 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

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

Respectfully submitted,

PAUL I. PEREZ
United States Attorney



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