

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 4:05cv532 CDP
	)	
ELLA MAE PETERSON	)	
	)	
Defendant.	)	

AMENDED COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, the United States of America, for its Amended Complaint against Defendant Ella Mae Peterson, states as follows:

Nature of Complaint

1. This is a civil action brought by the United States pursuant to 28 U.S.C. §§ 1340 and 1345, and Internal Revenue Code (26 U.S.C.) (I.R.C.) §§ 7402, 7407, and 7408, to enjoin Defendant Ella Mae Peterson from preparing federal tax returns for any other person.

Jurisdiction

2. This action has been requested by a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to the provisions of I.R.C. §§ 7402, 7407, and 7408.

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

4. Ella M. Peterson resides in St. Louis, Missouri.

Peterson's Knowledge of Tax Preparation

5. Peterson prepared federal income tax returns (Forms 1040) while working for H&R Block Tax Services, Inc. (H&R Block), located at 4323 North Grand Boulevard, St. Louis, Missouri 63107, for 20 years, from 1984 through 2004.

6. Peterson has taken classes in accounting, taxation, and business administration at Forest Park Community College in St. Louis, Missouri.

7. During her twenty-year tenure at H&R Block, Peterson received ongoing training in tax return preparation, including classes on basic tax return preparation, intermediate tax return preparation, sole proprietorship tax return preparation, partnership return preparation, business tax returns, and depreciation.

8. For the tax years 2000 through 2003, Peterson prepared 1,751 federal income tax returns for customers of H&R Block.

Peterson's Fraudulent Return Preparation

9. To date the Internal Revenue Service has completed examinations of 31 of the 1,751 tax returns prepared by Peterson for H&R Block for the tax years 2000 through 2003.

10. All 31 income tax returns examined contain false and fraudulent deductions.

11. False and fraudulent deductions taken on tax year 2000 through 2003 returns prepared by Peterson while working for H&R Block include, but are not limited to:

- a. Fictitious or inflated charitable contributions;
- b. Fictitious or inflated business deductions;
- c. Fictitious or inflated unreimbursed employee business expenses;
- d. Fictitious or inflated medical expenses;

- e. Fictitious or inflated “miscellaneous” deductions; and
- f. Inflated state and local taxes paid.

12. In addition to inflating or fabricating deductions on 2000 through 2003 returns that she prepared, Peterson also falsely reported married customers’ filing status as single or head of household, to fraudulently increase exemption amounts.

13. Peterson forged customer signatures on IRS Forms 8453 (U.S. Individual Income Tax Declaration for and IRS *e-file* Return) and 8879 (IRS *e-file* Signature Authorization) for 2000 through 2003.

14. On or before July 9, 2004, H&R Block learned that Peterson was under IRS investigation for possible improper return preparation.

15. H&R Block did not renew Peterson’s contract for the 2004 filing season.

Harm to the United States

16. Peterson prepared 1,751 federal income tax returns for customers of H&R Block for the 2000 through 2003 tax years, and an unknown number of returns for the 1983 through 1999 tax years.

17. The IRS has commenced examinations of ninety-four returns Peterson prepared for the years 2000 through 2003. All of the returns contain suspicious deductions. Of those ninety-four returns, the IRS has completed audits of thirty-one and has determined the following:

- a. 100% (31/31) of the audited returns claim one or more false deductions;

- b. 97% (30/31) claim a tax refund.¹ The average refund claimed was \$5,020;
- c. 100% (31/31) claim fictitious or inflated Schedule A charitable contributions;
- d. 100% (31/31) claim fictitious or inflated miscellaneous deductions;
- e. 13% (4/31) claim false Schedule E deductions;
- f. 3% (1/31) claimed false Schedule C deductions.

18. The IRS determined that the actual tax loss from the 31 returns audited is \$116,770, or an average of \$3,767 per return.

19. Based on the similarity of the unaudited returns to the 31 returns audited, the total tax loss for the 2000 through 2003 tax years is estimated to be greater than \$6.5 million (\$3,767 x 1,751). Some of these liabilities may never be recovered.

Count I: Injunction under I.R.C. § 6701

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

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

¹ One return reported an unpaid tax liability of \$139. The IRS determined that the correct unpaid liability was \$1,969.

assert a position under the internal revenue laws, and knowing the portion will result in an understatement of another person's tax liability.

22. Peterson has prepared federal income tax returns that she knows will result in the understatement of another person's federal income tax liabilities. Unless enjoined by this Court, Peterson is likely to continue to engage in this conduct. Injunctive relief is appropriate under I.R.C. § 7408.

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

23. The United States incorporates by reference all allegations contained paragraphs 1 through 19 above.

24. Section 7407 of the Internal Revenue Code authorizes this Court to enjoin an income tax return preparer from engaging in conduct subject to penalty under I.R.C. § 6694, which penalizes a return preparer who knowingly prepares or submits a return that contains an unrealistic position if the Court finds that injunctive relief is appropriate to prevent the recurrence of such conduct. Additionally, if the Court finds that the preparer has continually or repeatedly engaged in such misconduct and if the Court finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the federal tax laws, the Court may enjoin the person from further acting as a federal income tax return preparer.

25. Peterson has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing returns based on false and fraudulent deductions. Peterson knew the positions she asserted on the returns she prepared were unrealistic.

26. Peterson's actions described above fall within I.R.C. § 7407(b)(1)(A), and thus are subject to injunction under § 7407.

27. Because Peterson continually and repeatedly prepared fraudulent federal income tax returns, she should be permanently enjoined from acting as an income tax return preparer.

Count III: Injunction under I.R.C. § 7402(a)

28. The United States incorporates by reference all allegations in paragraphs 1 through 19 above.

29. Peterson, through the conduct described above, has engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws. Unless enjoined by this Court she is likely to continue to engage in such conduct. Peterson's conduct causes irreparable injury to the United States for which the United States has no adequate remedy at law. The United States requests injunctive relief under § 7402(a) to prevent such conduct.

Appropriateness of Injunctive Relief

30. Unless enjoined by the Court, Peterson is likely to continue to engage in the conduct described in paragraphs 1 through 22 above.

31. Peterson's conduct causes irreparable harm to the United States for which the United States has no adequate remedy at law. Specifically, Peterson's conduct is causing and will continue to cause substantial revenue losses to the United States Treasury, some of which may never be recovered. Unless Peterson is enjoined the IRS will have to devote its limited resources to detecting and auditing future fraudulent Peterson-prepared returns.

WHEREFORE, plaintiff United States of America prays that this Court:

A. Find that Defendant Ella Mae Peterson engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief is appropriate under I.R.C. § 7408 to prevent Peterson from engaging in any further such conduct;

B. Find that Defendant Ella Mae Peterson continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 and that injunctive relief is appropriate under I.R.C. § 7407 to prevent Peterson from acting as a tax return preparer;

C. Find that Defendant Ella Mae Peterson engaged in conduct that interferes with the enforcement of the internal revenue laws and that injunctive relief against Peterson is appropriate pursuant to I.R.C. § 7402(a) to prevent recurrence of that conduct;

D. Pursuant to I.R.C. §§ 7407 and 7408, enter a permanent injunction prohibiting Ella Mae Peterson from acting as an income tax return preparer;

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

F. Enter an injunction ordering that the United States, to monitor Peterson's compliance with this injunction, may engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

G. Grant the United States such other and further relief as the Court deems appropriate.

Respectfully submitted,

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