

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
	)	
<i>Plaintiff,</i>	)	
	)	Civil Action No.
v.	)	
	)	
DOMINGO J. DOMINGUEZ, individually	)	
and D/B/A/ DJD Professional Tax Services,	)	
	)	
<i>Defendant.</i>	)	

**COMPLAINT FOR PERMANENT INJUNCTION**

This is a civil action brought by the United States to permanently enjoin defendant Domingo Dominguez, individually and doing business as DJD Professional Tax Services, or through any other entity, and any other persons in active concert or participating with him, from preparing federal income tax returns, amended federal income tax returns and other related documents and forms for others; representing customers before the IRS, advising, assisting, counseling, or instructing anyone about the preparation of a federal tax return; promoting tax-fraud schemes; and from engaging in any activity subject to penalty under 26 U.S.C. § 6694.

**Jurisdiction**

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 26 U.S.C. §§ 7401, 7402(a), 7407, and 7408.

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.

3. The defendant Domingo Dominguez resides within the jurisdiction of this court.

**Defendant's Activities**

4. Domingo J. Dominguez is a self-employed tax preparer doing business as DJD Professional Tax Services. He prepares or assists in the preparation of federal income tax returns for other people for compensation.

5. Mr. Dominguez operates DJD Professional Tax Services from an office located at 106 Lafayette Street in Salem, Massachusetts. In 2007, he opened a second office at 28 Foster Street in Peabody, Massachusetts.

6. The Internal Revenue Service ("IRS") has revoked Mr. Dominguez's electronic filing privileges; however, he continues to electronically file his clients' returns by using other individuals' Electronic Filing Identification Numbers ("EFINs"), including those of his wife and his brother.

7. The IRS has identified 8,038 federal income tax returns that were prepared by Mr. Dominguez for the tax years 2003 through 2006. The IRS can not confirm the exact number of federal income tax returns that Mr. Dominguez has prepared for tax years 2003-2006 because he used various preparer identification numbers on the returns that he prepared. Although the IRS has assigned Mr. Dominguez a Preparer Tax Identification Number ("PTIN"), he does not use it on the returns that he prepares for his clients. Instead, Mr. Dominguez uses variations of his own Social Security Number ("SSN"), his family members' SSNs, unrelated individuals' SSNs without their knowledge, and invalid SSNs.

8. As of December 10, 2007, the IRS has audited 163 returns prepared by Mr. Dominguez for customers during the 2003-2006 tax years. These returns contained fictitious

and/or inflated charitable contributions and employee business expenses that were reported on Schedule A. Mr. Dominguez also claimed charitable contribution carryovers from his clients' prior years' tax returns when no such carryovers existed. Mr. Dominguez also reported fictitious moving expenses on his clients' returns. In addition, Mr. Dominguez claimed inflated and/or fictitious education credits on his clients' returns. Mr. Dominguez reported inflated and/or fictitious expenses relating to his clients' businesses on Schedule C. With respect to reporting on Schedule Es filed by his clients, Mr. Dominguez reported inflated and/or fictitious expenses related to his clients' rental properties and failed to reduce his clients' rental property expenses to account for his clients' personal use of those properties and properly apply passive activity loss limitations. Mr. Dominguez improperly claimed nondeductible closing costs as current year expenses instead of adding those costs to the basis of the properties. As a result of the fictitious and/or inflated deductions that Mr. Dominguez claimed on his clients' returns, he was able to maximize earned income and child care tax credits. These credits were ultimately reduced or disallowed after the IRS audited those returns and disallowed the fictitious and/or inflated deductions.

9. Mr. Dominguez's actions cause harm to the United States and to the public.

10. The IRS has issued erroneous refunds based on fraudulent returns prepared by Mr. Dominguez and has then had to audit Mr. Dominguez's customers and take collection action to attempt to recoup the money.

11. The IRS has spent considerable time and resources auditing returns prepared by Mr. Dominguez and collecting the taxes owed and erroneous refunds paid.

12. Mr. Dominguez has also harmed his customers because the customers pay him to

prepare these returns, and, after the fraud is detected, are responsible for paying all taxes, interest, and penalties.

**Count I:  
Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701**

13. The United States incorporates by reference the allegations in paragraphs 1 through 12.

14. A court is authorized to issue an injunction if an income tax preparer engages in conduct subject to penalty under 26 U.S.C. § 6701, pursuant to 26 U.S.C. § 7408.

15. Section 6701 penalizes any person (1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; (2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and (3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person.

16. Mr. Dominguez prepared or assisted in the preparation of federal income tax returns for his customers.

17. Mr. Dominguez knew or had reason to believe that these income tax returns would be filed with the IRS and thus would be used in connection with a material matter arising under the internal revenue laws.

18. Mr. Dominguez knew that the federal tax returns he prepared would result in understatements of other persons' tax liabilities.

19. If Mr. Dominguez is not enjoined, he is likely to continue to engage in conduct which violates § 6701.

**Count II:  
Injunction under 26 U.S.C. § 7407 for Violation of 26 U.S.C. §§ 6694 and 6695**

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

21. A court is authorized to issue an injunction if an income tax return preparer engages in conduct subject to penalty under 26 U.S.C. § 6694 or § 6695, pursuant to 26 U.S.C. § 7407.

22. Section 6694(a) penalizes a tax return preparer if (1) the preparer prepares a return or claim for refund that includes an understatement of liability due to a position for which there is not a realistic possibility of being sustained on the merits; (2) the preparer knew (or reasonably should have known) of such position; and (3) the position was not disclosed in accordance with § 6662(d)(2)(B)(ii) or was frivolous.

23. Section 6694(b) penalizes a tax return preparer who prepares a return or claim with an understatement of liability (1) in a willful attempt to understate the liability or (2) with a reckless and intentional disregard of rules or regulations.

24. Mr. Dominguez's conduct as described above is subject to penalty under §§ 6694(a) and 6694(b).

25. Mr. Dominguez has prepared income tax returns that include understatements of his customers' liability which had no realistic possibility of being sustained on the merits; Mr. Dominguez knew or reasonably should have known about these understatements; Mr. Dominguez did not disclose them in accordance with 26 U.S.C. § 6662(d)(2)(B)(ii); and such understatements are frivolous. Mr. Dominguez has thus engaged in conduct subject to penalty under § 6694(a).

26. Mr. Dominguez prepares returns for customers with false entries in a willful attempt to understate the customers' liability or with a reckless and intentional disregard of rules and regulations. Mr. Dominguez has thus engaged in conduct subject to penalty under § 6694(b).

27. Mr. Dominguez failed to furnish his correct identifying number for purposes of providing proper identification of the tax return prepared as prescribed by 26 U.S.C. § 6109(a)(4). Mr. Dominguez has thus engaged in conduct subject to penalty under § 6695(c).

28. Mr. Dominguez has continually and repeatedly engaged in conduct that violates §§ 6694 and 6695. An injunction merely prohibiting Mr. Dominguez from engaging in conduct subject to penalty under §§ 6694 and 6695 would not be sufficient to prevent his interference with the proper administration of the tax laws. Accordingly, Mr. Dominguez should be permanently enjoined from acting as an income tax return preparer.

**Count IV:  
Injunction under I.R.C. § 7402(a) for Unlawful Interference  
with Enforcement of the Internal Revenue Laws  
and Appropriateness of Injunctive Relief**

29. The United States incorporates by reference the allegations in paragraphs 1 through 28.

30. A court is authorized to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws, pursuant to 26 U.S.C. § 7402(a).

31. Section § 7402(a) expressly provides that its injunction remedy is "in addition to and not exclusive of" other remedies for enforcing the internal revenue laws.

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

33. Mr. Dominguez's conduct causes irreparable harm to the United States and to his customers.

34. Mr. Dominguez is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

35. If Mr. Dominguez is not enjoined, he is likely to continue to engage in conduct that interferes with the enforcement of the internal revenue laws.

36. The United States will suffer irreparable injury if Mr. Dominguez is not enjoined. This outweighs the harm to Mr. Dominguez from being enjoined from return-preparation and violating tax laws.

37. The public interest would be advanced by enjoining Mr. Dominguez because an injunction will stop his illegal conduct and the harm that conduct is causing to the United States Treasury.

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

A. That the Court find that Mr. Dominguez has engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

B. That the Court find that Mr. Dominguez has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that, pursuant to 26 U.S.C. § 7407, an injunction prohibiting such conduct would not be sufficient to prevent Mr. Dominguez's interference with the proper administration of the tax laws and that Mr. Dominguez should be enjoined from acting as income tax return preparers;

C. That the Court find that Mr. Dominguez is interfering with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a) and the Court's inherent equity powers;

D. That this Court, pursuant to 26 U.S.C. § 7408, enter a permanent injunction prohibiting Mr. Dominguez, individually and doing business as DJD Professional Tax Services, or under any other name or using any other entity, and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from directly or indirectly:

1. Engaging in activity subject to penalty under 26 U.S.C. § 6701, including aiding or assisting in, procuring, or advising with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; knowing (or having reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and knowing that such portion (if so used) would result in an understatement of the liability for tax of another person; and
2. Engaging in any other activity subject to penalty under 26 U.S.C. § 6701 or any other provisions of the Internal Revenue Code.

E. That this Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Mr. Dominguez, individually and doing business as DJD Professional Tax Services, or under any other name or using any other entity, and their representatives, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from directly or indirectly acting as a federal income tax return preparer;

F. That this Court, pursuant to 26 U.S.C. § 7402(a), enter a permanent injunction prohibiting Mr. Dominguez, individually and doing business as DJD Professional Tax Services, or under any other name or using any other entity, and their representatives, agents, servants,



employees, attorneys, and those persons in active concert or participation with them, from directly or indirectly:

1. Preparing or assisting in the preparation of any federal tax return for anyone other than themselves;
2. Advising, counseling, or instructing anyone about the preparation of a federal tax return;
3. Owning, managing, controlling, working for, or volunteering for a tax-return-preparation business;
4. Representing customers in connection with any matter before the IRS; and
5. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

G. That this Court, pursuant to 26 U.S.C. § 7402(a), require Mr. Dominguez at his own expense to contact by mail all customers for whom he has prepared federal tax returns or assisted in preparing tax returns, and send them a copy of this Complaint and the permanent injunction order, and to certify to the Court within eleven days of entry of the permanent injunction that he has complied with this provision;

H. That this Court require Mr. Dominguez to provide the United States with a list of everyone for whom he has prepared (or helped to prepare) a federal tax return for the years 2003-2006 and set forth on said list all of the names, addresses, e-mail addresses, telephone numbers, and social security numbers of the customers.

I. That this Court permit the United States to conduct post-judgment discovery to ensure Mr. Dominguez's compliance with the permanent injunction; and

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

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

*/s/ Lisa L. Bellamy*

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