

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:04-CV-1680-SNL
	)	
CHARLES B. EDEN, Individually and	)	
d/b/a Eden Financial Services,	)	
	)	
Defendant.	)	

JUDGMENT AND ORDER OF PERMANENT INJUNCTION

Plaintiff United States filed its Complaint for Permanent Injunction and Other Relief (doc. #1) under sections 7407 and 7402 of the Internal Revenue Code (26 U.S.C.) on December 2, 2004, seeking a permanent injunction barring the defendant, Charles B. Eden, from acting as an income tax return preparer (as that term is defined in Code section 7701(36)). Defendant was personally served with process on December 7, 2004 (doc. #2), and his default (doc. #4) was entered by the Clerk on January 6, 2005 when defendant failed to answer the complaint or otherwise appear in this action.

Plaintiff has moved for the entry of a default judgment against defendant pursuant to Fed.R.Civ.P. 55(b)(2). Plaintiff's motion is supported by the Declarations of IRS Revenue Agents Mark J. Stone and Rose D. Torlina and IRS Tax Compliance Officer Anthony Black. A review of the plaintiff's motion and supporting papers indicates that the motion is due to be granted. In accordance with Fed.R.Civ.P. 65(d), the findings of fact and reasons for the entry of a permanent injunction against the defendant, Charles B. Eden, are set forth below.

Standards for Permanent Injunction

In order to obtain a permanent injunction against the defendant under Code section 7407, the United States must show that (1) defendant engaged in conduct subject to penalty under Code section 6694; or (2) defendant engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws; and (3) injunctive relief is appropriate to prevent the recurrence of such conduct.

Plaintiff has also sought an injunction against defendant under Code section 7402. The Government has also established that the following four factors weigh in favor of granting a permanent injunction against defendant, namely: (1) there is a likelihood of continuing irreparable injury to the United States as a result of defendant's conduct and actions as an income tax return preparer; (2) there is little financial harm to defendant if a permanent injunction is entered, and conversely the United States will continue to suffer irreparable harm if an injunction is not granted; (3) plaintiff has prevailed on the merits of this case because the Government has satisfactorily shown that defendant has continually and repeatedly engaged in conduct subject to penalty under Code section 6694; and (4) the public interest in fair and effective tax administration favors the entry of a permanent injunction.

Findings of Fact

1. The defendant, Charles B. Eden ("Eden" or "defendant"), resides at 3015 Magnolia Avenue in St. Louis, Missouri within this judicial district. He was properly served with a summons and a copy of the complaint filed in this civil action on December 7, 2004.

2. Defendant has not answered the complaint or appeared in this action. His default was entered by the Clerk of this Court on January 6, 2005.

3. Defendant is a truck driver who prepares federal income tax returns for taxpayers living in the St. Louis metropolitan area as an unenrolled tax return preparer. He is also authorized to electronically file ("e-file") tax returns with the IRS.

4. In a telephone interview with Internal Revenue Agent Rose Torlina on October 17, 2002, defendant admitted that he prepared federal income tax returns for compensation. Affidavits submitted to the Court as part of the United States' Motion for Default Judgment reflect that individual taxpayers paid defendant \$250 apiece to prepare their income tax returns. Defendant, therefore, is an "income tax return preparer" within the meaning of IRC § 7701(a)(36).¹

5. On or about June 23, 2004, Internal Revenue Agent Mark J. Stone was assigned to investigate whether it was appropriate to commence a civil action under Code section 7407 to enjoin defendant from acting as an income tax return preparer.

6. As an unenrolled tax return preparer, defendant is required to sign and place his taxpayer identification number on all federal tax returns that he prepares for compensation. Records maintained by the Internal Revenue Service and reviewed by Agent Stone show that defendant has prepared at least 492 federal income tax returns for the 1998-2003 tax years.

7. The IRS initiated a "Return Preparer Project" on defendant in light of the significant number of discrepancies detected on the federal tax returns that he prepared. As part of that Return Preparer Project, IRS Tax Compliance Officer Anthony Black conducted examinations of 33 Form 1040 tax returns that Eden prepared for the 1999, 2000, 2001 and 2002 tax years.

¹ Section 7701(a)(36) of the Internal Revenue Code (26 U.S.C.) defines an "income tax return preparer" as a person who prepares for compensation, or employs one or more persons to prepare for compensation, any income tax return.

8. The IRS examinations showed that each of the 33 federal income tax returns that Eden prepared claimed inflated or completely fabricated tax deductions on the Schedules A (charitable contributions and other itemized deductions, such as unreimbursed employee business expenses), C (business deductions) and/or E (rental real estate deductions) that accompanied those tax returns.

9. IRS Tax Compliance Officer Black's examination of the IRS audit reports of the 33 federal income tax returns prepared by Eden disclosed that:

- A. All 33 federal income tax returns claimed tax refunds; the average refund claimed was \$6,818.00.
- B. All 33 federal income tax returns that Eden prepared claimed at least one false tax deduction.
- C. 20 of the federal income tax returns that Eden prepared included a Schedule C that falsely reported or inflated a tax deductible loss.
- D. 12 of the 33 federal income tax returns that Eden prepared included a Schedule E that falsely reported or inflated a tax deduction attributed to rental real estate.
- E. 27 of the 33 federal income tax returns that Eden prepared included a Schedule A that falsely reported or exaggerated a tax deduction for a charitable contribution.

10. The 33 federal income tax returns that Eden prepared that were examined by the IRS understated the correct federal income tax liabilities of his customers by a total of \$231,405.00. The average tax revenue loss, per return, was \$7,012.00. The IRS estimates that

the potential tax loss to the Government, based on the 492 tax returns that Eden is known to have prepared between 1999 and 2004, is \$3,449,904.

11. According to IRS records, Eden first received authorization to electronically file ("e-file") federal tax returns in January of 1997. Eden's authority to e-file was suspended for two years (1998 and 1999) because he failed to timely file with the IRS the Forms 8453 that taxpayers and tax return preparers are required to sign when federal tax returns are filed electronically.

12. In December of 2000, Eden reapplied for e-file authority and was reinstated in January of 2002 when he filed the delinquent Forms 8453 with the IRS. In November of 2002, Eden was once again suspended for failing to file Forms 8453. He was reinstated in January of 2003, and is currently authorized to electronically file federal tax returns with the IRS.

Reasons for entry of permanent injunction

13. A default judgment is properly entered against a defendant who, like Eden, fails to answer, plead, or otherwise defend in a civil action. *See* Fed.R.Civ.P. 55.

14. As the United States has sought injunctive relief in this case, its claim is not "for a sum certain or for a sum which can by computation be made certain . . ." Accordingly, the Clerk may not enter judgment in this action under Fed.R.Civ.P. 55(b)(1). Any judgment must be entered by the court under Fed.R.Civ.P. 55(b)(2).

15. Based on the evidence presented by plaintiff, the court finds that defendant Charles B. Eden, individually and doing business as Eden Financial Services, has continually and repeatedly engaged in conduct subject to penalty under Code section 6694(b) by preparing federal income tax returns that understate his customers' federal income tax liabilities.

Defendant willfully understated his customers' tax liabilities by fabricating or grossly inflating their tax deductions on 33 tax returns that were examined by the IRS.

16. Defendant also engaged in conduct subject to penalty under Code section 6694(a) when he prepared tax returns that asserted positions that did not have a realistic possibility of being sustained on the merits. Defendant knew or should have known that there was no realistic possibility of fabricated or inflated tax deductions being sustained on the merits if the returns that he prepared were examined by the IRS.

17. Defendant also engaged in fraudulent and deceptive conduct which substantially interferes with the proper administration of the internal revenue laws, as described in Code section 7407(b)(1)(D). Specific examples of defendant's fraudulent and deceptive conduct are described at length in the Declarations of IRS Revenue Agent Mark J. Stone and Tax Compliance Officer Anthony Black filed in this civil action.

18. Because defendant has continually and repeatedly engaged in willful and reckless conduct that is subject to penalty under Code section 6694(a) and (b), and because defendant has also engaged in fraudulent and deceptive conduct which substantially interferes with the proper administration of the internal revenue laws under Code section 7407(b)(1)(D), the court finds that defendant should be permanently enjoined from acting as an income tax return preparer.

19. The court finds that the United States has presented persuasive evidence that the United States and the public will suffer irreparable harm in the absence of a permanent injunction, and that defendant will suffer little, if any, harm if the permanent injunction is granted.

20. Plaintiff has also presented evidence sufficient to convince the court that the United States has prevailed on the merits of the issues raised in this civil action, and that the public interest will be served through granting a permanent injunction.

21. Finally, the evidence presented shows that absent a permanent injunction, defendant will continue to violate Code section 6694 and engage in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws. Accordingly, the court finds that defendant should also be permanently enjoined under Code section 7402.

ORDER

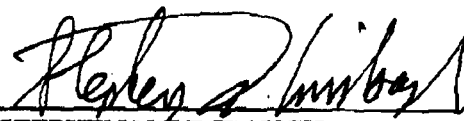
Based on the foregoing factual findings, and for good cause shown, the court orders that the defendant, Charles B. Eden, individually and doing business as Eden Financial Services, and his agents, servants, employees, and those persons in active concert or participation with him who receive actual notice of this Order are enjoined from:

- (a) acting as a federal tax return preparer or requesting, assisting in or directing the preparation and/or filing of federal tax returns for any person or entity other than himself;
- (b) preparing or assisting in the preparation of tax returns that defendant knows will result in the understatement of any tax liability;
- (c) understating customers' liabilities as prohibited by IRC § 6694;
- (d) instructing or advising taxpayers to understate their federal tax liabilities;
- (e) engaging in any other activity subject to penalty under IRC §§ 6694; and
- (f) engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Further, the court orders that defendant provide to counsel for plaintiff United States a complete list of customers for whom defendant prepared federal tax returns from January 1, 1999 through the present, including names, addresses, phone numbers, e-mail addresses, and social security numbers, within ten days of the date of this Order. Defendant must file a sworn certificate of compliance swearing that he has complied with this portion of the Order, within ten days of the date of this Order.

Further, the Court orders that defendant provide a copy of this permanent injunction to all of his customers, by first-class mail, within ten days of the date of this Order. Defendant will bear the costs of providing a copy of the permanent injunction to his customers. Defendant must file a sworn certificate of compliance, swearing that he has complied with this portion of the Order, within ten days of the date of this Order.

IT IS SO ORDERED this 1st day of March, 2005.


STEPHEN N. LIMBAUGH
UNITED STATES DISTRICT JUDGE