

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-5010-CV-SW-JCE
)	
CARRIE ANN SHAFER, individually and)	
d/b/a TC's TAXES AND MORE,)	
)	
Defendant.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Plaintiff, the United States of America, for its complaint against Carrie Ann Shafer, individually and d/b/a "TC's Taxes and More," Defendant, states as follows:

Jurisdiction

1. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. (I.R.C.) §§ 7402(a), 7407, and 7408.

2. 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 of the United States.

Nature of the Action

3. The United States brings this action pursuant to I.R.C. §§ 7402(a), 7407, and 7408 to restrain and enjoin the Defendant from:

- a. preparing any federal tax returns or tax forms for other persons;
- b. representing other persons before the IRS in any way, including attending meetings at IRS offices on behalf of other persons or submitting documents to the IRS on behalf of other persons;

- c. preparing any part of a federal income tax return or claim for refund that includes an unrealistic and frivolous position that the Defendant knows or should know is unrealistic and frivolous and that results in an understatement of tax liability;
- d. engaging in any other conduct subject to penalty under I.R.C. §§ 6694 or 6695;
- e. preparing or assisting others in the preparation of any federal income tax return or other document to be used in connection with any material matter arising under the internal revenue laws knowing that it will (if so used) result in an understatement of tax liability;
- f. engaging in any other conduct subject to penalty under I.R.C. § 6701; and
- g. engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

Defendant

- 4. Carrie Ann Shafer resides in Oronogo, Missouri.
- 5. “TC’s Taxes and More” is a sole proprietorship, owned and operated by Shafer from her home, through which she prepares tax returns for other persons for compensation.

Facts Common to All Counts

- 6. Shafer has been preparing tax returns for other persons full-time since 2002.
- 7. Shafer received an associate’s degree in accounting from Missouri Southern State University in 1992.
- 8. Most of Shafer’s customers reside in Missouri, although she has also prepared tax returns for individuals from other states, including Kansas, Oklahoma, and Texas.
- 9. Since at least September 2003, Shafer has been preparing original and amended federal income tax returns for tax years 2000-2003 that claim fictitious or inflated itemized deductions for various expenses, including medical and dental expenses, charitable contributions,

and unreimbursed employee business expenses.

10. On these tax returns, Shafer fabricates the amounts of her customers' itemized deductions without (or with insufficient) input from her customers to substantiate the deductions.

11. For at least one customer, Shafer also claimed an inflated child-care expense credit based on child-care services that Shafer knew had never actually been provided to, or paid for by, the customer.

12. Shafer has also been preparing tax returns showing fabricated or inflated amounts of profit from the child-care businesses of her customers, which results in the customers receiving inflated Earned Income Tax Credit (EITC) refunds to which they are not entitled.

13. Shafer's preparation of fraudulent tax returns has resulted in her understating her customers' tax liabilities and in her customers receiving unlawful erroneous tax refunds.

14. The IRS has thus far examined the federal tax returns of 16 of Shafer's customers. All of these customers' tax returns contained fictitious or inflated itemized deductions.

15. As a result of these examinations, the IRS assessed against the customers over \$25,000 in additional taxes (not including interest and penalties) for tax year 2003.

16. The IRS also disallowed approximately \$92,000 in refund claims made on the 2000-2002 amended federal tax returns that Shafer prepared for these customers.

17. The IRS has identified over 1,000 federal income tax returns prepared by Shafer for tax year 2003. Of these, approximately 75% included a Schedule A (Itemized Deductions) and claimed a refund. The refunds claimed on these returns total over \$2 million.

18. Approximately 20% of the 2003 federal income tax returns prepared by Shafer included a Schedule C (Profit or Loss from Business (Sole Proprietorship)).

19. In addition to preparing fraudulent tax returns, Shafer has encouraged at least one of her customers to provide false information to the IRS at an examination meeting.

20. Shafer prepared federal tax returns with fictitious or inflated itemized deductions even after being notified that she was under investigation by the IRS for her tax-preparation activities. Furthermore, Shafer is currently preparing 2004 federal income tax returns for customers.

21. Absent an injunction, Shafer is likely to continue preparing false and fraudulent federal tax returns that understate her customers' tax liabilities.

22. If the Court does not enjoin Shafer, her continuing actions will pose a substantial risk of revenue loss to the United States Treasury and will require IRS employees to devote substantial resources to examining her customers and assessing and collecting their proper federal income tax liabilities.

Count I
(Injunction under I.R.C. § 7407)

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

24. Section 7407 of the Internal Revenue Code authorizes a court to enjoin an income tax return preparer from engaging in conduct subject to penalty if, among other things, that person:

- a. engaged in conduct specified in I.R.C. § 6694, which imposes a penalty on an income tax return preparer who prepares a return that contains a frivolous position for which there was not a realistic possibility of being sustained on the merits, and the preparer knew or should have known the position was unrealistic and frivolous;
- b. engaged in conduct specified in I.R.C. § 6695, which imposes a penalty on an income tax return preparer who fails to exercise due diligence with

respect to determining eligibility for, or the amount of, the EITC; or

- c. engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

and injunctive relief is appropriate to prevent the recurrence of such conduct. If a court finds that a preparer's misconduct is continual or repeated, and that a narrow injunction prohibiting only specific proscribed conduct is insufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the preparer from preparing any federal income tax returns.

25. The Defendant has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695 by preparing fraudulent federal income tax returns that claim fictitious or inflated itemized deductions, child-care expenses, EITCs, and/or profits from child-care businesses.

26. The Defendant is also subject to injunction under I.R.C. § 7407 because her preparing such tax returns constitutes fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

27. Injunctive relief is appropriate to prevent the recurrence of such conduct because, absent an injunction, the Defendant is unlikely to refrain from further engaging in conduct subject to penalty under I.R.C. §§ 6694 and 6695.

28. A narrow injunction prohibiting the Defendant only from engaging in conduct subject to penalty under I.R.C. §§ 6694 and 6695 would be insufficient to prevent the Defendant from continuing to interfere with the proper administration of the internal revenue laws. Thus, the Court should enjoin the Defendant from preparing any federal income tax returns for others.

Count II
(Injunction under I.R.C. § 7408)

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

30. Section 7408 of the Internal Revenue Code authorizes a court to enjoin a person who has engaged in conduct subject to penalty under, among other sections, I.R.C. § 6701, from further engaging in such conduct, if injunctive relief is appropriate to prevent the recurrence of such conduct.

31. Section 6701 of the Internal Revenue Code imposes a penalty on any person (1) who aids in the preparation of any portion of a return, claim, or other document, (2) who knows or has reason to believe the portion will be used in connection with a material matter under the internal revenue laws, and (3) who knows the portion (if so used) would result in an understatement of another person's tax liability.

32. The Defendant has engaged in conduct subject to penalty under I.R.C. § 6701 by preparing or aiding in the preparation of fraudulent federal income tax returns (as described above) knowing that their use in determining the tax liabilities of her customers would result in understatements of those liabilities.

33. Injunctive relief is appropriate to prevent the recurrence of such conduct because, absent an injunction, the Defendant is unlikely to refrain from further engaging in conduct subject to penalty under I.R.C. § 6701.

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

34. The United States incorporates by reference the allegations made in paragraphs 1 through 33.

35. Section 7402(a) of the Internal Revenue Code authorizes courts to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws.

36. Through the conduct described above, the Defendant has substantially interfered with the administration and enforcement of the internal revenue laws. Unless enjoined by this Court, the Defendant is unlikely to refrain from further engaging in such conduct. As described below, the Defendant's conduct is causing irreparable harm to the United States, and an injunction under I.R.C. § 7402(a) is therefore necessary and appropriate to prevent further harm.

Appropriateness of Injunctive Relief

37. The Defendant's conduct, as described above in paragraphs 1 through 36, is resulting in irreparable harm to the United States, and an injunction is therefore necessary and appropriate to prevent further harm. Specifically:

- a. Unless enjoined, the Defendant is likely to cause a substantial loss of revenue to the United States Treasury by continuing to understate the tax liabilities of her customers;
- b. Examining the Defendant's customers, assessing and collecting their proper federal income tax liabilities, and discovering whether any erroneous refunds were issued to them will place a serious burden on the IRS's resources and – to the extent the IRS uses judicial methods to collect such liabilities – on the resources of the federal judicial system; and
- c. Unless enjoined, the Defendant is likely to continue engaging in conduct subject to penalty under I.R.C. §§ 6694 and 6701 that interferes with the enforcement of the internal revenue laws, thereby undermining the federal tax system.

WHEREFORE, Plaintiff, the United States of America, requests the following relief:

A. That the Court find that the Defendant has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695 and that injunctive relief is appropriate under I.R.C. § 7407 to prevent her and anyone acting in concert with her from preparing federal income tax returns and forms.

B. That the Court find that the Defendant has engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief is appropriate under I.R.C. § 7408 to prevent her and anyone acting in concert with her from further engaging in such conduct.

C. That the Court find that the Defendant has engaged in conduct that interferes with the enforcement of the internal revenue laws and that injunctive relief is appropriate under the Court's inherent equity powers and I.R.C. § 7402(a) to prevent the recurrence of such conduct.

D. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting the Defendant and her representatives, agents, servants, employees, attorneys, and any persons in active concert or participation with her, from directly or indirectly:

1. Preparing any federal tax returns or tax forms for other persons;
2. Representing other persons before the IRS in any way, including attending meetings at IRS offices on behalf of other persons or submitting documents to the IRS on behalf of other persons.
3. Engaging in any conduct subject to penalty under I.R.C. §§ 6694 or 6695; *i.e.*, preparing any part of a federal income tax return or claim for refund that includes an unrealistic and frivolous position that the preparer knows or should know is unrealistic and frivolous and that results in an understatement of tax liability, or failing to exercise due diligence with respect to determining eligibility for, or the amount of, the EITC;
4. Engaging in any conduct subject to penalty under I.R.C. § 6701; *i.e.*, preparing or assisting others in the preparation of any federal income

tax return or other document to be used in connection with any material matter arising under the internal revenue laws knowing that it will (if so used) result in an understatement of tax liability; and

5. Engaging in other similar conduct that interferes with the administration or enforcement of the internal revenue laws.

E. That the Court, pursuant to I.R.C. § 7402(a), enter an injunction requiring the Defendant, within 11 days after the entry of the Court's order, and at her own cost, to contact in writing each person for whom she has prepared or assisted in the preparation of a federal income tax return or form since January 1, 2002, inform those persons of the Court's findings, and provide each person with a copy of the Court's injunction order.

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring the Defendant, within 11 days after the entry of the Court's order, to turn over to the United States a list of (or, alternatively, all records in her possession or to which she has access that identify) the names, addresses, e-mail addresses, telephone numbers, and social security or other tax identification numbers of all persons or entities for whom the Defendant has prepared or helped to prepare any federal tax return or form.

G. That the Court order the Defendant to file an affidavit certifying compliance with the requirements described above in paragraphs E and F within 14 days after the entry of the Court's injunction order.

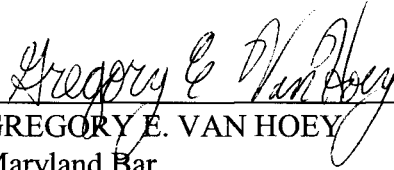
H. That the Court allow the United States full post-judgment discovery to monitor the Defendant's compliance with the injunction.

I. That the Court retain jurisdiction over this action for purposes of implementing and enforcing the final judgment and any additional orders necessary and appropriate to guard the

public interest.

J. That the Court grant such other relief as it deems just and proper.

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