

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
NASH SONIBARE and)	
LIBERTY FINANCIAL GROUP,)	
INC.,)	
)	
Defendants.)	

Complaint and Request for Injunctive Relief

Plaintiff, the United States of America, for its complaint against Nash Sonibare, (“Sonibare”) and Liberty Financial Group, Inc., (“Liberty Financial”) states as follows:

Jurisdiction and Venue

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

2. This suit is brought under Sections 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) to restrain and enjoin defendants from preparing federal income tax returns for others, engaging in any activity subject to penalty under 26 U.S.C. § 6694, 6695, or 6701, and engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

3. 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 under 26 U.S.C. §§ 7402, 7407, and 7408.

4. Nash Sonibare resides in and does business in Saint Paul, Minnesota, within this judicial district.

5. Liberty Financial is a Minnesota corporation that does business at 1821 University Avenue, Suite N492, Saint Paul, Minnesota.

6. Sonibare is the sole shareholder of Liberty Financial.

**Defendants Have Repeatedly Prepared
False and Fraudulent Federal Income Tax Returns**

7. Since 1995, Sonibare, who has an MBA from the University of Wisconsin, La Crosse, has prepared federal income tax returns through Liberty Financial. Many of Sonibare's customers are nursing assistants and licensed practical nurses in the Twin Cities area.

8. On information and belief, many of Sonibare's customers are recent immigrants from various African countries, including Somalia, Ethiopia, Eritrea, Nigeria, Ghana, and Cameroon, with limited English-language skills and little or no knowledge of the complexities of the Internal Revenue Code or of the deductions and credits falsely claimed by Sonibare on their returns.

9. The IRS estimates that Sonibare has prepared 3,373 federal income tax returns from 2002 to 2005.

10. Liberty Financial employees meet with customers solely to obtain and enter into the computer database basic information (including W-2 Forms and social security

numbers). Sonibare is the only person who prepares federal income tax returns – including IRS Forms 1040 and Schedules A and C – for customers of Liberty Financial.

11. On information and belief, Sonibare has intentionally obscured his role in preparing tax returns for customers by directing his employees, who did not prepare the returns, to sign returns on Sonibare's behalf.

12. From 2002 to 2005, Sonibare repeatedly prepared federal income tax returns containing false or inflated Schedule A expenses, false Schedule C businesses and false or inflated Schedule C business losses, false education credits, false dependency exemptions, and other fraudulent items.

13. Of the estimated 3,373 federal tax returns Sonibare has prepared for customers since 2002, over 90% have claimed tax refunds.

14. As a direct result of Sonibare's fraudulent return preparation, Sonibare's customers filed federal income tax returns claiming large income tax refunds they were not entitled to receive.

IRS Investigation of Sonibare

15. In February and March of 2003, the IRS assessed penalties against Sonibare for preparing federal income tax returns for the 1996 and 1999 tax years that understated the taxpayers' liabilities and contained unrealistic positions.

16. In August of 2003, Sonibare was interviewed by special agents of the IRS's Criminal Division, who advised him that he was being investigated for criminal violations of the internal revenue laws and read him his Miranda rights.

17. In April of 2004, Sonibare was interviewed for a second time by special agents of the IRS's Criminal Division.

18. As part of the criminal investigation, IRS special agents examined 30 of Sonibare's returns for the 2002 tax year.

19. The IRS special agents determined that all 30 returns they examined contained one or more false or inflated Schedule A deductions for mortgage interest, charitable contributions, or personal property taxes, false or inflated Schedule C business losses, false or inflated education credits, false dependency exemptions, or false head of household status.

20. In addition to the 30 returns examined by IRS special agents, from October 2004 to the present, the IRS has completed civil examinations of 88 returns prepared by Sonibare for the 2002, 2003, and 2004 tax years. The IRS also continues to examine other returns prepared by Sonibare for these tax years.

21. Of the 88 returns completely examined by the IRS, all resulted in additional tax due.

**Defendants Continued to Prepare False or
Fraudulent Returns While Under Criminal Investigation**

22. As of April 2004, Sonibare knew that the IRS was aware that he had been preparing returns containing false deductions and credits and knew that he faced potential criminal liability for his conduct.

23. Even though Sonibare was under criminal investigation, defendants continued

to prepare federal income tax returns containing unrealistic positions and false information.

24. As an example, Sonibare prepared the 2003 and 2004 federal individual income tax returns for a Saint Paul, Minnesota man.

25. The 2003 and 2004 returns prepared by Sonibare for the Saint Paul man were filed with the IRS on April 15, 2004 and April 15, 2005 respectively.

26. The federal income returns prepared by Sonibare for the Saint Paul man reported a false Schedule C business and claimed false education credits and dependent exemptions.

27. As the result of an IRS examination, the Saint Paul man owed an additional amount in tax of \$ 2,033 and \$ 1,082 for the 2003 and 2004 tax years.

**Sonibare Continually and Repeatedly
Misrepresented to the IRS that He is a CPA**

28. Sonibare has continually and repeatedly misrepresented to the IRS that he is a CPA.

29. As part of his representation of his customers, Sonibare signed at least six IRS Forms 2848 (Power of Attorney) under penalty of perjury in February and March of 2005 falsely stating that he is a CPA.

30. On March 7, 2005, Sonibare was confronted by an IRS employee regarding his misrepresentation.

31. On March 7, 2005, Sonibare admitted to the IRS employee that he is not a

CPA.

32. The next day, March 8, 2005, Sonibare signed an IRS Form 2848 correctly stating that he is an unenrolled return preparer and not a CPA.

33. Sonibare's misrepresentation to the IRS that he is a CPA took place months after he was notified that he was under criminal investigation by the IRS.

**Defendants' Fraudulent Return Preparation
Has Caused an Estimated \$8 Million Tax Loss**

34. Based on the IRS's complete civil examinations of the 88 returns for the 2002, 2003, and 2004 tax years, defendants' customers have agreed to pay additional tax in the amount of \$233,364, or approximately \$2,652 per return (excluding interest and penalties).

35. Although the IRS has only fully examined 88 of defendants' returns, and the IRS examined those returns most likely to have false deductions or credits, based on an estimated 3,373 returns prepared by Sonibare since 2002, and an average additional tax owed of \$2,652 per return, the IRS estimates a tax loss of over \$8 million by defendants' fraudulent return preparation.

36. The IRS recently listed return preparer fraud as part of its 2005 "Dirty Dozen" tax scams. The "Dirty Dozen" list can be found on the web at www.irs.gov/newsroom/article/0,,id=136337,00.html.

37. The harm to the Government will increase if defendants are not immediately enjoined because the 2005 return-filing season has begun and defendants continue to

prepare federal income tax returns.

False or Inflated Schedule C Business Expenses

38. Sonibare repeatedly prepared federal income tax returns claiming false or inflated Schedule C business expenses for customers with businesses in order to offset their W-2 income.

39. For example, Sonibare prepared the 2001 and 2002 federal income tax returns for a Columbia Heights, Minnesota couple with a janitorial business. The returns falsely reported that the husband paid \$12,000 in employee wages and falsely claimed deductions for other business expenses that were never incurred, including legal and professional fees, meals and entertainment, and utilities.

40. The returns Sonibare prepared for this Columbia Heights couple also contained false deductions for personal property taxes and false education credits.

41. As a result of an IRS examination, the Columbia Heights couple owed additional taxes of \$3,586 for 2001 and \$6,673 for 2002.

42. For the 2003 and 2004 tax years, Sonibare prepared 128 federal income tax returns with a Schedule C.

43. The majority of the Schedule C returns that Sonibare prepared for the 2003 and 2004 tax years claimed a net loss on the Schedule C, which was used by Sonibare to offset his customers' earned income claimed on the IRS Form 1040.

44. For the 2003 and 2004 tax years, the average claimed Schedule C loss on returns Sonibare prepared was over \$5,000 per customer.

False Schedule C Businesses

45. From the 2001 through 2004 tax years, Sonibare prepared federal income tax returns for some customers falsely claiming that the customers—who did not have businesses—were engaged in businesses, in order to create false Schedule C business expenses to offset their W-2 income.

46. For example, Sonibare prepared the 2001 and 2002 federal individual income tax returns for a Saint Paul, Minnesota couple, falsely reporting that the husband had a janitorial business in order to claim Schedule C business losses to offset W-2 income.

47. The federal income tax returns Sonibare prepared for this Saint Paul couple also contained false deductions for personal property taxes, inflated deductions for real estate taxes paid, and inflated credits for child-care expenses.

48. As a result of an IRS examination that disallowed the Saint Paul couple's Schedule C business losses, the Saint Paul couple owed additional tax of \$1,950 for 2001 and \$2,220 for 2002.

49. Sonibare also prepared the 2001 and 2002 federal income tax returns for a Brooklyn Center couple, falsely reporting that the husband had a janitorial business in 2001.

50. When interviewed by the IRS, the husband stated that although he volunteered clean for his church without compensation, he did not have a janitorial business and did not know why various Schedule C business expenses were claimed on his 2002 federal income tax return.

51. As a result of an IRS examination, the husband owed additional tax of \$2,093 for 2001.

False Head of Household Status and Dependency Exemptions

52. Sonibare also repeatedly prepared returns for some customers claiming false head of household status and false dependency exemptions in order to increase the deductions available to his customers.

53. As an example, Sonibare prepared the 2002 federal individual income tax return for the Brooklyn Center husband and wife discussed above who lived together during the tax year and were jointly responsible for raising their four children.

54. Instead of filing a return reporting the married filing jointly status, Sonibare falsely prepared separate tax returns for the Brooklyn Center couple so that each could take a head of household exemption for raising their four children.

55. The federal income tax returns prepared by Sonibare for the Brooklyn Center couple also contained false deductions for personal property taxes, inflated deductions for mortgage interest paid, and false schedule C expenses.

56. As another example, Sonibare prepared the 2002 federal income tax return of a Hopkins, Minnesota woman falsely claiming exemptions for three dependent children and falsely claiming head of household status.

57. As a result of an IRS examination, the Hopkins woman was not allowed to claim an exemption for these children or to claim head of household status.

58. In addition, the 2002 and 2003 federal income returns prepared by Sonibare

for the Hopkins woman claimed false Schedule C business losses, inflated charitable contribution deductions, and false personal property tax deductions.

59. As a result of an IRS examination, the Hopkins woman owed additional tax of over \$7,000 for both tax years.

False Education Credits

60. Sonibare also repeatedly prepared federal income tax returns falsely claiming that his customers were entitled to education credits for post-secondary education.

61. As an example, Sonibare prepared the 2001 federal income tax return for the Columbia Heights couple referenced above, falsely claiming education credits that are only allowed for persons attending post-secondary school.

62. When interviewed by the IRS, the Columbia Heights couple, neither of whom reads English, stated that they did not attend college or pay tuition expenses in 2001.

63. As a result of an IRS examination, the Columbia Heights couple owed additional tax of \$3,586 for 2001 and \$6,673 for 2002.

64. As another example, Sonibare prepared the 2002 federal income tax return for the Hopkins woman referenced above, falsely claiming education credits in the amount of \$1,233.

65. The Hopkins woman was required to pay back the full amount of the claimed education credit to the IRS, with interest, after the return was examined by the IRS in 2005.

66. For the 2003 and 2004 tax years, Sonibare prepared 284 returns claiming

education credits.

67. For the 2003 tax year, Sonibare prepared 210 returns claiming education credits in the \$323,898, with an average of \$1,142 claimed per return.

68. For the 2004 tax year, Sonibare prepared 94 returns claiming education credits in the amount of \$101,557, for an average of \$1,080 claimed per return.

Count I

Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701

69. The United States incorporates by reference the allegations in paragraphs 1 through 68.

70. Section 7408 of 26 U.S.C. authorizes a court to enjoin persons who have engaged in conduct subject to penalty under 26 U.S.C. § 6701 from engaging in further such conduct. Section 6701 imposes a penalty on any person who aids in the preparation of any portion of a return or other document, who knows the portion or document will be used in connection with any material matter under the internal revenue laws, and who knows the portion or document (if so used) would result in understating another person's tax liability.

71. Defendants prepared tax returns and assisted in preparing tax returns and other documents for customers that were intended to be used (and were used) in connection with material matters arising under the internal revenue laws.

72. Defendants knew that these returns and other documents (if so used) would result in understatements of customers' tax liabilities. Defendants thus engaged in

conduct subject to penalty under 26 U.S.C. § 6701.

Count II

Return-preparer injunction under 26 U.S.C. § 7407

73. The United States incorporates by reference the allegations in paragraphs 1 through 72.

74. 26 U.S.C. § 7407 authorizes a court to enjoin a person from, among other things,

- (1) engaging in conduct subject to penalty under 26 U.S.C. § 6694 (which penalizes a return preparer who prepares or submits a return that contains an unrealistic position);
- (2) engaging in conduct subject to penalty under 26 U.S.C. § 6695(b) (which penalizes a return preparer who fails to sign returns);
- (3) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as an income tax return preparer; or
- (4) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

If the return preparer's conduct is continual or repeated and the Court finds that a narrower injunction (*i.e.*, prohibiting specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of federal tax laws, the Court may enjoin the person from further acting as a return preparer.

75. Defendants have continually and repeatedly prepared or submitted federal tax returns that contain unrealistic positions subject to penalty under 26 U.S.C § 6694.

76. Sonibare has continually and repeatedly failed to sign federal income returns

that he prepared, subjecting him to penalty under 26 U.S.C. § 6695(b).

77. Sonibare has continually and repeatedly misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as an income tax return preparer.

78. Defendants have continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

Count III

(Unlawful Interference with the Enforcement of the Internal Revenue Laws)

79. The United States incorporates by reference paragraphs 1 through 78.

80. Through the conduct described above, defendants have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws. Unless enjoined by this Court, defendants are likely to continue to engage in such conduct.

Defendants' conduct is causing irreparable injury to the United States, and the United States has no adequate remedy at law:

- a. Defendants' conduct, unless enjoined, is likely to cause a substantial loss of revenue to the United States Treasury. Unless the defendants are enjoined the IRS will have to expend substantial time and resources to detect future customers' returns with substantial understatements, and may be unable to detect all of them.
- b. The detection and audit of returns filed by defendants' customers will place a serious burden on the IRS's resources.
- c. If defendants are not enjoined, they likely will continue to engage in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701 that

substantially interferes with the enforcement of the internal revenue laws.

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

A. That the Court find that defendants have engaged in repeated and continual conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar defendants from acting as an income-tax-return preparer;

B. That the Court find that defendants engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent them from engaging in further such conduct;

C. That the Court find that defendants engaged in conduct that interferes with the enforcement of the internal revenue laws and substantially interferes with the proper administration of the internal revenue laws, and that injunctive relief against them is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. §§ 7407 and 7402(a);

D. That the Court, under 26 U.S.C. § 7407, enter a permanent injunction permanently barring defendants from acting as a federal income tax return preparers;

E. That the Court, under 26 U.S.C. §§ 7402, 7407 and 7408, enter a permanent injunction prohibiting defendants and their representatives, agents, servants, employees, attorneys, independent contractors, and those persons in active concert or participation with them, from directly or indirectly:

- (1) engaging in any conduct subject to penalty under 26 U.S.C. § 6694, *i.e.*, preparing any part of a return or claim for refund that includes an unrealistic position;
- (2) engaging in any conduct subject to penalty under 26 U.S.C. § 6695(b), *i.e.*, failing to sign federal income tax returns;
- (3) acting as federal-income-tax return preparers;
- (4) engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws; and
- (5) engaging in conduct subject to penalty under 26 U.S.C. § 6701, *i.e.*, assisting others in the preparation of any tax returns, forms, or other documents to be used in connection with any material matter arising under the internal revenue laws and which they know will (if so used) result in the understatement of income tax liability; and

F. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring defendants to contact all persons and entities for whom they prepared any federal income tax returns or other tax-related documents after January 1, 2000, and inform those persons of the entry of the Court's findings concerning the falsity of representations made by defendants on their customers' tax returns, and that a permanent injunction has been entered against defendants.

G. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring defendants to turn over to the United States a list of the names, addresses, e-mail addresses, phone numbers, and Social Security numbers of all individuals or entities for whom defendants prepared or assisted in the preparation of any tax-related documents, including claims for refund or tax returns since January 1, 2000.

H. That this Court order that the United States is permitted to engage in post-

judgment discovery to ensure compliance with the permanent injunction; and

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

THOMAS B. HEFFELFINGER
United States Attorney

s/Michael R. Pahl

MICHAEL R. PAHL
Trial Attorney, Tax Division
Minn. Bar. No. 0234539
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-6488