

UNITED STATES DISTRICT COURT

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MIDDLE DISTRICT OF LOUISIANA

2004 DEC -6 P 2: 16

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES E. ROSAMOND, Individually  
and d/b/a/ TAXES DONE RITE,

Defendant.

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SIGN   
BY DEPUTY CLERK

CIVIL ACTION NO. 04-863-D-M3

**COMPLAINT FOR PERMANENT INJUNCTION**

Plaintiff United States of America in its complaint against defendant James E. Rosamond, individually and d/b/a Taxes Done Rite, states as follows:

NATURE OF COMPLAINT

1 This is a civil action brought by the United States of America to enjoin defendant James E. Rosamond, individually and d/b/a Taxes Done Rite, from

- a. Preparing or assisting in the preparation of any federal income tax return for any other person or entity;
- b. Providing any tax advice or services for compensation, including, preparing returns, providing consultative services or representation of customers;
- c. Engaging in conduct subject to penalty under 26 U.S.C. § 6694, including preparing a return or claim for refund that includes an unrealistic or frivolous position or preparing a return or claim for refund that willfully or recklessly understates a tax liability;
- d. Misrepresenting his qualifications and experience as an income tax return preparer;
- e. Guaranteeing the payment of any tax refund or the allowance of any tax credit; and

- f. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the preparation of false tax returns.

#### AUTHORIZATION

2. This action has been authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of the Attorney General of the United States, pursuant to the provisions of 26 U.S.C. §§ 7401, 7402 and 7407.

#### JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396, and 26 U.S.C. § 7407.

#### DEFENDANT

5. James E. Rosamond resides at 32273 Highway 1036, Holden, Louisiana 70744. Rosamond operates Taxes Done Rite, an unincorporated business, from that same address.

#### ROSAMOND'S FRAUDULENT TAX PREPARATION SCHEME

6. Rosamond, doing business as Taxes Done Rite, has been preparing federal income tax returns since at least 1999.

7. Rosamond achieves unlawful refunds for his customers by fraudulently offsetting his customers' taxable income with fictitious or inflated deductions reported on Schedule A. Examples of fraudulent items that Rosamond and Taxes Done Rite place on customers' federal income taxes include:

- a. Fictitious or inflated medical and/or dental expenses;
- b. Fictitious or inflated charitable contributions;
- c. Fictitious or inflated unreimbursed employee business expenses;
- d. Fictitious or inflated “miscellaneous” deductions.

8. Rosamond fabricates deduction amounts, for which his customers have no, or only partial, substantiation.

9. Rosamond misleads his customers into believing that he is a former IRS employee with special knowledge of available deductions that is not readily available to the general public.

10. Rosamond misleads his customers into believing that the commercially available tax preparation software that he uses, known as Tax Act, was provided to him by the IRS.

11. Rosamond uses features of the Tax Act software to mislead his customers into believing that their returns will not be subject to audit.

12. Rosamond charges his customers a percentage, usually approximately four percent, of the amount of refund that he reports due on the customers’ tax returns.

#### ROSAMOND’S KNOWLEDGE OF THE ILLEGALITY OF HIS SCHEME

13. Rosamond knows or should know that his scheme is illegal.

14. Rosamond has been preparing federal income tax returns under the business name Taxes Done Rite since at least 1999.

15. Rosamond is aware that income tax deductions must be substantiated. For example, some customers who have claimed excessive Schedule A medical expenses have contacted Rosamond for advice after learning that they would be subject to an IRS audit. Rosamond has advised those customers to send substantiation to the IRS if the customers have

incurred the medical expenses, but, if they have not incurred the claimed expenses, to state that payment was made in cash and that they did not keep receipts.

#### HARM TO THE UNITED STATES

16. Rosamond prepared at least 1,294 original tax returns that were processed by the IRS in 2002 and 2003. Of that total, 341 returns were processed in 2002, and 953 returns were processed in 2003.

17. The IRS has examined at least 29 of those returns, and all required audit adjustments that increased the tax owed because of the frivolous positions described above.

18. The average audit adjustment for the 29 examined federal income tax returns resulted in increased tax owed of \$4,101.00 per return. Assuming that examination of all returns that Rosamond prepared would yield similar increases in tax, the understated tax liability resulting from Rosamond's acts for the 1,294 original returns that were processed in 2002 and 2003 would result in a tax loss of \$5,306,694.00.

19. The IRS also has identified at least 585 amended tax returns prepared by Rosamond for prior tax years that were processed by the IRS in 2002 and 2003. Of that total, 243 amended returns were processed in 2002, and 342 amended returns were processed in 2003.

20. The IRS has examined at least 22 of those amended returns, and all of the refunds requested on each of those returns were found not to be owed to the taxpayers because of the frivolous positions described above.

21. Assuming that examination of all amended returns that Rosamond prepared would similarly show that the entirety of the refunds requested were not owed, the understated tax

liability resulting from Rosamond's acts for the 585 identified amended returns that were processed in 2002 and 2003 would be \$1,413,906.00.

Combining original and amended returns, the total understated tax liability caused by Rosamond's improper return preparation services is estimated at \$6,720,600.00 (\$5,306,694.00 + \$1,413,906.00).

23. On information and belief, Rosamond continued to prepare federal income tax returns for the 2003 tax year.

COUNT I: INJUNCTION UNDER § 7407

24. The United States incorporates by reference the allegations contained in paragraphs 1 through 23 above.

Section 7407 of the Internal Revenue Code authorizes a district court to enjoin an income tax return preparer (a) from engaging in conduct subject to penalty under I.R.C. § 6694, which penalizes a return preparer who knowingly prepares a return that contains an unrealistic position, who willfully attempts to understate tax liability on a return that he prepares, or who prepares a return that understates tax liability as a result of his reckless or intentional disregard of rules or regulations; (b) from misrepresenting his experience or education as an income tax return preparer; (c) from guaranteeing the payment of any tax refund or the allowance of any tax credit; or (d) from engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

26. Rosamond has engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing original and amended income tax returns based on unsubstantiated and fraudulent

deductions. Rosamond knows that those positions do not have a realistic possibility of being sustained on the merits if questioned by the Internal Revenue Service.

27. Rosamond has misrepresented his education and experience as an income tax return preparer.

28. Rosamond guarantees to customers that he will get them tax refunds; in fact, the fees charged to his customers are based on the amount of the refund that he is able to obtain for them.

Rosamond has engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

Rosamond's actions described above fall within 26 U.S.C. §§ 7407(b)(1) and thus are subject to injunction under § 7407.

31 Because of Rosamond's continual and repeated conduct subject to injunction under 26 U.S.C. § 7407, he should be permanently enjoined from acting as an income tax return preparer.

#### COUNT II: INJUNCTION UNDER 26 U.S.C. § 7402

The United States incorporates herein by reference the allegations in paragraphs 1 through 31 above.

Section 7402(a) of the Internal Revenue Code authorizes a district court to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

34. Rosamond, 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, he is likely to continue to engage in such conduct. His conduct causes significant injury to the United States. The United States is entitled to injunctive relief under 26 U.S.C. § 7402(a) to prevent such conduct.

APPROPRIATENESS OF INJUNCTIVE RELIEF

35. Unless enjoined, Rosamond is likely to continue to engage in the conduct described above.

36. Rosamond's conduct, as described above, causes irreparable harm to the United States. Specifically, Rosamond's conduct is causing and will continue to cause substantial revenue losses to the United States Treasury, some of which may never be recovered, thus resulting in a permanent loss. Unless Rosamond is enjoined, the IRS will have to devote substantial amounts of its limited resources to detecting and auditing future fraudulent Rosamond-prepared returns, thereby reducing the level of service that the IRS can give honest taxpayers.

37. If Rosamond is not enjoined, he likely will continue to engage in conduct subject to penalty under 26 U.S.C. § 6694.

38. If Rosamond is not enjoined, he likely will continue to engage in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

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

A. That the Court find that defendant James E. Rosamond, individually and d/b/a Taxes Done Rite, continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694, or otherwise engaged in conduct that interferes with the enforcement of the

internal revenue laws, and that injunctive relief against him is appropriate pursuant to 26 U.S.C. §§ 7402(a) and 7407 to prevent recurrence of that conduct;

B. That the Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting defendant James E. Rosamond, individually and d/b/a Taxes Done Rite, from directly or indirectly:

1. Preparing or assisting in the preparation of any federal income tax return for any other person or entity;
2. Providing any tax advice or services for compensation, including preparing returns, providing consultative services or representation of customers;
3. Engaging in conduct subject to penalty under 26 U.S.C. § 6694, including preparing a return or claim for refund that includes an unrealistic or frivolous position or preparing a return or claim for refund that willfully or recklessly understates a tax liability;
4. Misrepresenting his qualifications and experience as an income tax return preparer;
5. Guaranteeing the payment of any tax refund or the allowance of any tax credit; and
6. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the preparation of false tax returns;

C. That the Court, pursuant to 26 U.S.C. § 7402, enter an injunction:

1. Requiring Rosamond, at his own expense, to send by certified mail, return receipt requested, a copy of the final injunction entered against him in this action to each person for whom he, or anyone at his direction or in his employ, prepared federal income tax returns or any other federal tax forms after January 1, 1999;
2. Requiring Rosamond, within forty-five days of entry of the final injunction in this action, to file a sworn statement with the Court evidencing his compliance with the customer notification requirement; and



3. Requiring Rosamond to keep records of his compliance with this provision, which may be produced to the Court, if requested, or to the United States pursuant to paragraph E, below;


D. That the Court, pursuant to 26 U.S.C. §§ 7402 and 7407, enter an injunction:


1. Requiring Rosamond, and anyone who prepared tax returns at the direction of or in the employ of Rosamond, to turn over to the United States copies of all returns or claims for refund that they prepared for customers after January 1, 1999;
2. Requiring Rosamond, and anyone who prepared tax returns at the direction of or in the employ of Rosamond, to turn over to the United States a list with the name, address, telephone number, e-mail address (if known), and social security number or other taxpayer identification number of all customers for whom they prepared returns or claims for refund after January 1, 1999; and
3. Requiring Rosamond, within forty-five days of entry of the final injunction in this action, to file a sworn statement with the Court evidencing his compliance with the foregoing directive;

E. That the Court enter an order allowing the United States to monitor Rosamond's compliance with this injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

F. That the Court grant the United States such other and further relief as the Court deems appropriate.

DAVID R. DUGAS  
United States Attorney

  
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JOHN J. GALUPP  
Assistant United States Attorney  
Louisiana Bar No. 14976  
777 Florida Street, Suite 208  
Baton Rouge, Louisiana 70801  
Telephone: (225) 389-0443

  
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LAURA M. CONNER  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 14198  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 514-6438