

COPY

2004 DEC 16 AM 11:13
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

DEBRA W. YANG
United States Attorney
SANDRA B. BROWN
Assistant United States Attorney
Chief, Tax Division
ROBERT F. CONTE (SBN 157582)
Assistant United States Attorney
Room 7211 Federal Building
300 North Los Angeles Street
Los Angeles, California 90012
Telephone: (213) 894-6607
Facsimile: (213) 894-0115

JENNIFER A. GIAIMO
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6572
Facsimile: (202) 307-0054
jennifer.a.giaimo@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.

N.C.K. SERVICES, INC.,
CARLA D. BERRY; KAREN D.
BERRY; VALERIE M. DIXON;
and IVAN T. JOHNSON,
Defendants.

No. ^{ED} CV 04-1566 VAP(SGL&)
COMPLAINT FOR PERMANENT
INJUNCTION AGAINST THE
PREPARATION OF TAX RETURNS AND
OTHER EQUITABLE RELIEF

COMPLAINT

The United States of America, by and through its counsel of
record, alleges as follows:

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48
- 49
- 50
- 51
- 52
- 53
- 54
- 55
- 56
- 57
- 58
- 59
- 60
- 61
- 62
- 63
- 64
- 65
- 66
- 67
- 68
- 69
- 70
- 71
- 72
- 73
- 74
- 75
- 76
- 77
- 78
- 79
- 80
- 81
- 82
- 83
- 84
- 85
- 86
- 87
- 88
- 89
- 90
- 91
- 92
- 93
- 94
- 95
- 96
- 97
- 98
- 99
- 100

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1' 18 19 20 21 22 23 24 25 26 27

19
20
21
22
23
24
25
26
27

20
21
22
23
24
25
26
27
28

1 taken over and renamed NCK by her daughters, Carla D. Berry
2 ("Carla Berry") and Karen D. Berry ("Karen Berry"), and Valerie
3 M. Dixon ("Dixon"), who operate NCK with the assistance of a
4 former neighbor of Norma Berry's, Ivan T. Johnson ("Johnson").

5 6. Defendant Carla Berry resides in Rialto, California,
6 which is within the Central District of California. She
7 currently works as a paid income tax return preparer for NCK and
8 is listed as the registered agent for NCK on its corporate
9 documents.

10 7. Defendant Karen Berry resides in Rialto, California,
11 which is within the Central District of California. She
12 currently works as a paid income tax return preparer for NCK and
13 is listed as the owner of NCK on its corporate documents.

14 8. Defendant Dixon resides in Rialto, California, which is
15 within the Central District of California. She currently works
16 as a paid income tax return preparer for NCK.

17 9. Defendant Johnson resides in San Bernardino, which is
18 within the Central District of California. He currently works as
19 a paid income tax return preparer for NCK.

20 DEFENDANTS' ACTIVITIES

21 10. NCK is a tax return preparation business. Each of the
22 individual defendants, Carla Berry, Karen Berry, Dixon, and
23 Johnson (sometimes collectively referred to herein as "the return
24 preparers") currently offers tax return preparation services to
25 individuals (sometimes referred to herein as "customers") through
26 NCK. Each of the individual defendants currently is preparing
27
28

1 income tax returns as a paid preparer for NCK.

2 11. Each individual defendant has continually or repeatedly
3 engaged in conduct subject to penalty under Section 6694, Title
4 26 U.S.C., in that each has, among other things, (1) taken
5 unrealistic and unsustainable positions on customers' tax
6 returns, resulting in understatements of tax due, and (2)
7 willfully or recklessly understated the tax due (and, in nearly
8 every case, overstated the refund due) on customers' tax returns.

9 12. Each defendant has continually or repeatedly engaged in
10 conduct subject to penalty under Section 6695(c), Title 26
11 U.S.C., in that each has failed to comply with regulations that
12 require the return preparer to sign the return and in that each
13 has failed to furnish a correct identifying number for NCK on
14 each return prepared under the auspices of NCK.

15 13. Further, each individual defendant has continually or
16 repeatedly engaged in fraudulent and deceptive conduct which has
17 substantially interfered with the proper administration of
18 internal revenue laws in that each defendant has, among other
19 things, improperly and purposefully reduced and understated
20 customers' tax liabilities by claiming false and inflated
21 itemized deductions for mortgage interest and unreimbursed
22 employee business expenses resulting, in most cases, in an
23 undeserved refund.

24 14. Search warrants, obtained in connection with a criminal
25 investigation into the defendants' conduct, were executed on
26 NCK's offices in April 2003 and April 2004 and resulted in the

27

28

1 seizure of books and records revealing the fraudulent and
2 improper tax preparation services being performed by the
3 defendants.

4 15. Each defendant is aware that their conduct is improper
5 and illegal; however, it is believed that each defendant has
6 continued to prepare improper tax returns.

7 SPECIFIC ALLEGATIONS REGARDING DEFENDANTS' CONDUCT

8 How the NCK return-preparation scheme worked

9 16. At all times relevant hereto, the defendants' typical
10 customers were individuals with various income levels, including
11 police officers and retirees. Advertising was by word of mouth.
12 Customers typically were referred by friends or relatives who had
13 received tax refunds through the defendants' tax preparation
14 business. Based on a government sample, over 95 percent of the
15 Form 1040 tax returns the defendants prepared resulted in a
16 refund.

17 17. NCK operated a high-volume business. From the 2000
18 return season (i.e., tax returns for 1999) to the 2004 return
19 season (i.e., tax returns for 2003), the IRS identified more than
20 10,000 individuals for whom returns were prepared through the
21 defendants' tax preparation business.

22 18. The defendants generally prepared each return during a
23 single conference with the customer at Norma Berry's residence
24 or, after the business location moved, at NCK's offices in
25 Rialto, California. The conferences with customers sometimes
26 lasted only a few minutes. During the conference, the return
27

1 preparers typically told customers that there was a change in the
2 tax law that permitted higher deductions on Schedule A of the
3 U.S. individual income tax return for home mortgage interest
4 deductions and for unreimbursed employee business expenses.
5 Returns were typically prepared manually and were usually not
6 signed by the preparers.

7 19. The customer was told to bring the customer's Form W-2
8 to the meeting. Spouses typically were advised to file their
9 returns separately instead of jointly regardless of the
10 customers' income level and, sometimes, spouses were advised to
11 file as single despite their married status.

12 20. On some occasions, customers would receive completed
13 returns prepared by the defendants at the conclusion of the
14 customer conference. On other occasions, customers were asked to
15 come back to the offices to pick up the completed returns.
16 Generally, the return preparers did not discuss any of the Form
17 1040 line items with the customers other than the tax refund
18 amount.

19 21. In most cases, the customer did not pay as much
20 mortgage interest as was stated on Schedule A of the Forms 1040
21 that were prepared by the defendants. In some cases, no mortgage
22 interest was paid by the customer at all. Nonetheless, the
23 defendants claimed fictitious or inflated mortgage interest
24 payment amounts to reduce customers' taxable income.

25 22. In many cases, the defendants set forth fictitious
26 amounts for unreimbursed employee expenses on Schedule A of the
27

1 Forms 1040.

2 23. The defendants did not point out or explain these bogus
3 deductions to the customers.

4 24. In nearly every case, the defendants appear to have
5 improperly generated false deductions large enough to create a
6 refund.

7 25. The defendants charged fees ranging from \$80 to \$150
8 per return.

9 26. After a return was completed, the defendants would make
10 a copy and give the copy and the original return to the customer,
11 who would then sign the original and mail the return to the IRS.

12 Particular customers' experiences

13 27. In 2002, one customer, referred to Norma Berry's tax
14 preparation business by a co-worker, called the defendants'
15 business and made an appointment to have his 2001 income tax
16 returns prepared. He was told over the phone to bring his
17 current Form W-2, the previous year's tax return, and \$100 cash.
18 In about January 2002, he went to the defendants' office, which
19 was then located in a residence, and met with Carla Berry. Carla
20 Berry prepared his return in approximately 15 minutes. Carla
21 Berry did not ask about or discuss any of the Form 1040 line
22 items other than the refund amount. Carla Berry told the
23 customer that her mother, Norma Berry, had worked for the
24 Internal Revenue Service ("IRS") and that all the return
25 preparers at the business knew all the legal shortcuts. The
26 customer did not own a home and had paid no mortgage interest
27
28

1 during the year, yet Carla Berry prepared a tax return for the
2 customer that claimed bogus mortgage interest of \$27,069. The
3 return prepared by Carla Berry also claimed bogus employee
4 business expenses of \$5,369.00. The customer paid \$100 cash for
5 the tax return. Carla Berry did not sign the return as the paid
6 preparer. The customer initially received a refund based on the
7 return prepared by Carla Berry. The customer returned to
8 defendants' tax preparation business to have his income tax
9 returns prepared for 2002 and 2003. The process was essentially
10 the same each year. The 2003 returns were prepared at the
11 defendants' new business office location. Since the time that
12 customer's last return was prepared by the defendants' business,
13 the customer has filed amended returns to remove the bogus
14 deductions initially claimed on the returns prepared by Carla
15 Berry. The amended returns reveal that Carla Berry understated
16 the taxes due on the customer's 2001, 2002, and 2003 returns by a
17 total of more than \$20,000.

18 28. In 2002, another customer went to the defendants'
19 business, which was then located in a residence, and asked to
20 have her 2001 tax return prepared. She met with Karen Berry, who
21 prepared her return in approximately 30 minutes. Karen Berry
22 asked the customer no questions about home ownership and did not
23 ask about or discuss any of the Form 1040 line items with the
24 customer other than the refund amount. The customer and her
25 spouse had paid mortgage interest in the amount of \$19,477, yet
26 Karen Berry prepared a tax return for the customer that claimed
27
28

1 bogus mortgage interest of \$21,699. The customer's spouse's
2 return, which was prepared by another return preparer for NCK,
3 claimed mortgage interest in the amount of \$26,515. The return
4 prepared by Karen Berry also claimed bogus employee business
5 expenses of \$4,235. The customer and her spouse each paid
6 approximately \$80 cash for the tax returns. Karen Berry did not
7 sign the return as the paid preparer. The customer initially
8 received a refund based on the return prepared by Karen Berry.
9 The customer returned to defendants' tax preparation business to
10 have her income tax returns prepared for 2002 and 2003. The
11 process was essentially the same each year, except that the
12 customer made an appointment before going to the defendants'
13 office. The 2003 returns were prepared at the defendants' new
14 business office location. Since the time that the customer's
15 last return was prepared by the defendants' business, the
16 customer has filed amended returns to remove the bogus deductions
17 initially claimed on the returns, including the 2001 return
18 prepared by Karen Berry.

19 29. Another customer, referred to Norma Berry's tax
20 preparation business by a neighbor, used the defendants' tax
21 preparation business to prepare his 2000, 2001, 2002, and 2003
22 income tax returns, each of which contained bogus mortgage
23 interest deductions totaling more than \$87,000. When he
24 initially went to the defendants' business to have his 2000 tax
25 return prepared, Norma Berry told the customer that she had
26 worked for the IRS for many years, that she knew tax law, and
27
28

1 that she never had a problem with the IRS. The customer most
2 recently used the defendants' business for the preparation of his
3 2003 tax return. The customer's 2003 return was prepared by
4 Valerie Dixon. When Dixon prepared the customer's 2003 return,
5 the customer did not own a home and had not paid any mortgage
6 interest during the 2003 year. Nevertheless, Dixon prepared a
7 tax return for the customer that claimed bogus mortgage interest
8 of \$19,720. The return prepared by Dixon also claimed bogus
9 employee business expenses of \$5,377. The customer paid \$120
10 cash for the tax return prepared by Dixon. Dixon did not sign
11 the return as the paid preparer. The customer initially received
12 a refund based on the return prepared by Dixon. Since then, the
13 customer has filed an amended return for 2003 to remove the bogus
14 deductions initially claimed on the returns prepared by Dixon.
15 The amended return reveals that Dixon understated the taxes due
16 on the customer's 2003 return by more than \$5,000.

17 30. Another customer and his spouse heard about Norma
18 Berry's tax preparation business approximately five years ago.
19 He and his spouse used the defendants' tax preparation business
20 to prepare their 2000, 2001, 2002, and 2003 income tax returns
21 each of which contained bogus mortgage interest deductions
22 totaling more than \$125,000. The customer most recently used the
23 defendants' business for the preparation of his 2003 tax return.
24 The customer's 2003 return was prepared by Ivan Johnson. When
25 Johnson prepared the 2003 return, the customer and his spouse did
26 not own a home and had not paid any mortgage interest during the
27

1 2003 year. Nevertheless, Johnson prepared a tax return for the
2 customer and his spouse that claimed bogus mortgage interest of
3 \$27,997. The return prepared by Johnson also claimed bogus
4 employee business expenses of \$5,979. The customer and his
5 spouse paid \$100 cash for the tax return prepared by Johnson.
6 Johnson did not sign the return as the paid preparer. The
7 customer and his spouse initially received a refund based on the
8 return prepared by Johnson. Since then, the customer and his
9 spouse have filed an amended return for 2003 to remove the bogus
10 deductions initially claimed on the returns prepared by Johnson.
11 The amended return reveals that Johnson understated the taxes due
12 on the customer's and his spouse's 2003 return by more than
13 \$3,000.

14 31. Another customer went to the defendants' business to
15 have her 2001 tax return prepared. Karen Berry prepared the
16 return, which set forth itemized deductions for mortgage interest
17 in the amount of \$23,096 even though the customer did not own a
18 home and had paid no mortgage interest during the year. In
19 December 2003, the customer received a letter from the IRS
20 regarding her 2001 income tax return. In January 2004, the
21 customer brought the IRS's letter to the defendants' business.
22 Norma Berry's former spouse, Matthew Berry, who works at the
23 defendants' business, told the customer that he would create all
24 the receipts that she needed for the IRS audit and directed the
25 customer not to inform the IRS as to how she obtained the
26 receipts. The customer refused Berry's offer to provide the IRS
27
28

1 with falsified receipts. The IRS audit eventually resulted in an
2 additional tax due of \$3,901.

3 INJURY TO THE UNITED STATES

4 32. The IRS has interviewed fourteen former customers of
5 NCK and has reviewed the returns prepared for those customers by
6 the defendants for years 2000 through 2003. Every one of the
7 approximately 45 tax returns reviewed by the IRS sets forth
8 inflated or fictitious mortgage interest deductions. 100 percent
9 of those returns generated a refund. This percentage is higher
10 than the overall percentage of Form 1040 returns claiming refunds
11 nationally.

12 33. The errors contained in the returns prepared by the
13 defendants cannot be automatically detected by cross-checking
14 information reported to the IRS by employers or other third
15 parties. Time-intensive audits by revenue agents, including
16 interviews with the taxpayer-customers, are usually necessary to
17 ferret out the bogus deductions claimed by the defendants.

18 34. The IRS is currently examining approximately 2,441 tax
19 returns of the more than 10,000 returns prepared by the
20 defendants for the 2000-2004 tax seasons (i.e., returns for years
21 1999-2003). Of the 2,441 returns being audited, 1,908 are from
22 the 2002 tax year and 533 are from the 2003 tax year. It is
23 anticipated that at least another 1,600 returns prepared by the
24 defendants will be audited.

25 35. Based on a comparison of the mortgage interest reported
26 on the returns currently being audited and the mortgage interest
27

1 reported on Forms 1098 submitted to the IRS, the mortgage
2 interest deduction was overstated on 96% of the 2002 returns
3 being audited and on 90% of the 2003 returns being audited.

4 36. Of the 2,441 returns currently being examined, the IRS
5 selected 50 from the 2002 tax year and 50 from the 2003 tax year
6 to analyze. Based on the IRS's analysis, the average loss per
7 return for the 2002 tax year is \$2,722 and the average loss per
8 return for the 2003 tax year is \$2,230. Applying that average
9 loss per return to all of the returns being audited, the
10 estimated tax loss to the government from the 2,441 returns being
11 audited will be over \$5 million for 2002 and over \$1.1 million
12 for 2003.

13 37. Assuming that 90 percent of the approximately 10,000
14 returns prepared by the defendants for tax years 1999 through
15 2003 contained understatements of tax, and assuming further an
16 average tax loss per return of \$2,230 (which represents the
17 lesser of the two averages calculated by the government with
18 respect to the samples from returns currently being audited), the
19 IRS estimates the aggregate tax loss at \$20 million.

20 INJURY TO THE DEFENDANTS' CUSTOMERS

21 38. As a result of the defendants' improper actions, acting
22 either in concert or individually, many of their customers have
23 been required to file amended returns or undergo audits by the
24 IRS. They have incurred severe, and in most cases unanticipated,
25 financial burdens due to their liability for additional tax
26 beyond the amount reported on their original returns, plus
27
28

1 statutory interest.

2 39. As a result of the defendants' improper actions, acting
3 either in concert or individually, many of their customers will
4 be required to file amended returns or undergo audits by the IRS.
5 They will incur severe financial, and in most cases
6 unanticipated, financial burdens due to their liability for
7 additional tax beyond the amount reported on their original
8 returns, plus statutory interest (and perhaps civil penalties).

9 COUNT I

10 (Engaging in Conduct Prohibited by Sections 6694 and 6695)

11 40. Plaintiff realleges and incorporates by reference
12 paragraphs 1 through 39 of the Complaint.

13 41. The defendants, by reason of their preparation, or
14 assistance in the preparation, of federal income tax returns for
15 which they were compensated, are income tax return preparers
16 within the meaning of Section 7701(a)(36) of the Internal Revenue
17 Code ("the Code"), Title 26, U.S.C.

18 42. The defendants have continually or repeatedly engaged
19 in conduct subject to penalty under Section 6694 of the Code by
20 either (a) recklessly or intentionally disregarding rules and
21 regulations in preparing the return of another person, resulting
22 in an understatement of federal tax liability for that person; or
23 (b) willfully or recklessly understating the federal tax
24 liability of another person in preparing the return of that
25 person; or both.

26 43. The defendants have continually or repeatedly engaged
27
28

1 in conduct subject to penalty under Section 6695 of the Code in
2 that they have failed to consistently furnish the correct
3 identifying number for NCK on the returns they have prepared
4 under the auspices of NCK.

5 44. Unless enjoined by the Court, the defendants will
6 continue to engage in the above-described conduct.

7 45. The defendants must be enjoined from further acting as
8 income tax return preparers because an injunction prohibiting
9 their engaging in conduct subject to penalty under Sections 6694
10 and 6695 of the Code would not be sufficient to prevent their
11 further interference with the proper administration of the tax
12 laws.

13 COUNT II

14 (Unlawful Interference with the Internal Revenue Laws)

15 46. Plaintiff realleges and incorporates by reference
16 paragraphs 1 through 45 of the Complaint.

17 47. The defendants' fraudulent and deceptive conduct as set
18 forth above has the effect of substantially interfering with the
19 proper administration of the Internal Revenue laws by causing the
20 filing of improper and illegal tax returns or claims for refunds,
21 as well as the filing of tax returns containing improper and
22 illegal deductions, all of which contributes to undermining the
23 respect for, and deterring voluntary compliance with, the federal
24 tax laws.

25 48. Unless enjoined by this Court, the defendants will
26 continue to engage in this conduct.

1 APPROPRIATENESS OF INJUNCTIVE RELIEF

2 49. Injunctive relief is appropriate under Sections 7407
3 and 7402 of the Code for the following reasons:

4 a. Proscribed Conduct. The defendants, in the course
5 of preparing income tax returns on behalf of their
6 customers, have continually or repeatedly engaged in conduct
7 subject to penalty under Sections 6694 and 6695 of the Code
8 and which otherwise interferes with the proper
9 administration of the Internal Revenue laws.

10 b. Likelihood of Recurrence. If the defendants are
11 not enjoined from preparing federal income tax returns, it
12 is likely that they will continue to do so, since they have
13 engaged in a pattern and practice of abuse extending over a
14 number of years.

15 c. Irreparable Injury. The defendants, by their
16 continual or repeated violations of the internal revenue
17 laws, have caused a substantial revenue loss to the United
18 States Treasury as well as a severe drain of government
19 administrative resources in identifying and examining the
20 returns the defendants prepared and in attempting to collect
21 the monies owed. The IRS lacks sufficient resources to
22 examine all of the returns the defendants have prepared to
23 date and are continuing to prepare. In addition, the
24 resulting and potential litigation relating to the tax
25 returns prepared by the defendants will place a heavy burden
26 on the judicial system.

1 d. Public interest. Members of the public whom the
2 defendants aided, advised, or assisted have been harmed
3 because such persons paid the defendants for their services
4 in preparing tax returns, and if their returns are examined
5 by the IRS, they will likely be assessed with deficiencies
6 in tax, be required to pay statutory interest on the tax
7 deficiencies resulting from the defendants' improper
8 preparation, and may also be subject to civil penalties
9 resulting from the deficiencies. Moreover, the defendants'
10 behavior encourages a reckless disregard for the internal
11 revenue laws and erodes public confidence in the fairness of
12 the federal income tax system, thus causing irreparable
13 injury to the government and the nation as a whole.

14 RELIEF REQUESTED

15 **WHEREFORE**, plaintiff, the United States of America, prays
16 for the following:

17 1. That the Court find that the defendants, NCK, Carla
18 Berry, Karen Berry, Dixon, and Johnson, have continually or
19 repeatedly engaged in conduct subject to penalty under Sections
20 6694 and 6695; that an injunction prohibiting such conduct would
21 not be sufficient to prevent the defendants' interference with
22 the proper administration of Title 26; and that the defendants
23 therefore should be permanently enjoined from acting as income
24 tax return preparers pursuant to Sections 7407 and 7402 of the
25 Internal Revenue Code.

26 2. That the Court find that the defendants, NCK, Carla
27
28

1 Berry, Karen Berry, Dixon, and Johnson, have continually or
2 repeatedly engaged in fraudulent or deceptive conduct that
3 substantially interferes with the proper administration and
4 enforcement of the internal revenue laws by the IRS; that an
5 injunction prohibiting such conduct would not be sufficient to
6 prevent the defendants' interference with the proper
7 administration of Title 26; and that the defendants therefore
8 should be permanently enjoined from acting as income tax return
9 preparers pursuant to Sections 7407 and 7402 of the Internal
10 Revenue Code.

11 3. That the Court enter a Final Judgment of Permanent
12 Injunction enjoining the defendants, NCK, Carla Berry, Karen
13 Berry, Dixon, and Johnson, and all other persons in active
14 concert or participation with them, directly or indirectly, by
15 use of any means or instrumentality, from:

16 a. Acting as income tax return preparers within the
17 meaning of Section 7701(a)(36) of the Code;

18 b. Taking any action in furtherance of aiding,
19 assisting, advising, or preparing for compensation tax
20 returns of third-party taxpayers;

21 c. Further engaging in conduct subject to penalty
22 under Sections 6694 and 6695 of the Code; or

23 d. Substantially interfering with and/or impeding the
24 proper administration of the internal revenue laws.

25 4. That this Court further order and decree, as part of its
26 permanent injunctive relief, that the defendants notify, in
27
28

1 writing, all persons whose tax returns they have prepared from
2 January 1, 1999 to the date of the Court's order, of the findings
3 and relief ordered by the Court, including in such notice to each
4 person a copy of the Complaint and of the Court's Final Order of
5 Permanent Injunction; and that the defendants file with the Court
6 and provide to plaintiff's attorneys a list of the names, Social
7 Security numbers, addresses, e-mail addresses, and telephone
8 numbers of all persons so notified within thirty (30) days of the
9 date the Order is entered.

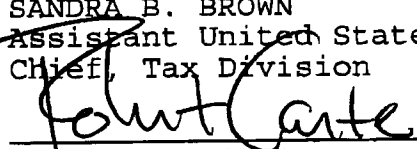
10 5. That this Court retain jurisdiction of this action for
11 the purpose of implementing and enforcing the final judgment and
12 all additional decrees and orders necessary and appropriate to
13 the public interest.

14 6. That this Court award plaintiff all its costs in
15 prosecution of this action.

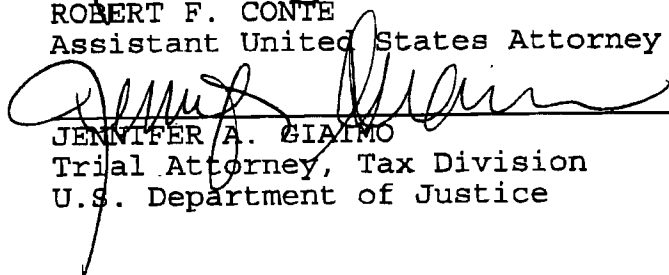
16 Respectfully submitted,

17 DEBRA W. YANG
18 United States Attorney
19 SANDRA B. BROWN
Assistant United States Attorney
Chief, Tax Division

20 Dated: December 15, 2004


21 ROBERT F. CONTE
Assistant United States Attorney

22 Dated: December 13, 2004


23 JENNIFER A. GIALMO
24 Trial Attorney, Tax Division
25 U.S. Department of Justice
26
27
28