

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 8:23-cv-986-SDM-CPT

TYRONE JOHNSON and
TJ PROFESSIONAL SERVICES, LLC,

Defendants.

_____ /

ORDER

Alleging that Tyrone Johnson, a “tax return preparer” without “tax-related training” or any “tax-related certificat[e] or degree[,]” fraudulently understated the taxable income on many of his customers’ returns and overstated the customers’ claimed refund, the United States sues Johnson and his tax-consulting business, TJ Professional Services, LLC, and requests disgorgement and a permanent injunction preventing Johnson’s preparing federal tax returns. Neither Johnson nor TJ Professional Services responds to the complaint, and the clerk has entered (Docs. 11 and 20) a default against both Johnson and TJ Professional Services. The United States moves (Docs. 18 and 21) for a default judgment against both Johnson and TJ Professional Services. Because they defaulted, Johnson and TJ Professional Services admit each well-pleaded allegation of fact. *Lary v. Trinity Physician Fin. & Ins. Servs.*, 780 F.3d 1101, 1106 (11th Cir. 2015).

In 2016, Johnson applied to the IRS for an “Electronic Filing Identification Number” (EFIN), which is an identifier issued to tax preparers who have applied and passed a “suitability check.” The IRS denied Johnson’s application. Despite the denial, Johnson incorporated in Florida TJ Professional Services and began preparing tax returns on behalf of customers.¹ To prepare a customer’s tax return, Johnson charged the customer “approximately [ten percent] of the customer’s claimed refund” Johnson personally prepared the customer’s tax return but reported on the return that the customer “self-prepared” the return.² In many of the tax returns that he prepared, Johnson “understate[d] the[] customer’s [adjusted gross income] by claiming fictitious losses for non-existent businesses” By reporting that the customer owned a non-existent business that lost money, Johnson decreased the customer’s taxable income and overstated the refund to which the customer was entitled. Johnson and TJ Professional Services have prepared several hundred federal tax returns, many of which falsely report that the customer owns a small business that lost money.³

¹ Johnson is the shareholder and corporate representative of TJ Professional Services, which Johnson advertised as “his tax consulting business” and which Florida administratively dissolved in 2017.

² Johnson filed each return using the six-digit “PIN” that identified each customer.

³ The complaint includes no exact number of fraudulent tax returns. But the complaint lists several specific examples of returns in which Johnson included a non-existent business and reports that in 2022 88% of the returns filed by Johnson included a “Schedule C” that reported that the customer owned a business. According to the returns filed in 2022, 96% of the reported businesses lost money.

Under 26 U.S.C. §§ 7407, 7408, and 7402(a), the United States requests an injunction against Johnson’s and TJ Professional Services’ preparing tax returns. Section 7407 permits the issuance of an injunction if a “tax return preparer,” which under 26 U.S.C. § 7701 is a person or company that prepares a tax return for compensation, engages in certain conduct, including knowingly understating tax liability based on an “unreasonable position[],” failing to sign a tax return, or failing to furnish an identifying number. If the tax-return preparer “has continually or repeatedly engaged” in the proscribed conduct and if a narrower injunction “would not be sufficient to prevent” the preparer’s continued violation of the tax laws, Section 7407 permits an injunction preventing the offending person from acting as a tax-return preparer. *United States v. Simon*, 824 Fed. Appx. 986, 989 (11th Cir. 2020); *United States v. Stinson*, 729 Fed. Appx. 891, 896 (11th Cir. 2018) (commending for review when determining whether to issue an injunction against a person’s acting as a tax-return preparer several factors, including the gravity of the harm caused; the extent of the preparer’s participation; whether the infraction was isolated or recurrent; and whether a future violation “could be anticipated” based on the preparer’s occupation). Similarly, Section 7408 permits the issuance of an injunction against a person who in violation of 26 U.S.C. § 6701 assists or advises the preparation of a return and knows that the return will understate tax liability. *Simon*, 824 Fed. Appx. at 990.

Because Johnson and TJ Professional Services received money to prepare tax returns, Johnson and TJ Professional Services are tax-return preparers under Sections 7407 and 7701. Johnson and TJ Professional Services have “continually and

repeatedly” assisted in the preparation of tax returns that understate tax liability by claiming losses by fictitious businesses and have “continually and repeatedly” failed either to sign each tax return or to list an identifying number. Since 2016, Johnson and TJ Professional Services have prepared hundreds of tax returns, many of which include false information included to understate tax liability. Johnson’s fee, that is, Johnson’s receiving 10% of the tax refund, incentivizes Johnson to fraudulently report tax liability to secure a larger refund. Also, despite preparing taxes for several years, nothing suggests that Johnson has persisted in attempting to acquire either an EFIN or a “Preparer Tax Identification Number.” Instead, Johnson clandestinely obscures his involvement in the preparation of returns by reporting the taxpayer’s identification number only. A review of the circumstances in this action and of the factors commended by *Stinson*, 729 Fed. Appx. at 896, militates decisively in favor of enjoining Johnson’s and TJ Professional Services’ preparing tax returns.

Also, under Section 7402(a), the United States requests an order disgorging the money that Johnson and TJ Professional Services received from preparing tax returns that contain false information. *Stinson*, 729 Fed. Appx. at 898–99, confirms that disgorgement is an available remedy under Section 7402(a). Disgorgement is limited to the amount that the defendant profited from wrongdoing. To establish entitlement to disgorgement, the United States must “produce a reasonable approximation of the defendant’s ill-gotten gains.” *S.E.C. v. ETS Payphones, Inc.*, 408 F.3d 727, 735 (11th Cir. 2005); *S.E.C. v. Calvo*, 378 F.3d 1211, 1217 (11th Cir. 2004). The United States admittedly lacks “sufficient data to calculate the total fees” that

Johnson and TJ Professional Services collected for their preparation of tax returns containing false information but reports the intent to move separately for disgorgement.

For these reasons and others stated by the United States, each motion (Docs. 18 and 21) for a default judgment is **GRANTED**. The clerk is directed to enter a final default judgment for the United States and against Johnson and TJ Professional Services on Counts I through III. Under Sections 7402,⁴ 7407, and 7408, Johnson and TJ Professional Services are permanently **ENJOINED** from:

- a) Preparing, assisting in the preparation of, or directing the preparation of federal tax returns, amended returns, or other tax-related documents or forms, including any electronically submitted tax returns or tax-related documents, for any entity or person other than themselves;
- b) Owning, managing, controlling, working for, profiting from, or volunteering for any business or entity engaged in tax-return preparation;
- c) Transferring, selling, or assigning customer lists or other customer information;
- d) Engaging in activity subject to penalty under 26 U.S.C. §§ 6694, 6695 and 6701;⁵ and

⁴ Section 7402(a) permits a district court to issue in a civil action an injunction that is “necessary or appropriate for the enforcement of the internal revenue laws.”

⁵ *SEC v. Goble*, 682 F.3d 934, 949–50 (11th Cir. 2012), explains that an “obey-the-law” injunction, that is, an injunction that “does little more than order the defendant to obey the law[,]” often violates Rule 65(d), Federal Rules of Civil Procedure, because the obey-the-law injunction lacks
(continued...)

- e) Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Within **SEVEN DAYS** after this order, the United States must serve Johnson and TJ Professional Services with a copy of this order. Within **THIRTY DAYS** after this order, Johnson and TJ Professional Services must give the United States a copy of each tax return or tax-refund claim that Johnson or TJ Professional Services prepared after January 1, 2019, and must give the United States a list of each person for whom Johnson or TJ Professional Services prepared after January 1, 2019, a tax return, a tax form, or a tax-refund claim. The list must include each person's name, Social Security number, address, phone number, and email address. Within **SIXTY DAYS** after this order, the United States must mail to each listed customer of Johnson or TJ Professional Services a copy of the complaint in this action and this order. Johnson and TJ Professional Services are liable to the United States for the costs incurred in notifying each customer, and the United States may propose a bill of costs. Also, Johnson must display on any website or social media account used by Johnson or by TJ Professional Services to advertise tax preparation services a copy of this order and a statement that Johnson and TJ Professional Services are enjoined from the preparation of tax returns. The United States may conduct post-judgment discovery

the specificity required by Rule 65. But *Goble*, 682 F.3d at 951–52, notes “that at times an injunction that orders a defendant to comply with a statute may be appropriate” if the injunction gives the defendant clear notice of the proscribed conduct. In this action, the injunction declines to enjoin the violation of the tax laws and instead mentions Sections 6694, 6695, and 6701 to give Johnson and TJ Professional Services clear notice that they are enjoined from the conduct penalized in those statutes and not from violating the statutes themselves.

to monitor compliance with this order. Jurisdiction is **RETAINED** to enforce this injunction and to resolve the anticipated motion to disgorge any fee received by Johnson or TJ Professional Services. The clerk must close the case.

ORDERED in Tampa, Florida, on December 11, 2023.

A handwritten signature in black ink, appearing to read "Steven D. Merryday", is positioned above a horizontal line.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE