

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Case No.

Plaintiff,

v.

KATIUSCA RIGAUD, also known as
KATHY RIGAUD, also known as KATHY
LEGER; ANDY JEAN; JANET MORALES;
BAR PROFESSIONAL SERVICES, LLC,
doing business as TAX KINGS & QUEENS;

Defendants.

_____)

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America, by and through undersigned counsel, complains and alleges as follows:

1. The United States of America brings this action to restrain and enjoin Defendants Katusca Rigaud, also known as Kathy Rigaud and Kathy Leger; Andy Jean; Janet Morales; and Bar Professional Services, LLC, d/b/a Tax Kings & Queens; and all those acting in concert with or under their direction and/or control; from:

- a. Acting as federal tax return preparers;
- b. Requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms, including any electronically submitted tax returns or tax-related documents, for any person or entity other than themselves;

- c. Preparing, filing, and assisting in preparing or filing federal tax returns, amended returns, or other related documents or forms that understate federal tax liabilities or overstate federal tax refunds based on positions they know or reasonably should know are unreasonable;
- d. Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6701, or any other penalty provision in the Internal Revenue Code; and
- e. Engaging in any conduct that substantially interferes with the proper administration and enforcement of the Internal Revenue Code.

JURISDICTION AND VENUE

2. The Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, authorized this action and the Attorney General directed that it be commenced, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408.

3. The Court has jurisdiction to hear this action pursuant to 28 U.S.C. §§ 1340 (internal revenue laws) and 1345 (United States as plaintiff), and 26 U.S.C. § 7402(a) (render judgments).

4. Pursuant to 26 U.S.C. §§ 7407(a) and 7408(a), and 28 U.S.C. § 1391(b), venue is proper because Defendants maintain their principal places of business in the district and a substantial part of the events or omissions giving rise to the United States' claims occurred in the district.

SUMMARY OF DEFENDANTS' ACTIVITY

5. Defendant Katusca "Kathy" Rigaud, also known as Kathy Leger, owns 50 percent of defendant Bar Professional Services, LLC.

6. Defendant Andy Jean is the other 50-percent owner of Bar Professional.

7. Bar Professional is a limited liability company with its principal place of business in Miami Gardens, Florida. As an LLC, Bar Professional can only act through its officers, Rigaud and Jean, and its employees.

8. Rigaud established Tax Kings & Queens as an assumed business name of Bar Professional to prepare tax returns. Tax Kings & Queens prepares federal tax returns for the general public in South Florida. For a period of time, Tax Kings & Queens also operated in Louisiana — circulating flyers in the state that promised “No Job, No Problem.”

9. Rigaud has an associate’s degree in business administration. She has been preparing tax returns since 2008. She worked for an accountant before she began preparing returns on her own.

10. Jean took several tax courses at Miami-Dade College. He has been preparing tax returns since 2010.

11. Defendant Janet Morales has been preparing tax returns for around a decade. She was trained internally by Tax Kings & Queens. She has been involved in efforts to expand Tax Kings & Queens’ services out of state.

12. Defendants are tax return preparers as defined by 26 U.S.C. § 7701(a)(36). Rigaud, Jean, and Morales prepare returns for compensation for Tax Kings & Queens. They also train other tax return preparers.

13. The vast majority of returns Tax Kings & Queens prepares request a refund. From 2013 through 2017, 2,649 returns were filed under Tax Kings & Queens’ Employer Identification Number (“EIN”), a number assigned by the Internal Revenue Service to identify the business entity. Only 112 of these returns did not claim a refund due. From 2013 through

2017, the majority of returns filed under Tax Kings & Queen's EIN also claimed the Earned Income Credit (EIC). Specifically:

Filing Year	# of Returns	Refunds Claimed	EICs Claimed
2013	730	717 (98%)	406 (55%)
2014	733	714 (97%)	466 (63%)
2015	644	613 (95%)	385 (59%)
2016	367	335 (91%)	203 (55%)
2017	175	158 (90%)	95 (54%)

14. Defendants do not consistently input Tax Kings & Queens' EIN on returns they prepare. Indeed, for filing year 2018, just a handful of the returns prepared by Tax Kings & Queens listed its EIN. Without this identifier, it is difficult to ascertain the precise number of returns that Defendants prepare. Therefore, the numbers listed above are likely substantially understated.

15. Though Tax Kings & Queens omitted its EIN on many returns prepared for filing year 2018, it included a different kind of identifier called an Electronic Filing Identification Number ("EFIN"). A return preparer needs an EFIN to electronically file tax returns. For the 2018 filing year, 216 returns were filed under EFINS associated with Tax Kings & Queens, and 93.5 percent claimed a refund due. In addition, for the 2018 filing year, 138 returns were filed under EFINS associated with Morales, and 99.7 percent claimed a refund due.

16. In 2015, the Service briefly suspended the Tax Kings & Queens' EFIN registered to Jean. During the EFIN's suspension, Defendants used another EFIN that was not registered to them or any known related individual/entity to continue to file returns. After the IRS advised Defendants it knew of their use of the other EFIN, Defendants changed the name associated with that new EFIN to Tax Kings & Queens.

Defendants' Schemes

17. Defendants have repeatedly and continually prepared tax returns that understate liabilities and overstate refunds. Their schemes include fabricating businesses and Form 1040 Schedule Cs ("Profit or Loss from Business") to secure bogus earned income tax credits and deducting false employee business expenses on Form 1040 Schedule As ("Itemized Deductions").

18. The following examples demonstrate a pattern of abuse and misconduct that warrants an injunction barring Defendants from preparing tax returns. To protect the privacy of Defendants' customers, the Complaint refers to each customer by number, e.g., Customer 1 (abbreviated to C1), etc.

Fabricated Schedule C Losses and Earned Income Credits

19. As shown in paragraph 13 above, the majority of returns Defendants prepared claim the Earned Income Credit (EIC).

20. The EIC is a refundable tax credit available to certain low-income taxpayers. 26 U.S.C. § 32. It is treated as a tax payment and thus may result in a tax refund to the extent it exceeds a taxpayer's tax liability.

21. The amount of the EIC varies based on a taxpayer's income, filing status, and number of claimed dependents. For certain income ranges, individuals with higher annual incomes are entitled to a larger credit than those with lower annual incomes. The amount of the credit increases as reported income climbs from \$1 to the annual ceiling set by the Service, and decreases beyond that ceiling. The range of income corresponding to the maximum EIC is sometimes referred to as the "sweet spot."

22. Defendants manipulated return information in order to bring customers' reported earned income within the "sweet spot" for the EIC or, in some cases, to secure an EIC for a customer who would not otherwise qualify.

23. Defendants fabricated businesses and business losses on Schedule C in order to reduce customers' tax liabilities and/or maximize their EIC amounts.

24. Rigaud prepared Customer 1's 2013 return. Rigaud claimed that C1 lost over \$11,000 operating a "cook" business. C1 worked exclusively for his employer in 2013, and does not know where Rigaud got the figures reported on his Schedule C.

25. Jean prepared Customer 2's 2013 return. Jean claimed that C2 was the proprietor of a business that lost \$6,777. C2 did not have a business in 2013. C2 did not provide — and Jean did not request — documentation to support any of the business income or expenses reported on her Schedule C, such as \$1,500 for car repairs and \$2,400 for insurance.

26. Morales prepared Customer 3's 2014 return. Morales claimed that C3 was the sole proprietor of a school counseling business that suffered a \$10,789 loss. C3 was not self-employed in 2014. She does not know how Morales generated the information on her return.

27. Rigaud prepared Customer 4's 2014 return. Rigaud claimed that C4 sustained a loss of over \$16,000 for a nursing business. C4 did not have a nursing business in 2014. C4 never told Rigaud she had a nursing business in 2014. C4 does not know where the figures reported on her Schedule C, such as \$801 in upkeep and grooming expenses, came from.

28. Jean prepared Customer 5's 2014 tax return. Jean claimed that C5 lost over \$4,000 operating a driving business in 2014. C5 mentioned to Jean he drives local children to school two days a week and receives gas money for doing so. C5 did not tell Jean that he operated a business. C5 did not provide Jean documentation to support any of the expenses

reported on his Schedule C, such as \$850 for supplies, \$600 for cell phone, and \$600 for upkeep and grooming.

29. Rigaud prepared Customer 6's 2013, 2014, and 2015 tax returns. Rigaud claimed that C6 was the sole proprietor of a business that suffered large losses each year. C6 never told Rigaud that she was self-employed or engaged in work "on the side."

30. Defendants created false businesses and false Schedule Cs in the 2018 filing year. For example, Defendants prepared 48 returns in 2018 that claimed Schedule C business losses of over \$5,000 each. Combined, these returns claimed \$679,745.00 in losses. In light of customers' statements about the falsity of their Schedule Cs, it is likely that a significant portion of this total is false or fraudulent. In addition, Defendants prepared 118 returns in 2018 that included a Schedule C and claimed the EIC. It is unlikely that these customers would have qualified for an EIC, at all or in the amount claimed, if not for their apparently false Schedule Cs.

False Employee Business Expenses

31. Prior to 2018, individuals who were employees could take deductions on their Schedule As for ordinary and necessary business expenses they incurred which were not reimbursed by their employer. 26 U.S.C. § 162.

32. Defendants repeatedly and continually prepared returns that invented or inflated employee business expense deductions.

33. Rigaud prepared Customer 7's 2013 tax return. Rigaud claimed that C7 incurred over \$11,000 in unreimbursed employee business expenses for, among other things, cell phone and transportation. C7 did not tell Rigaud that he incurred such expenses for work. Just the opposite, C7's employer covered his work-related transportation and provided all office supplies,

including a company cell phone. C7 does not know why Rigaud claimed these items as deductible on his return

34. Customer 8 was a repeat customer of Tax Kings & Queens. Jean prepared C8's 2013 return. Morales prepared C8's 2014 return. Jean claimed \$14,148 in deductible employee business expenses on the 2013 return. Morales claimed \$11,772 in deductible employee business expenses on the 2014 return. After an IRS audit, the reported false deductions were disallowed in full. C8 hired a different preparer to complete her 2015 return. No unreimbursed employee business expenses were reported on that return.

35. Morales prepared Customer 9's 2014 tax return. Morales claimed that C9 incurred over \$8,000 in unreimbursed business expenses: 9,458 business miles driven, \$2,495 spent on business meals and entertainment, and \$2,445 in other business expenses. Morales asked what C9 spent on gas and food, but Morales did not ask C9 to differentiate between business and personal expenses. C9 estimates she may have incurred business expenses when she occasionally filled in at other stores and purchased work shirts beyond what her employer supplied, but she did not indicate that she provide that information to Morales.

36. Defendants prepared returns with large employee business expense deductions in the 2018 filing year. Defendants prepared 53 returns in 2018 that claimed over \$2,500 in employee business expense deductions. Combined, these deductions totaled \$862,746.00. In light of customers' statements about the falsity of these deductions, it is likely that a large portion of this figure is false or fraudulent.

HARM CAUSED BY DEFENDANTS' ACTIONS

37. Defendants' fraudulent practices over the years have harmed their customers, the United States, and the public.

38. Customers paid Defendants to prepare their tax returns properly. Instead, Defendants falsified the returns to create inflated refunds. Many customers are now liable for repayment of the refunds wrongly claimed in their names, plus penalties and interest.

39. The United States has been harmed by the loss of significant tax revenue. As shown in paragraph 36 above, just one of Defendants' schemes — false business expenses — may have generated hundreds of thousands of dollars in fraudulent deductions for just the most recently completed filing year.

40. The United States is further harmed because the Service must devote its finite resources to identifying Defendants' customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting additional taxes and penalties owed.

41. Defendants' activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with internal revenue laws. They also harm honest return preparers who may lose business to unscrupulous return preparers such as Defendants who promise and provide large, unwarranted refunds.

COUNT I – INJUNCTION UNDER 26 U.S.C. § 7407

42. The United States incorporates by reference the allegations in paragraphs 1 through 41 above.

43. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin any tax return preparer from further engaging in conduct subject to penalty under section 6694 or 6695, or any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws, if injunctive relief is appropriate to prevent the recurrence of such conduct.

44. Moreover, Section 7407 authorizes a district court to permanently enjoin a person from acting as a tax return preparer if it finds (1) the preparer has continually or repeatedly engaged in conduct subject to penalty under Section 6694 or 6695, or any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue Code, and (2) an injunction prohibiting that specific conduct would not sufficiently prevent the preparer's interference with the proper administration of the Internal Revenue Code.

45. Defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694(a) by preparing returns that understate customers' tax liabilities and overstate their refunds based on unreasonable and reckless positions. As described above, Defendants prepared tax returns with falsified information and fabricated deductions, leading to bogus credits. Defendants did so with the knowledge that the positions taken on the returns were unreasonable and lacked substantial authority.

46. Defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694(b) by willfully understating tax liabilities on federal returns for several years, and acting with a reckless and/or intentional disregard of rules and regulations.

47. Defendants have continually and repeatedly engaged in fraudulent and deceptive conduct which substantially interferes with the proper administration of the internal revenue laws. They have engaged in pervasive tax fraud by making, and/or directing or encouraging others to make, false claims on customers' tax returns and engaging in other fraudulent activities aimed at minimizing customers' tax liabilities and maximizing their refunds.

48. Defendants have persisted in the conduct described above despite attempts by the Service to dissuade them. For instance, when the Service suspended their EFIN, Defendants continued to prepare and file returns under another EFIN that was not registered to them. To

prevent the recurrence of Defendants' misconduct, injunctive relief is appropriate under Section 7407.

49. A narrow injunction against only specified conduct would not suffice. The Service may not yet have identified all of the schemes used by Defendants to manipulate returns. If Defendants are not permanently enjoined, the Service will be required to continue to monitor their activity and commit resources to uncover future schemes and protect future customers. This will be especially difficult in light of Defendants' efforts to expand their business to other locales.

COUNT II – INJUNCTION UNDER 26 U.S.C. § 7408

50. The United States incorporates by reference the allegations in paragraphs 1 through 49 above.

51. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from further engaging in specified conduct subject to penalty under Section 6701, if injunctive relief is appropriate to prevent the recurrence of such conduct.

52. Defendants have engaged in conduct subject to penalty under 26 U.S.C. § 6701 by preparing, directing, or assisting in the preparation of income tax returns that they knew or had reason to know understated liabilities and/or inflated refunds.

53. Despite administrative efforts, Defendants continue to engage in the conduct described above. To prevent the recurrence of such conduct, injunctive relief is appropriate under Section 7408.

COUNT III – INJUNCTION UNDER 26 U.S.C. § 7402(a)

54. The United States incorporates by reference the allegations in paragraphs 1 through 53 above.

55. Section 7402(a) of the Internal Revenue Code authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of internal revenue laws.

56. Defendants, through the actions described above, have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

57. Unless enjoined, Defendants are likely to continue to engage in such conduct and interfere with the proper administration and enforcement of the Internal Revenue Code. Administrative efforts have not curtailed Defendants' conduct. Defendants have engaged in evasive conduct. When their EFIN was suspended, Defendants used another EFIN and attempted to hide its connection to Tax Kings & Queens. Court intervention is needed to halt their activities.

58. The United States will suffer irreparable harm if Defendants are not enjoined. It will continue to provide federal income tax refunds to individuals who are not entitled to receive them. The United States will be forced to expend substantial unrecoverable time and resources to detect and audit Defendants' customers' defective returns. Despite these efforts, many improper refund returns prepared by Defendants will never be discovered or recovered.

59. Remedies available at law, such as monetary damages, are inadequate to compensate the United States for its irreparable injuries sustained as a result of Defendants' conduct. Indeed, the full monetary impact of Defendants' conduct is unknown since Defendants do not consistently identify themselves on returns they prepare.

60. Considering the balance of hardships between the United States and Defendants, a remedy in equity is warranted. While the United States will suffer irreparable injury if

Defendants are not enjoined, Defendants will not be harmed by an injunction compelling them to obey the law. They will be able to pursue other financial means to support themselves.

61. It would serve the public interest to enjoin Defendants. An injunction — backed by the Court's contempt power, if needed — will stop illegal conduct and the harm it causes the United States and the public.

62. Defendants, therefore, should be enjoined under 26 U.S.C. § 7402(a).

WHEREFORE, the United States prays that this Court:

A. Find, pursuant to 26 U.S.C. § 7407, that:

1. Defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and other fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws;
2. Injunctive relief is appropriate to prevent the recurrence of such conduct; and
3. A narrower injunction enjoining Defendants from only specified conduct would not be sufficient to prevent their interference with the proper administration of the Internal Revenue Code;

B. Find Defendants have engaged in conduct subject to penalty under 26 U.S.C. § 6701, and injunctive relief is appropriate to prevent the recurrence of such conduct pursuant to 26 U.S.C. § 7408;

C. Find Defendants have engaged in conduct that substantially interferes with the enforcement of internal revenue laws, and injunctive relief is appropriate to prevent the recurrence of such conduct pursuant to the Court's inherent equitable powers and 26 U.S.C. 7402(a);

D. Enter a permanent injunction prohibiting Defendants, and all those in active concert or participation with them, from:

1. Acting as federal tax return preparers;
2. Requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms, including any electronically submitted tax returns or tax-related documents, for any person or entity other than themselves;
3. Preparing, filing, and assisting in preparing and filing federal tax returns, amended returns, or other related documents or forms that understate federal tax liabilities or overstate federal tax refunds based on positions they know or reasonably should know are unreasonable;
4. Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701, or any other penalty provision in the Internal Revenue Code; and
5. Engaging in any conduct that substantially interferes with the proper administration and enforcement of the Internal Revenue Code.

E. Enter an injunction requiring, within 30 days of entry of the injunction, that Defendants:

1. Contact, by regular mail or email, all persons for whom they have prepared a federal tax return since 2013 to inform them of the permanent injunction entered against Defendants and provide them with a copy thereof (but including no other documents or enclosures unless agreed to by counsel for the United States or approved by the Court), and, within 45 days of entry of this injunction, file with

the Court a sworn certificate stating that they have complied with this requirement;

2. Produce to counsel for the United States a list of all persons for whom they prepared federal income tax returns or claims for refund since 2013, including names, social security numbers, addresses, email addresses, telephone numbers, and all relevant tax periods;
3. Produce to counsel for the United States copies of all federal income tax returns that they prepared since 2013; and
4. Prominently post, in any store window where tax returns were prepared by Defendants and any website they use, a notice provided by the United States stating that a federal court has ordered that Defendants are permanently prohibited from preparing tax returns for others, and, within 45 days of entry of this injunction, file with the Court a sworn certificate stating that they have complied with this requirement.

F. Order, without further proceedings, the immediate revocation of any and all Preparer Tax Identification Numbers (PTIN) held by, assigned to, or used by Defendants pursuant to 26 U.S.C. § 6109;

G. Order the immediate revocation of any Electronic Filing Identification Number (EFIN) held by, assigned to, or used by Defendants;

H. Permit the United States to conduct discovery to monitor Defendants' compliance with the terms of any permanent injunction entered against them;

I. Retain jurisdiction over Defendants and this action to enforce any permanent injunction entered; and

J. Award the United States its costs incurred in connection with this action, along with such other relief as justice requires.

Dated: March 19, 2019

Respectfully submitted,

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