

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:17-cv-2648-ELR
)	
MARJORIE ST. JEAN and)	
MARJORIESTJEANLLC,)	
)	
Defendants.)	

**ORDER AND JUDGMENT OF DISGORGEMENT
AGAINST MARJORIE ST. JEAN AND MARJORIESTJEANLLC**

Before the Court is a Motion for Partial Default Judgment against Marjorie St. Jean and MarjorieStjeanLLC on Count IV of the Complaint. (Docket no. 17.) For the reasons stated below, the motion is granted and judgment is entered in favor of the United States and against Marjorie St. Jean and MarjorieStjeanLLC, jointly and severally, on Count IV of the Complaint, in the amount of \$367,346.14.

FINDINGS OF FACT

The United States filed its Complaint for Permanent Injunction and Other Relief on July 14, 2017. (Docket no. 1.) Pursuant to 26 U.S.C. § 7402, the government seeks an order requiring Marjorie St. Jean and MarjorieStjeanLLC from acting as tax return preparers and owning and operating a tax preparation business, and the disgorgement of the ill-gotten gains that Marjorie St. Jean and MarjorieStjeanLLC received for the preparation of tax returns. (*Id.*) On December 6, 2017, the Clerk entered default against Marjorie St. Jean and MarjorieStjeanLLC. Consequently, Marjorie St. Jean and MarjorieStjeanLLC are deemed to

have admitted all well-pled allegations of the complaint. *See Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1307 (11th Cir. 2009); *see also* Fed. R. Civ. P. 8(b)(6).

Based on the well-pled allegations of the complaint, the Court finds that St. Jean is an owner and officer of MarjorieStjeanLLC, through which St. Jean owns and operates tax preparation stores. (Compl. ¶¶ 5-6, 11-12.)

The Defendants prepare tax returns that include fraudulent claims for the Earned Income Tax Credit (“EITC”), often based on bogus dependents, fabricated business income and expenses, and/or false filing status. (Compl. ¶ 18.)

The Defendants falsify information to claim the maximum EITC. (Compl. ¶ 22.) The Defendants exploit the EITC rules by creating phony Schedule C income or expenses, or reporting bogus “Household Help” income, to bring customers’ incomes within the EITC “sweet spot.” (Compl. ¶¶ 22-23.) The Defendants prepare tax returns reporting non-existent businesses on bogus Forms Schedule C.¹ (Compl. ¶ 34.) On some of these returns, the Defendants report substantial income, but little or no expenses. (*Id.*) On other returns, the Defendants report substantial expenses, but little or no income. (*Id.*) The determining factor is whether the tax return preparer needs to inflate a customer’s income (or create income when the customer has none) to bring the income within the EITC range or “sweet spot,” or lower the taxable income of a customer who has actual income (such as wages reported on a W-2) in order to bring the income within the EITC “sweet spot.” (*Id.*)

Tax preparers are required to follow “due diligence” requirements if claiming the EITC on behalf of their customers. (Compl. ¶ 25.) The Defendants fail to comply with the due

¹ A Form Schedule C is an IRS form used to report income or losses from a sole proprietorship. The net income or loss reported on a Schedule C “flows through” to the Form 1040 tax return and, therefore, can increase or decrease the taxable income on the return.

diligence requirements; rather, they falsify information in order to maximize the EITC for their customers. (Compl. ¶ 26.)

The Defendants prepare and file federal income tax returns for customers on which they improperly claim false or fraudulent fuel tax credits using IRS Form 4136, “Credit for Federal Tax Paid on Fuels.” The fuel tax credit is available only to taxpayers who operate farm equipment or other off-highway business vehicles. (Compl. ¶ 30.) The Defendants claim the fuel tax credit for fabricated and non-qualifying fuel purchases. (Compl. ¶ 27.)

The Defendants prepare tax returns claiming bogus Schedule A deductions, to improperly or fraudulently reduce customers’ taxable income. (Compl. ¶ 45.) The Defendants often prepare tax returns for customers which include false claims for purported unreimbursed employee business expenses, particularly for purported business miles driven by customers. (Compl. ¶ 46.)

The Defendants charge unconscionably high tax preparation fees, mostly through added, deceptive fees which are often charged without customers’ knowledge. (Compl. ¶ 54.) The Defendants also routinely and intentionally fail to disclose to customers all fees charged. (Compl. ¶ 60.)

The Defendants fail to provide customers with copies of their completed tax returns. (Compl. ¶ 63.) This is because the Defendants do not provide them with copies of these completed forms to conceal the fraud from customers. (Compl. ¶ 65.) Failing to provide a customer with a copy of the completed tax return also violates 26 U.S.C. § 6107(a), which requires that a tax return preparer “shall furnish a completed copy of [a tax return or claim for refund] to the taxpayer not later than the time such return or claim is presented for such taxpayer’s signature.” (Compl. ¶ 64.)

The Defendants systematically and routinely prepared tax returns falsely claiming (1) Fuel Tax Credits; (2) Household Help income reported as wages on line 7 of the tax return; (3)

unreimbursed employee business expenses (EBE) on Forms Schedule A; (4) self-employed business income and/or expenses on Forms Schedule C; and (5) the Earned Income Tax Credit. The fees that the Defendants received for preparing tax returns that fall into one or more of these categories are therefore directly connected to the Defendants' well-documented pattern of gross misconduct in preparing such returns. Marjorie St. Jean and MarjorieStjeanLLC received ill-gotten tax preparation fees for the five categories of tax returns described above in the amounts of \$120,916.05 in 2014, \$70,297.10 in 2015, \$70,119.23 in 2016, \$71,947.81 in 2017, and \$34,065.95 in 2018, for a total of \$367,346.14.

CONCLUSIONS OF LAW

Based on the foregoing facts, the Court concludes that an order of disgorgement, requiring Marjorie St. Jean and MarjorieStjeanLLC to disgorge the ill-gotten gains they received in the form of tax preparation fees, is necessary or appropriate under 26 U.S.C. § 7402 for the enforcement of the internal revenue laws. *See, e.g., United States v. Stinson*, 239 F.Supp.3d 1299 (M.D. Fla. 2017), *aff'd*, --- Fed.Appx. ---, 2018 WL 2026928 (11th Cir. May 1, 2018).

Marjorie St. Jean and MarjorieStjeanLLC were unjustly enriched through the preparation of unlawful tax returns. The Court finds that \$367,346.14 is a reasonable approximation of the ill-gotten gains that Marjorie St. Jean and MarjorieStjeanLLC received from 2014 through 2018. This conclusion is based on evidence demonstrating that, as necessary to claim falsely-inflated refunds on customers' tax returns from which the Defendants could extract their tax preparation fees, the Defendants and those acting at their direction or with their knowledge and consent systematically and repeatedly prepared tax returns that falsely claimed: (1) Fuel Tax Credits; (2) Household Help income reported as wages on line 7 of the tax return; (3) unreimbursed employee business expenses (EBE) on Forms Schedule A; (4) self-employed business income

and/or expenses on Forms Schedule C; and (5) the Earned Income Tax Credit. Judgment will be entered in favor of the United States and against Marjorie St. Jean and MarjorieStjeanLLC, jointly and severally, accordingly.

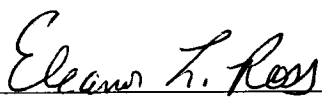
ORDER AND JUDGMENT

Pursuant to 26 U.S.C. § 7402,

IT IS HEREBY ORDERED that Judgment is entered in favor of the United States and against Marjorie St. Jean and MarjorieStjeanLLC, jointly and severally, in the amount of \$367,346.14 on the United States' claim, brought under 26 U.S.C. § 7402, for the disgorgement of the ill-gotten gains that Marjorie St. Jean and MarjorieStjeanLLC received for the preparation of tax returns making false claims.

The Clerk of the Court is **DIRECTED** to enter **Judgment** accordingly on Count IV of the Complaint in favor of the United States and against Marjorie St. Jean and MarjorieStjeanLLC, jointly and severally, in the amount of \$367,346.14.

IT IS SO ORDERED, this 21st day of August, 2018.



Eleanor L. Ross
United States District Judge
Northern District of Georgia