

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND
GREENBELT DIVISION

UNITED STATES OF AMERICA,)	
)	Case No.
Plaintiff,)	
)	
v.)	
)	
KOMI E. GBOTCHO dba EPLANET,)	
EPLANET LLP, EPLANET CORP., and)	
EPLANETE CORP.,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff, the United States of America, by and through its undersigned counsel, brings this action at the request and with the authorization of the Chief Counsel for the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States to permanently enjoin the defendant from acting as a federal tax return preparer. The United States complains of defendant, Komi E. Gbotcho, as follows:

1. This is a civil action brought under 26 U.S.C. §§ 7402(a), 7407, and 7408 to permanently enjoin Komi E. Gbotcho from directly or indirectly:
 - a. Acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
 - b. Advising, assisting, counseling, or instructing anyone about the preparation of a federal income tax return;
 - c. Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6701, or any other provision of the Internal Revenue Code; and

d. Engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

JURISDICTION AND VENUE

2. Jurisdiction over this action is conferred upon this Court by virtue of 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1340 and 1345.

3. Venue is proper in this district and division under 28 U.S.C. § 1391(b)(1) because the defendant resides in this district.

FACTUAL BACKGROUND

4. Komi E. Gbotcho (“Gbotcho”) has operated a tax return preparation business under various names, such as Eplanet, Eplanet LLP, Eplanet Corp., and Eplanete Corp. He operated his business in Silver Spring, Maryland.

5. The Internal Revenue Service (“Service”) estimates that for tax years 2010 through 2013, Gbotcho, through his business Eplanet, prepared and/or filed at least 1,309 tax returns.

Investigations of Gbotcho

6. The Service conducted an examination of Gbotcho with respect to the federal tax returns that he filed through his business for tax years 2009 and 2010.

7. During that investigation and the current investigation, 50 tax returns were examined, and adjustments were made to 48 of those tax returns, for an adjustment rate of 96%, and an average adjustment of \$5,063 for each tax return.

8. As a result of the investigation, the Service assessed penalties in the amount of \$223,500 against Gbotcho under 26 U.S.C. § 6694(a) and (b), and 26 U.S.C. § 6695(f).

9. The Service opened a new investigation of Gbotcho for tax year 2013 based on a belief that he is continuing to engage in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701. This investigation is ongoing.

10. The harm to the United States will increase if Gbotcho is not enjoined because he is likely to continue to prepare false federal tax returns for clients during the 2014 filing season.

False Personal Property Rental Deduction

11. Gbotcho continually and repeatedly prepared and/or submitted false and fraudulent tax returns for individuals by claiming a deduction for personal property rental expenses to reduce the individuals' adjusted gross income. By reducing his customers' income, Gbotcho lowered their tax liabilities or caused a tax refund to be issued to which they were not entitled.

12. For example, for two different customers, Gbotcho claimed a personal property deduction in the amount of \$12,856 on both tax returns. When asked about the deduction during an audit, both customers stated they had no rental property. One customer said he only provided his Form W-2 to Gbotcho for his tax return to be prepared. This customer also told the examiner that he had been referred to Gbotcho, because Gbotcho had a reputation for being able to get larger refunds for his customers than other return preparers.

13. Additionally, Gbotcho prepared a tax return for a customer that claimed a personal property rental deduction in the amount of \$9,850. During an audit, the customer said that she did not have any rental property and did not know that the deduction was claimed on her tax return. She also said that Gbotcho did not ask her if she had any rental property.

14. In another instance, Gbotcho prepared 2009 and 2010 tax returns for a customer claiming personal property rental deductions in the amounts of \$24,723 and \$28,748,

respectively. The customer told the Service that he had no rental property and did not know why the deduction was claimed on his tax returns.

15. For the 2013 tax year, Gbotcho claimed a personal property rental deduction in the same amount, \$9,850, on 12 of the 30 returns selected for audit.

False Employee Expense Deductions

16. Gbotcho continually and repeatedly prepared tax returns claiming false or inflated unreimbursed employee business expenses for non-deductible items such as multi-purpose clothing and commuting expenses. These expenses were claimed on Schedule A and taken as deductions, resulting in a lower tax liability or generating erroneous refunds for his customers.

17. For example, on one customer's 2009 tax return, Gbotcho claimed a deduction for employee business expenses in the amount of \$12,240. For the same customer, he claimed a deduction for employee business expenses in the amount of \$14,834 for 2010. During an audit, the customer stated that she told Gbotcho she had to buy suits for work and drive to work. She also said that Gbotcho grossly inflated the amounts of those expenses.

18. On another customer's 2010 tax return, Gbotcho claimed a deduction for employee business expenses in the amount of \$16,914. During an audit, the customer said that he had no unreimbursed employee expenses, and the deduction was claimed for commuting expenses.

Home Improvement Deduction

19. Gbotcho continually and repeatedly prepared income tax returns that improperly claimed deductions on Schedule A for "home improvement" expenses. These were amounts that his customers spent to repair or renovate their homes. By claiming these deductions, Gbotcho

reduced his customers' tax liabilities and/or caused them to receive refunds to which they were not entitled. These expenses are not deductible.

20. For example, on one customer's 2013 tax return, Gbotcho claimed a deduction in the amount of \$9,850 for home improvement. During an audit, the customer said he spent that amount to renovate a bathroom in his home.

21. In another instance, Gbotcho claimed a deduction for \$18,285 on a customer's 2009 tax return. The customer told the Service that the deduction was for repairs that he made to his home, such as fixing stairs and building a patio.

Harm Caused by Gbotcho

22. Gbotcho's customers were harmed because they paid Gbotcho to prepare accurate tax returns, but Gbotcho prepared returns that substantially understated their correct tax liabilities. Many customers now face large income tax deficiencies and may be liable for sizeable penalties and interest.

23. Gbotcho's conduct harms the United States because his customers are under-reporting and under-paying their correct tax liabilities. In addition, his conduct undermines public confidence in the administration of the federal tax system and encourages noncompliance with the internal revenue laws.

24. Gbotcho caused substantial revenue loss to the United States. For tax years 2010 through 2013, Gbotcho, through his business Eplanet, filed 1,309 known tax returns. Of that amount, 703 tax returns contained the personal property rental deduction and/or questionable Schedule A items discussed above, such as the employee business expense and home improvement expense. Applying the adjustment rate of 96% and the average adjustment of

\$5,063 listed above, the estimated tax harm caused by Gbotcho for tax years 2010 through 2013 is approximately \$3.4 million.

25. Gbotcho's conduct also harms the United States because the Internal Revenue Service must devote its limited resources to investigating Gbotcho, identifying his customers, ascertaining the customers' correct tax liabilities, recovering any refunds erroneously issued, and collecting any additional tax liabilities and penalties.

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

26. The allegations set forth in paragraphs 1 through 25 are realleged and incorporated by reference as though fully set forth herein.

27. Section 7407 of the Internal Revenue Code (26 U.S.C.) authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under section 6694 or engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, if the court finds that the preparer has engaged in such conduct and that injunctive relief is appropriate to prevent the recurrence of the conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction prohibiting only that specific enumerated conduct would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin that person from further acting as a return preparer.

28. Section 6694(a) penalizes a tax return preparer who prepares a return understating the taxpayer's liability due to an unreasonable position (one for which there is no substantial authority), and the preparer knew or should have known of the position.

29. Gbotcho has continually and repeatedly prepared, or assisted in the preparation of, and submitted tax returns that include false deductions. The returns prepared by Gbotcho contain unrealistic and unreasonable positions with no basis in fact. Gbotcho has understated his customers' correct tax liabilities and has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694.

30. Gbotcho's continual and repeated violations of 26 U.S.C. § 6694 fall within 26 U.S.C. 7407(b)(1) and thus are subject to an injunction under section 7407.

31. If he is not enjoined, Gbotcho is likely to continue to prepare and file false tax returns. Penalties and other administrative measures have been and continue to be insufficient to deter his conduct.

32. Gbotcho's continued and repeated conduct subject to an injunction under 26 U.S.C. § 7407, including his continual and repeated fabrication and inflation of expenses and deductions, demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent future violations of section 6694. Further, his willingness to continue preparing tax returns with false items after being investigated by the Service and having penalties assessed against him shows that a narrow injunction would be insufficient. Thus, Gbotcho should be permanently barred from acting as a return preparer.

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

33. The allegations set forth in paragraphs 1 through 32 are realleged and incorporated by reference as though fully set forth herein.

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

35. Section 6701(a) of the Internal Revenue Code penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability.

36. Gbotcho prepares federal tax returns for customers that he knows will understate their correct tax liabilities, because he knowingly prepares returns claiming false expenses and deductions. He also prepared tax returns for customers that were intended to be used, and were used, in connection with material matters arising under the internal revenue laws. Gbotcho's conduct thus violates 26 U.S.C. § 6701.

37. If the Court does not enjoin Gbotcho, he is likely to continue to engage in conduct subject to penalty under 26 U.S.C. § 6701. Gbotcho's preparation of false income tax returns is spread over numerous customers and tax years. Further, after being investigated by the Service and having penalties assessed against him, Gbotcho continued to run his business and prepare tax returns with the same false items. Injunctive relief is therefore appropriate under 26 U.S.C. § 7408.

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

38. The allegations set forth in paragraphs 1 through 37 are realleged and incorporated by reference as though fully set forth herein.

39. Section 7402 of the Internal Revenue Code authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws. An injunction under section 7402 can be entered "in addition to and not exclusive

of any and all other remedies of the United States in such courts or otherwise to enforce such laws.” 26 U.S.C. § 7402(a).

40. Gbotcho, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

41. Unless enjoined, Gbotcho is likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Gbotcho is not enjoined from engaging this conduct, the United States will suffer irreparable injury by wrongfully paying federal income tax refunds to individuals not entitled to receive them.

42. While the United States will suffer irreparable injury if Gbotcho is not enjoined, he will not be harmed by being compelled to obey the law.

43. Enjoining Gbotcho is in the public interest because an injunction, backed by the Court’s contempt powers if needed, will stop Gbotcho’s illegal conduct and the harm it causes the United States. Injunctive relief is therefore appropriate under 26 U.S.C. § 7402(a).

WHEREFORE, the United States of America prays:

A. That the Court find that Komi Gbotcho, through his various businesses, has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 and has continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the internal revenue laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court enter a permanent injunction pursuant to 26 U.S.C. § 7407 prohibiting Komi Gbotcho from acting as a federal tax preparer;

C. That the Court find that Komi Gbotcho has engaged in conduct subject to penalty under 26 U.S.C. § 6701 and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Komi Gbotcho has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct under 26 U.S.C. § 7402(a);

E. That the Court enter a permanent injunction pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, prohibiting Komi Gbotcho and all those in concert or participation with him from:

- 1) Acting as a federal tax return preparer, or assisting in or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- 2) Advising, assisting, counseling, or instructing anyone about the preparation of a federal income tax return;
- 3) Engaging in any other activity subject to penalty under 26 U.S.C. § 6694, 6701, or any other penalty provision in the Internal Revenue Code;
- 4) Representing, or appearing on behalf of, any person or entity before the Internal Revenue Service; and
- 5) Otherwise engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Komi Gbotcho to contact, within 30 days of the Court's order, by United States mail all

persons for whom he prepared, or assisted in preparing, federal tax returns to inform them of the permanent injunction entered against him;

G. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Komi Gbotcho to produce to counsel for the United States, within 30 days of the Court's order, a list that identifies by name, social security number, address, telephone number, and tax period(s) all persons for whom he prepared, or assisted in preparing, federal tax returns from tax year 2009 to the present;

H. That the Court retain jurisdiction over Komi Gbotcho and over this action to enforce any permanent injunction entered against him;

I. That the Court authorize the United States to engage in post-judgment discovery to monitor Komi Gbotcho's compliance with the terms of any permanent injunction entered against him; and

//

//

J. That the Court award such other and further relief, including attorney's fees and the costs of this action, as may be deemed just and proper under the circumstances.

Date: February 3, 2015

CAROLINE D. CIRAULO
Principal Deputy Assistant Attorney General

/s/ Katherine M. Reinhart
KATHERINE M. REINHART
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 227
Washington, D.C. 20044
202-307-6528 (v)
202-514-6866 (f)
Katherine.Reinhart@usdoj.gov

Of Counsel:

ROD J. ROSENSTEIN
United States Attorney
36 South Charles Street, Fourth Floor
Baltimore, Maryland 21201