

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF KENTUCKY

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. <u>3:15-cv-410-DJH</u>
)	
NAPOLEON L. JACKSON,)	
Individually and doing business as)	
NJ Mobile Tax Service, LLC,)	
)	
Defendant.)	

COMPLAINT

The United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States of America, brings this suit to permanently enjoin defendant, Napoleon L. Jackson (“Defendant”), and all persons and entities in active concert or participation with him, from directly or indirectly:

- a. Preparing or filing, or assisting in the preparation or filing of any federal tax return for any other person or entity;
- b. Engaging in any conduct or activity subject to penalty under section 6701, *i.e.*, preparing or assisting others in the preparation of any tax form or other document to be used in connection with a material matter arising under the internal revenue laws, and which defendant knows will (if so used) result in the understatement of liability;¹
- c. Engaging in any conduct or activity subject to penalty under section 6694 by understating taxpayers’ liabilities;
- d. Engaging in any conduct or activity subject to penalty under section 6695 by (1) failing to furnish a copy of the return to the taxpayer; (2) failing to sign the return as the preparer; and (3) negotiating a tax refund check; and

¹ Unless otherwise indicated, all references to “section” are to Title 26 of the United States Code (the Internal Revenue Code, or “Code”), and all references to “regulations” are to the Treasury Regulations promulgated under that title.

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

JURISDICTION AND VENUE

1. Jurisdiction exists under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7407, 7408, and 7402(a).
2. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)(1) and (b)(2), and 28 U.S.C. § 1396 because Defendant Napoleon Jackson, doing business as NJ Mobile Tax Service, LLC, resides in Louisville, Kentucky, within this judicial district.

DEFENDANT

3. Defendant Napoleon Jackson (“Jackson”) resides in Louisville, Kentucky, which is within the jurisdiction of this Court.

JACKSON’S TAX RETURN BUSINESS

4. Jackson is an income tax preparer within the meaning of § 7701(a)(36). He prepares other people’s tax returns for compensation, charging fees of \$100 or more to prepare individual income tax returns.
5. Jackson is the owner of NJ Mobile Tax Service, LLC (“NJ Mobile”).
6. Jackson began preparing tax returns for compensation in 2009. In 2010, Jackson operated his tax return preparation business under the name of Advantage Tax and Business Service.
7. In a flyer for NJ Mobile, Jackson offers to travel to his customers’ homes and prepare their tax returns. The flyer invites potential customers to “Let me do the numbers & I’ll even come to you,” and boasts that “[Jackson] can increase your chances for a higher return.”

8. The flyer described above also lists the website www.njmobiletax.com for NJ Mobile.

JACKSON HAS REPEATEDLY PREPARED FALSE AND FRAUDULENT FEDERAL INCOME TAX RETURNS

9. Jackson has prepared numerous federal income tax returns which willfully understated his customers' federal income tax liabilities and claimed inflated tax refunds through a variety of schemes.

10. More specifically, Jackson prepared his customers' returns that claimed false Schedule A expenses for mortgage interest, real estate taxes, and charitable contributions; false education credits; false dependents; and fabricated Schedule C business losses.

11. In addition, Jackson failed to provide his customers copies of the returns that he prepared and filed for them. Since many or all of his customers were not supplied with copies of their returns that Jackson prepared for them, many of his customers had no information regarding the items claimed on the returns or the exact amount of the tax refunds claimed on their behalf.

12. Jackson diverted portions of his customers' tax refunds to himself in violation of § 6695(f).

IRS INVESTIGATION OF JACKSON

13. The Internal Revenue Service ("IRS") estimates that Jackson prepared and filed 162 federal income tax returns for tax years 2010 and 2011.

14. For tax year 2011, Jackson prepared and filed at least 41 returns that claimed education tax credits on behalf of his customers. The IRS sampled 17 returns prepared and filed by Jackson in 2011 that included education tax credits. Of these 17 returns, 14 of the underlying taxpayers did not have a Form 1098-T – the tax form that reflects payments and amounts billed

of qualified tuition and related expenses for taxpayers for each calendar year – on file for themselves or their dependents, and an additional taxpayer had a Form 1098-T that showed a lower amount than the amount reported on the return by Jackson.

15. For tax year 2011, Jackson prepared and filed at least 68 returns that claimed the mortgage interest deduction on behalf of his customers. The IRS examined 18 returns that were prepared and filed by Jackson in 2011 that claimed a deduction for mortgage interest. Four of those returns claimed deductions in amounts different than the amounts listed on the Form 1098-INT filed with the IRS. Thirteen of the returns had no Form 1098-INT on file with the IRS that would corroborate the taxpayers' entitlement to the mortgage interest deductions claimed by Jackson on behalf of his customers.

16. Based on the IRS's examinations of the returns of 20 customers of Jackson for a total of 35 tax years, the IRS made additional tax assessments that totaled \$153,240 and additional penalty assessments of \$21,529 against Jackson's customers.

**JACKSON PREPARED AND FILED RETURNS THAT CLAIMED FRAUDULENT
MORTGAGE INTEREST DEDUCTIONS**

17. Jackson prepared and filed tax returns that inflated his customers' deductions for mortgage interest paid under § 163. This resulted in returns which understated the tax liabilities of Jackson's customers and which inflated their tax refunds.

18. In one instance, Jackson prepared and filed a tax return claiming a mortgage interest deduction for a taxpayer that rented a home, did not claim to own a home, and did not provide Jackson with a Form 1098-INT, an informational tax form that evidences the payment of mortgage interest. Jackson prepared and filed the return in question from the customer's rental home.

19. In another case, Jackson prepared and filed a tax return that claimed the taxpayer was entitled to a mortgage interest deduction of \$7,908, despite the fact the customer did not provide Jackson with a Form 1098-INT and did not tell Jackson he owned any real property. In that instance, Jackson visited the customer at his rented home to pick up his Form W-2.

**JACKSON PREPARED AND FILED RETURNS THAT CLAIMED FRAUDULENT
REAL ESTATE TAX DEDUCTIONS**

20. Jackson prepared and filed tax returns that fraudulently increased his customers' deductions for real estate taxes paid under § 164, which resulted in the understatement of his customers' tax liabilities and claims for inflated tax refunds.

21. In one case, a customer selected Jackson as a tax preparer in part because the customer did not own property. Jackson prepared and filed a tax return for this customer that included a real estate tax deduction of \$1,582, despite the fact the customer did not own property and provided no evidence that he had paid any real estate taxes. The IRS disallowed the deduction in full.

22. In another situation, Jackson prepared and filed a tax return from the rental home of a customer that claimed a real estate tax deduction of \$1326, despite the fact the customer did not own a home and the customer made no suggestion to Jackson that the customer paid real estate taxes during the year in question. The IRS later disallowed the deduction in full.

**JACKSON PREPARED AND FILED RETURNS THAT CLAIMED FRAUDULENT
DEPENDENTS ON BEHALF OF HIS CUSTOMERS**

23. Jackson repeatedly and continually made fraudulent claims on behalf of his customers for dependents that were not, in fact, dependents of those customers, which resulted in understatements of tax liabilities and claims for inflated tax refunds.

24. Jackson prepared and filed a tax return for one customer that listed three dependents despite the fact the taxpayer “did not give the preparer any dependents to claim” and had no children. The three dependents listed by Jackson on this return were all relatives of Jackson, not the taxpayer, including Jackson’s ten-year old daughter.

25. Jackson prepared and filed a tax return for another customer that claimed personal exemptions for two dependent children of the sister of the taxpayer that did not live with him at any point during the tax year. Jackson told the customer that the customer could claim these children as dependents despite his knowledge that they did not meet the requirements of § 152(c)(1) to qualify as a dependent of that taxpayer.

JACKSON PREPARED AND FILED RETURNS THAT CLAIMED IDENTICAL BUSINESS DEDUCTIONS FOR THE SAME CUSTOMERS

26. Jackson repeatedly and continually prepared and filed tax returns that claimed identical amounts of business deductions for the same customers for successive tax years, which resulted in understatements of tax liabilities and claims for inflated refunds.

27. For a one customer, Jackson prepared and filed tax returns for two consecutive years that claimed the same amounts of business expenses on Schedule C for the following ten items: advertising expenses, contract labor expenses, depreciation, legal and professional expenses, office expenses, repairs, supplies, travel expenses, meals and entertainment expenses, and utilities. The IRS ultimately disallowed all of these expenses for both years, and the understated expenses resulted in a loss of tax revenue for the United States of \$4,382.

28. For a second customer, Jackson prepared and filed two tax returns for two consecutive years that claimed the same amounts of business expenses on Schedule C for the following nine items: legal and professional expenses, repairs, travel expenses, meals and

entertainment expenses, utilities, automobile expenses, insurance expenses, other/miscellaneous expenses, and business home use expenses. The IRS ultimately disallowed all of these expenses for both years, and the understated expenses resulted in a loss of tax revenue for the United States of \$5,735.

29. For a third customer, Jackson prepared and filed two tax returns for two consecutive years that claimed the same amount of business expenses on Schedule C for the following eleven items: cost of goods sold, depreciation, office expenses, repairs, travel expenses, meals and entertainment expenses, utilities, automobile expenses, insurance expenses, other/miscellaneous expenses, and business use home expenses. Jackson also failed to report Schedule C income for this customer that the customer informed Jackson of during their meeting.

JACKSON PREPARED AND FILED RETURNS THAT CLAIMED FRAUDULENT CHARITABLE CONTRIBUTION DEDUCTIONS

30. Jackson repeatedly and continually fraudulently claimed charitable contribution deductions on behalf of his customers to reduce his customers' tax liabilities or generate inflated refunds for them.

31. After a set of customers contacted Jackson to inform him that the IRS initiated an audit against them, Jackson offered to provide them with a falsified letter from a church to indicate the customers made \$5,500 in cash charitable contributions during the taxable year. The IRS ultimately disallowed \$6,000 in charitable contribution deductions for these taxpayers.

32. Jackson prepared and filed a tax return for a second customer that claimed \$1,650 in cash contributions, despite the fact he never spoke to the customer about charitable

contributions and that the customer, in fact, made no charitable contributions during the tax year for which Jackson prepared and filed the return.

**JACKSON PREPARED AND FILED RETURNS THAT CLAIMED FRAUDULENT
AMERICAN OPPORTUNITY TAX CREDITS**

33. Jackson repeatedly and continually fraudulently claimed the American Opportunity Tax Credit on behalf of his customers to reduce his customers' tax liabilities or generate erroneous refunds for his customers.

34. The American Opportunity Tax Credit makes education more affordable to Americans by providing a tax credit for certain education expense paid by the taxpayer during the tax year.

35. Jackson prepared and filed a tax return that claimed the American Opportunity Tax Credit for one customer without that customer's knowledge, and despite the fact that the customer provided Jackson no information that indicated the customer attended college during the tax year in question.

36. Jackson prepared and filed a tax return for a second customer that also claimed the American Opportunity Tax Credit, despite the fact the customer did not provide him a Form 1098-T, and did not suggest to Jackson that the customer went to college or was otherwise eligible for the credit for the tax year in issue.

37. Of 22 tax returns sampled by the IRS that were prepared and filed by Jackson on behalf of his customers, 21 claimed American Opportunity Tax Credits that were ultimately disallowed, resulting in \$39,462.20 of disallowed tax credits and an error rate of 95 percent.

JACKSON FAILED TO PROVIDE CUSTOMERS COPIES OF THEIR TAX RETURNS

38. Jackson repeatedly and continually prepared and filed tax returns on behalf of his customers without providing those customers with a copy of the tax return.

39. Section 6695(a) penalizes any person who is a tax return preparer who fails to comply with § 6107(a), which requires tax return preparers to furnish their customers with a completed copy of a tax return no later than the time the return is presented for the taxpayer's signature.

40. Jackson prepared and filed a tax return on behalf of one of his customers for the 2011 tax year and failed to provide a copy of the return until significantly after the time the return was filed, when the customer advised Jackson that the customer intended to apply for financial aid to continue the customer's education.

41. Jackson prepared and filed the tax return for one customer for the 2011 tax year, and failed to provide her with a copy of the return at the time of filing. Jackson also evaded follow-up phone calls from the customer that requested a copy of the tax return.

JACKSON DIVERTED CUSTOMERS' REFUNDS TO HIMSELF AND THREATENED CUSTOMERS THAT FAILED TO COOPERATE WITH HIS SCHEME

42. Jackson repeatedly and continually diverted the tax refunds of his customers to himself and at times threatened customers that failed or refused to participate in this portion of his scheme, in violation of §6695(f).

43. In one case, Jackson used a service known as Santa Barbara Tax Products Group to divert a customer's refund to his personal account. The customer later received only \$4599 of the \$9308 shown on his tax return that Jackson prepared and filed on the customer's behalf.

44. In a second case, Jackson told a set of customers for whom he prepared and filed a tax return that he would charge a fee of \$150 for preparing and filing the customers' federal and state income tax returns. Jackson listed his own bank account number on the tax return and then wired the refund to the customers, less \$400 that he retained for himself for preparing and filing the tax return on behalf of the customers, a \$250 increase in his previously stated fee.

45. In a case where Jackson failed to provide for his fee to be taken from the return of the customer, he began threatening and harassing the customer. His harassing actions included posting on the customer's Facebook page, text messaging, voicemails laced with vulgarities, threatening to disrupt the customer's federal student aid, and making a choking motion in the direction of the customer while mouthing the words "b****, you got my money."

HARM TO UNITED STATES OF AMERICA

46. Jackson has caused substantial revenue losses to the United States of America.

47. The Service audited 31 tax returns prepared by Jackson on behalf of 20 customers for tax years 2010 and 2011. An examination of these 31 returns by the IRS resulted in an increase in taxes owed in each and every instance, an error rate of 100 percent.

48. Jackson prepared at least 162 returns for tax years 2010 to 2011, and continues to prepare returns today.

49. The total projected harm to the United States of America from loss of revenue due to Jackson's misconduct in approximately 162 returns prepared for tax years 2010 and 2011 is estimated to be in excess of \$808,931.

50. In addition to this known and estimated tax loss, the government has used its resources and agents and others to audit returns prepared by Jackson.

COUNT I
Injunction Under 26 U.S.C. § 7407

51. Plaintiff incorporates by reference the allegations in paragraphs 1 through 50.

52. Under § 7407, Congress has authorized the United States of America to seek an injunction against any tax preparer who, among other things, has engaged in any conduct subject to penalty under §§ 6694 or 6695.

53. If a return preparer's conduct is continual and/or repeated and the court finds that a narrower injunction (*i.e.*, prohibiting specific enumerated conduct) would not be sufficient to prevent the preparer's interference with the proper administration of federal tax laws, the court may enjoin the person from acting as a return preparer altogether.

54. Code Section 6694(a) penalizes a tax return preparer who prepares a tax return that understates the taxpayer's liability by taking an unreasonable position (*i.e.*, one for which there is no substantial authority) on the return, and the preparer knew or should have known of the position was unreasonable.

55. Code Section 6694(b) penalizes a tax return preparer who prepares a tax return or claim that constitutes: (1) a willful attempt to understate the liability; or (2) evidences a reckless and intentional disregard of rules or regulations.

56. Code Section 6695(a) penalizes a tax return preparer that fails to furnish taxpayers with a copy of their return.

57. Code Section 6695(f) penalizes a tax return preparer who endorses or otherwise negotiates a check made in respect of the taxes imposed by the Code issued to a taxpayer.

58. Jackson has continually and repeatedly prepared and filed federal tax returns that contained unreasonable positions that resulted in understatements of his customers' tax liabilities

due to falsely claimed Schedule A expenses for mortgage interest, real estate taxes, and charitable contributions; education credits; dependents; and Schedule C business losses; and that were thus subject to penalty under § 6694(a).

59. Jackson knew or should have known the positions taken on his customers' returns as summarized in paragraph 58, above, were unreasonable, and thus his conduct violated § 6694(a).

60. The returns prepared by Jackson, as summarized in paragraph 58, above, willfully attempted to understate the tax liabilities of his customers, and Jackson prepared those returns with a reckless or intentional disregard of tax rules and regulations, in violation of § 6694(b).

61. Jackson consistently and continually failed to provide his customers with copies of their tax returns in violation of § 6107(a).

62. Jackson consistently and continually diverted all or portions of his customers' tax refunds to his personal bank account and later distributed only a portion of that refund to the customers in question, in violation of § 6695(f).

63. Jackson continues to operate and market his tax return preparation business.

64. Because Jackson is likely to continue preparing federal tax returns for customers that enable those customers to receive greater refunds than they are legitimately entitled to receive, injunctive relief is necessary to prevent his continued misconduct and loss of federal tax revenue.

65. Penalties and other administrative measures are insufficient to deter Jackson's misconduct.

66. Accordingly, Jackson should be permanently enjoined under § 7407 from acting as an income tax preparer and/or assisting in the preparation of federal income tax returns

because a more limited injunction would be insufficient to stop his interference with the proper administration of the tax laws.

COUNT II
Injunction Under 26 U.S.C. § 7408

67. Plaintiff incorporates by reference the allegations in paragraphs 1 through 66.

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

69. Code Section 6701(a) 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.

70. Jackson prepared and filed the returns of his customers, described above and summarized in paragraph 58, above, knowing and having reason to believe they would be used in connection with material matters arising under the internal revenue laws and knowing that if so used they would result in an understatement of the customers' tax liabilities.

71. If the Court does not enjoin Jackson, he is likely to continue to engage in penalty conduct under § 6701.

72. Injunctive relief is therefore appropriate under 26 U.S.C. § 7408 to prevent the recurrence of the conduct complained above.

COUNT III
Injunction Under 26 U.S.C § 7402(a)

73. Plaintiff incorporates by reference the allegations in paragraphs 1 through 72.

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

75. Jackson, through the actions described above, engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

76. Unless enjoined, Jackson is likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws.

77. If Jackson is not enjoined from engaging in fraudulent and deceptive conduct, the United States of America will suffer irreparable injury as a result of the understatement of Jackson's customers' federal tax liabilities, and through the wrongful issuance of federal income tax refunds to individuals not entitled to receive them.

78. Enjoining Jackson is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Jackson's illegal conduct and the harm it causes the United States of America and its citizens.

79. The Court should impose injunctive relief under § 7402(a).

WHEREFORE, the United States of America prays for the following:

- A. That the Court find that Napoleon Jackson, as a return preparer who operated NJ Mobile Tax Service, LLC, continually and repeatedly engaged in conduct subject to penalty under §§ 6694 and 6695, and 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 find that Napoleon Jackson engaged in conduct subject to a penalty under § 6701, and that injunctive relief under § 7408 is appropriate to prevent a recurrence of that conduct;
- C. That the Court find that Napoleon Jackson 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 pursuant to the Court's inherent equity powers and § 7402(a);
- D. That the Court, pursuant to §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Napoleon Jackson, and all those in active concert or participation with Napoleon Jackson, from:
 - (a) Acting as federal tax return preparers 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 other than themselves;
 - (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 §§ 6694, 6695, 6700, 6701, or any other penalty provision of the Internal Revenue Code;
 - (d) Representing, or appearing on behalf of, any person before the Internal Revenue Service; and
 - (e) Otherwise engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.
- E. That the Court, pursuant to §§ 7402(a), 7407, and 7408, enter an order requiring Napoleon Jackson to contact, at his own expense, within 30 days of this Court's

order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom he prepared or assisted in preparing federal tax returns, to inform them of the permanent injunction entered against him;

- F. That the Court, pursuant to §§ 7402(a), 7407, and 7408, enter an order requiring Napoleon Jackson to produce to counsel for the United States of America, within 30 days of this Court's order, a list that identifies by name, Social Security number, address, e-mail address, telephone number, and tax period(s), all persons for whom he prepared, or assisted in preparing, federal tax returns;
- G. That the Court retains jurisdiction over Napoleon Jackson and over this action to enforce any permanent injunction against him;
- H. That the United States of America be entitled to conduct discovery to monitor Napoleon Jackson's compliance with the terms of any permanent injunction entered against him; and
- I. That the Court grants the United States of America such other and further relief, including costs, as is just and reasonable.

Dated: May 26, 2015

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Acting Assistant Attorney General

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