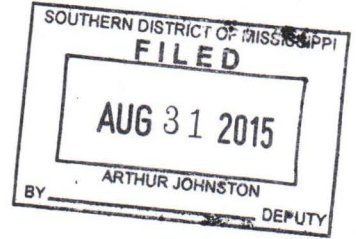


IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION



UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 TERESA CHISM, fka TERESA WALLACE,)
 dba LADY T. TAXES,)
)
 Defendant.)
 _____)

Civil Case No. 3:15 cv 636 TSL-RHW

COMPLAINT FOR PERMANENT INJUNCTION

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

1. The United States brings this action to restrain and enjoin Teresa Chism and all those acting in active concert with or under her direction and/or control, from:
 - a. preparing, filing, or assisting in the preparation of federal tax returns, amended returns, and other related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than themselves;
 - b. preparing or assisting in the preparation of federal tax returns that they know will result in the understatement of any tax liability or the overstatement of a federal tax refund;
 - c. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, or any other penalty provision in the Internal Revenue Code; and
 - d. engaging in any fraudulent or deceptive conduct which substantially interferes with the proper administration and enforcement of the internal revenue laws.

2. This action is authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and is brought at the direction of a delegate of the Attorney General of the United States.

Jurisdiction and Venue

3. This Court has jurisdiction to hear the action pursuant to 28 U.S.C. §§ 1340, 1345 and 26 U.S.C. § 7402(a).

4. Venue is proper in this Court under 26 U.S.C. § 7407 and 28 U.S.C. § 1391(b) because the defendant resides within this District and has her principal place of business within this District, and a substantial part of the events or omissions which give rise to the United States' claims in this action occurred within this District.

5. Defendant Chism resides in Durant, Holmes County, Mississippi. She also conducts her tax return business in Durant under the name "Lady T. Taxes."

Defendant's False and Fraudulent Activities

6. Teresa Chism is a paid tax return preparer who prepares returns that overstate her customers' claims for refunds by fraudulently claiming entitlement to a variety of refundable credits, including the Earned Income Tax Credit (EITC) and education credits. As part of this scheme, Chism frequently prepares fraudulent forms W-2 to increase the income her customers report in order to claim the maximum EITC available. Chism engages in further fraudulent and deceptive practices by deliberately failing to maintain proper records of her customers' eligibility for the EITC.

7. Chism began preparing tax returns in 1997. She claims to have received training in the preparation of income tax returns through H&R Block courses. In 2003, Chism was convicted of check forgery and the passing of counterfeit currency in violation of Miss.

Code Ann. § 97-21-59. Chism was incarcerated for these offenses from February 2003 to September 2007.

8. IRS records show that following her release from prison, Chism prepared 2,281 returns between 2010 and 2013. A summary of the returns she prepared each year is as follows:

Filing Year	# of Returns	# of Refund Returns	% of Refund Returns
2010	817	810	99%
2011	588	585	99%
2012	473	471	99%
2013	403	403	100%

9. In 2011, the IRS began investigating Chism's return preparation activities because of the high proportion of returns she prepared claiming the EITC. The EITC is a refundable credit and is paid by the government even where the credit exceeds any tax liability. In an effort to curb abuse, the IRS has issued regulations that describe specific due diligence steps a return preparer must take to determine a taxpayer's eligibility and the amount the taxpayer can legally claim. The IRS sought to determine whether Chism was complying with these steps, and discovered a pattern of abuse and misconduct that warrant an injunction that bars Chism from preparing returns.

Fabricated Forms W-2

10. During its investigation, the IRS discovered what it suspected were forged Forms W-2 that Chism submitted with many of her customers' returns. Because the EITC is only available to taxpayers with earned income in a tax year, a fabricated W-2 can inflate a customer's EITC by falsely showing a certain level of earned income that would maximize the taxpayer's EITC.

11. For example, on the 2012 return of taxpayer L.G., Chism included a fraudulent Form W-2 from Tyson Foods purportedly showing L.G. received \$20,308 in wages. In a signed declaration, L.G. stated that he did not work for Tyson Foods in 2012. L.G.'s 2012 return falsely claimed the EITC in the amount of \$4,555. Without the fabricated W-2 wages, L.G. could not have claimed any amount of EITC.

12. Likewise, on the 2012 return of taxpayer J.B., Chism included a fabricated Form W-2 from Tyson Foods purportedly showing that J.B. earned \$11,681 in wages. In a signed declaration, J.B. stated he had never worked for Tyson Foods. J.B.'s 2012 return claimed an EITC of \$3,169, none of which could have been claimed without the fabricated W-2 wages.

13. On the 2012 return of taxpayer L.D., Chism included a fabricated W-2 from Tyson Foods purportedly showing that L.D. earned \$4,661 in wages. L.D.'s 2012 return also included an EITC claim for a maximum \$5,236, only \$3,810 of which would have been allowed absent the fabricated wages from Tyson. In a signed declaration, L.D. stated that she did not work for Tyson in 2012.

14. To date, the IRS has uncovered 27 fraudulent forms W-2 submitted by Chism in the 2012 tax year, all purporting to demonstrate that customers for whom the EITC was claimed earned wages at Tyson Foods.

15. A representative of Tyson Foods confirmed that neither L.G., J.B., L.D., nor any of the other 24 taxpayers for whom Chism created a Form W-2 in 2012 worked at Tyson in 2012.

16. For the 2015 filing season, the IRS has already discovered 20 fraudulent Forms W-2 submitted with claims for the EITC. Again, a representative of Tyson Foods verified that these individuals did not earn wages at Tyson in 2014, as their W-2s appear to demonstrate.

While the IRS continues to investigate this issue, IRS records indicate that Chism submitted 162 returns in 2015 purporting to demonstrate wages earned at Tyson Foods, at least 77% of which do not match the amounts reported (or not reported) to the IRS by Tyson Foods.

False Education Credits

17. Chism has repeatedly and continually claimed improper refundable education credits for taxpayers who did not incur qualifying expenses. In some instances, Chism fabricated the name of the "student" for whom the credit was claimed.

18. For example, on taxpayer R.C.'s 2012 return, Chism claimed a refundable education credit related to a "Nicholas Taylor." In a signed declaration by R.C., the taxpayer confirms having no knowledge of anyone by that name, and never provided Chism with any information related to such a person, or otherwise gave Chism any reason to believe that R.C. was eligible to claim the refundable education credit.

19. Similarly, Chism claimed refundable education credits on the 2012 return of T.P. for the taxpayer, the taxpayer's daughter, and the taxpayer's brother. In a signed declaration, T.P. stated that neither she nor her brother had attended college in 2012, and she did not tell Chism anything that would lead her to believe that they were eligible for the refundable education credit.

20. Chism claimed refundable education credits on the 2012 return of T.J. for the taxpayer, the taxpayer's son, and the taxpayer's brother. Chism's customer files, provided to the IRS during its investigation, included a notation that T.J.'s brother was not a student. IRS data contained no corresponding 1098-T data, submitted by an educational institution, for T.J., her son, or her brother. Chism nevertheless claimed an education credit related to T.J.'s

attendance at Holmes Community College, her son's attendance at Jackson State University, and her brother's attendance at the University of Phoenix.

Failure to Exercise Due Diligence

21. Internal Revenue Code section 6695(g) and the accompanying regulations require a return preparer claiming the EITC for a customer to, *inter alia*, make reasonable inquiries if the information provided by the taxpayer appears to be incorrect, incomplete, or inconsistent, contemporaneously document the inquiries made and the responses thereto, and maintain copies of documents in the customer files supporting eligibility.

22. The IRS investigation revealed that Chism did not follow the due diligence requirements. Specifically, none of the 178 customer files the IRS examined in 2012 documented any inquiry by Chism of her customers' eligibility to claim the EITC or facts that showed the customers were entitled to claim the credit. As part of the investigation, the IRS asked Chism to turn over her files for other customers who claim the EITC, but Chism refused to hand over for review an additional 69 requested files.

23. Having determined that Chism failed to comply with the due diligence requirements of section 6695(g) with respect to the 247 EITC claims it examined (including the 69 claims for which no documents were provided) the IRS assessed \$24,700 in penalties (\$100 for each due diligence violation) against Chism. Chism has yet to pay the penalties and now owes, including interest, \$26,940.04.

24. IRS records indicate that Chism continued to prepare a high percentage of EITC and refund returns after the due diligence audit. In 2014, given Chism's documented lack of due diligence, the IRS made a second visit to Chism's business to check on her compliance with the EITC due diligence requirements. That second investigation revealed that Chism had

not corrected any of the previously-identified issues. Of the 20 customer files requested and reviewed by the IRS, all 20 were found to be deficient. Again, Chism failed to properly document her customers' eligibility for the EITC.

25. For example, Chism claimed the EITC on taxpayer L.G.'s 2012 tax return and claimed L.G.'s sister as a qualifying child. In a signed declaration, L.G. claims that Chism did this without L.G.'s knowledge, did not ask L.G. any questions about qualifying children that might reside with him, and requested no documents to support the relationship or residency of the claimed qualifying child. According to L.G., the only document Chism required prior to the preparation of his income tax return was his driver license.

26. Chism also claimed taxpayer S.C.'s sister as a qualifying child on S.C.'s 2012 tax return, and claimed a maximum EITC of \$3,169. According to the Form 8867 (Paid Preparer's Earned Income Credit Checklist) prepared by Chism, S.C.'s sister was disabled, and Chism verified this by reviewing a doctor statement. Despite plain language obligating Chism to keep copies of any such statement, none appears in the files provided to the IRS during its 2014 investigation. Nor does the file contain any documents establishing the residency of S.C.'s sister, or the reason the absent parents are not claiming the sister on their returns.

2015 Filing Season

27. Preliminary IRS data for the 2015 filing season suggest that Chism continues to engage in the same patterns of fraudulent and abusive conduct described above. Only one of the 564 returns she submitted did not claim a refund. At least 473 of the 564 returns claim the EITC. At least 444 of 564 returns claim education credits.

Harm Caused by Chism's Actions

28. Chism's customers have been harmed by her actions because they paid fees for the preparation of proper tax returns, but Chism and her businesses have prepared returns

that created or inflated improper refunds. Many customers are now liable for erroneously-claimed refunds and may be further liable for sizable penalties and interest.

29. Chism's conduct harms the United States because her customers are claiming refunds to which they are not entitled. To date, the IRS has completed audits of 220 returns prepared by Chism between 2011 and 2014, comprising a sample of returns with claims for the EITC or other credits. The IRS found that 98% of these returns claimed the EITC and/or other refundable credits totaling more than \$1 million that Chism's customers were not eligible to claim.

30. In addition to the direct harm caused by preparing tax returns that fraudulently create or overstate her customers' refunds, Chism's activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

31. Chism further harms the United States because the IRS must devote its limited resources to identifying her customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting additional taxes and penalties owed.

Count I: Injunction under 26 U.S.C. § 7407

32. The United States incorporates by reference the allegations in paragraphs 1 through 31 above.

33. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from engaging in certain prohibited conduct or from further acting as a return preparer. An injunction is warranted where the preparer's conduct, *inter alia*, includes:

- (1) engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a return preparer who prepares a return that contains an

understatement of tax liability or overstatement of a refund that is due to an unreasonable position (as defined by section 6694(a)(2)) which the return preparer knew or should have known was unreasonable;

- (2) engaging in conduct subject to penalty under 26 U.S.C. § 6695, which penalizes a tax return preparer for, *inter alia*, failing to exercise the prescribed level of diligence while determining a taxpayer's eligibility for the Earned Income Credit; or
- (3) engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

34. In order for a court to issue such an injunction, the court must find (1) that the preparer has engaged in the specified conduct defined in paragraph 33, and (2) that injunctive relief is appropriate to prevent the recurrence of the conduct.

35. The court may permanently enjoin the person from further acting as a federal tax return preparer if it finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e. 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.

36. Chism has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing returns that overstate the customers' refunds based upon unreasonable and reckless positions. As described in paragraphs 6 through 31 above, Chism prepares returns that claim credits to which the taxpayer is not entitled. She does so with the knowledge that the positions taken on the returns are unreasonable and lacked substantial authority. Chism has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694(a).

37. As described in paragraphs 21 through 26, above, Chism has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §6695(g) by failing to exercise the prescribed level of EITC due diligence. She has done so despite two separate reviews by the IRS and the assessment of penalties for failure to comply with the law.

38. Chism has continually and repeatedly engaged in additional conduct which interferes with the proper administration of the internal revenue laws and justifies an injunction under 26 U.S.C. § 7407.

39. Only a permanent injunction against acting as a return preparer, as opposed to a narrower injunction against specified conduct, will suffice to secure Chism's compliance with the tax laws and put an end to her substantial interference with the administration of the tax laws. The imposition of penalties has failed to deter Chism. As described above, Chism engages in a variety of fabrications and manipulations to achieve the intended tax results. False EITC claims, fabricated Forms W-2, and false education credits are but a few of the schemes that the IRS has uncovered thus far, but there may be other schemes employed by Chism to understate tax liabilities or inflate claims for refunds. This underscores the need to enjoin Chism from all tax preparation.

Count II: Injunction under 26 U.S.C. § 7402(a)

40. The United States incorporates by reference the allegations in paragraphs 1 through 39 above.

41. 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.

42. Chism, through the actions described above, has repeatedly and continually engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

43. Unless enjoined, Chism is likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If she is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them, much of which will never be discovered and recovered. The United States will also suffer irreparable injury because it will have to devote substantial unrecoverable time and resources to auditing Chism's customers to detect future returns understating her customers' liabilities or overstating their refunds.

44. While the United States will suffer irreparable injury if Chism is not enjoined, she will not be harmed by being compelled to obey the law.

45. Enjoining Chism is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop her illegal conduct and the harm it causes the United States.

46. The Court should therefore impose injunctive relief under 26 U.S.C. § 7402(a).

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

A. That the Court find that Teresa Chism has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695 and has continually and repeatedly engaged in other fraudulent and deceptive conduct that substantially interferes with the

administration of the tax laws, and that injunctive relief barring her from acting as federal tax return preparer is appropriate under 26 U.S.C. § 7407 to prevent recurrence of that conduct;

B. That the Court find that Chism has engaged in conduct that substantially 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 26 U.S.C. § 7402(a);

C. That the Court enter a permanent injunction prohibiting Chism, and all those in active concert or participation with her from:

- (1) 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, including any electronically-submitted tax returns or tax-related documents, for any person or entity other than herself;
- (2) preparing or assisting in preparing or filing federal tax returns, amended returns, or other related documents or forms that understate federal tax liability or overstate federal tax refunds based upon positions that she knows or reasonably should know are unreasonable;
- (3) engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, or any other penalty provision in the Internal Revenue Code; and
- (4) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;

D. That the Court enter an injunction requiring that Chism, within 30 days of entry of the injunction, contact by United States mail and, if an e-mail address is known, by e-mail, all persons for whom she prepared a federal tax return since January 1, 2010 to inform them of the

permanent injunction entered against Chism, including sending a copy of the order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court, and file with the Court a sworn certificate stating that she has complied with this requirement;

E. That the Court enter an injunction requiring Chism to produce to counsel for the United States within 30 days a list that identifies by name, social security number, address, e-mail address, telephone number, and tax period(s) all persons for whom she prepared federal income tax returns or claims for refund since January 1, 2010;

F. That the Court enter an injunction requiring Chism to produce to counsel for the United States within 30 days copies of all federal income tax returns that she prepared since January 1, 2010;

G. That the Court enter an injunction requiring Chism to provide a copy of the Court's order to all of her principals, officers, managers, employees, and independent contractors within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person to whom she provided a copy of such Order;

H. That the Court order, without further proceedings, the immediate revocation of any Preparer Tax Identification Number (PTIN) that is held by, assigned to, or used by Chism, pursuant to 26 U.S.C. § 6109;

I. That the Court order the immediate revocation of any Electronic Filing Identification Number (EFIN) held by, assigned to, or used by Chism;

J. That the United States be entitled to conduct discovery to monitor Chism's compliance with the terms of any permanent injunction entered against her;

K. That the Court retain jurisdiction over Chism and over this action to enforce any permanent injunction entered against her; and

L. That the Court grant the United States such other and further relief, including costs, as is just and equitable.

Dated: August 31, 2015

Respectfully submitted,

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