

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Case No: 6:14-cv-1534-Orl-22TBS**

**JASON P. STINSON,**

**Defendant.**

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**ORDER**

Now before the Court is the Plaintiff United States' (the "Government") Motion for Entry of a Preliminary Injunction (Doc. No. 55), to which Defendant Jason P. Stinson ("Stinson") responded in opposition, (Doc. Nos. 56 & 57). On January 27, 2016, the Court held a hearing on the matter. For the reasons that follow, the Court will grant the Government's Motion for Preliminary Injunction.

**I. BACKGROUND**

This case involves Stinson's alleged operation of a fraudulent tax preparation business. Stinson's involvement in tax preparation began in 2010 as a manager for LBS Tax Services Stores ("LBS Stores"), and Stinson later became a franchisee of the LBS Stores. (Stinson Dep., June 26, 2015, (Doc. No. 55-2) 13:4-13:9; 16:20-17:21). Stinson owned the franchises through his LLC (Jason Stinson LLC). (Nation Tax Services Dep. (Doc. No. 55-4) at 13:23-15:16). In total, Stinson was a franchisee of twelve LBS Stores located in four states. (Doc. No. 55-3). In each of Stinson's

LBS Stores, a manager was responsible for overseeing the tax return preparers.<sup>1</sup> (*Id.* at pp. 6-7). From 2010 to 2012, LBS Stores trained Stinson and his managers. (*Id.* 55-3 at p. 3). Subsequently, in 2013, after hearing negativity about LBS Stores, Stinson separated himself from LBS by changing the name of Jason Stinson LLC to Nation Tax Services and began operating his franchises under that name. (Doc. No. 53-3 at pp. 6-7). Stinson emphasizes that his business primarily targets and serves “underprivileged, undereducated poor people.” (Doc. No. 57 at p. 17).

In its Motion, the Government argues that an injunction is needed to prevent Stinson from fraudulently preparing its customers’ tax returns in order to maximize the tax refund. (Doc. No. 55). The Government contends that Stinson and the tax return preparers he employs have engaged in a common pattern of fraudulent practices that include the following: (1) falsifying deductions on Form 1040 Schedule A to reduce a customer’s taxable income by falsifying its customers’ unreimbursed employee expenses, charitable deductions, and medical and dental expenses; (2) falsifying Form 1040 Schedule C deductions by fabricating businesses and reporting profits or losses from a false business; (3) claiming false education credits; and (4) falsifying a customer’s Earned Income Tax Credit (EITC)<sup>2</sup> by making false claims to unreimbursed business expenses. (*Id.* at pp. 5, 8, 10, 11). To support its allegations, the Government submitted depositions of at least five of Stinson’s tax return preparers, the deposition of a consultant Stinson hired in 2014, and over twenty falsely prepared tax returns from tax years 2011-2014. (*See* Doc. No. 55). With each of the false tax returns, the Government provided the customer’s deposition stating that the tax return was false. (*Id.*)

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<sup>1</sup> For brevity, the Court will refer to Stinson’s tax return preparers and to Stinson collectively as “Stinson.”

<sup>2</sup> The Earned Income Tax Credit (“EITC”) is a refundable tax credit available to low-income workers depending on a multitude of factors, such as income, filing status, and number of dependents. (Doc. No. 55 at p. 11).

## II. PRELIMINARY INJUNCTION STANDARD

The Government's claim for injunctive relief is based on §§ 7402, 7407, and 7408 of the Internal Revenue Code. Sections 7407 and 7408 of the Internal Revenue Code permit, but do not require, district courts to enjoin tax return preparers if they have engaged in certain prohibited conduct. Section 7407 allows for punishment of a tax return preparer who understates a taxpayer's liability due to an unreasonable position, recklessly or intentionally disregards IRS rules, claims the EITC without due diligence, guarantees payment of a tax refund, or commits one of a handful of additional violations. *Id.* Section 7408 prohibits "any person" from aiding or procuring the preparation of tax returns that are known to understate the tax liability of the filer. *Id.* The Eleventh Circuit has emphasized that § 7402 encompasses a "broad range of powers necessary to compel compliance with the tax laws," and it includes the power "to enjoin interference with tax enforcement even when such interference does not violate any particular tax statute." *United States v. Ernst & Whinney*, 735 F.2d 1296, 1300 (11th Cir. 1984).

In the context of an injunction under § 7402, courts must consider the traditional equitable factors governing injunctive relief. *Id.* ("[T]he decision to issue an injunction under § 7402(a) is governed by the traditional factors shaping the district court's use of the equitable remedy."). However, in the context of §§ 7407 and 7408, courts may consider the traditional equitable factors before enjoining conduct. *United States v. Cruz*, 611 F.3d 880, 887 (11th Cir. 2010). "A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

### III. DISCUSSION

The Court finds that consideration of the equitable factors weighs in favor of a preliminary injunction. The Government has presented enough evidence to show a pattern of false tax returns sufficient to prove it is likely to succeed on the merits. (*See* Doc. No. 55). Those false tax returns submitted to the Court were prepared by at least twelve of Stinson's tax return preparers employed in four different states. Notably, the falsely reported numbers are not merely oversight, or a computational error, because the errors are repeated and the amounts are significant. The Court finds it implausible that this is due to plain human error.

The Court is most troubled that Stinson's conduct has continued even after the commencement of this lawsuit in 2014. The Government has provided over ten examples of false tax returns prepared in 2015 for the 2014 tax year. (*Id.* at pp. 5-6, 9). Thus, even in 2015, despite being on notice, Stinson continued to prepare tax returns in the same manner that caused the Government to initiate this lawsuit by falsely claiming unreimbursed employee expenses, charitable contributions, and business expenses for non-existent businesses. (*See, e.g., id.*, Ex. 11, Ex. 12, Ex. 17, Ex. 18, Ex. 30, Ex. 31). Stinson's hired consultant, Hermen Cruz, testified that, in 2014, he informed Stinson employees that they cannot claim commuter miles as unreimbursed employment expenses. (Hermen Cruz Dep., (Doc. No. 55-8) 51:3-53:10). Yet, Stinson continued to do so.

Stinson argues that the Government's methodology is flawed because it is not random. (Doc. No. 57 at pp. 11-12). Stinson contends that the Government's non-random sample represents only those tax returns that the Government flagged as potentially incorrect and cannot be used to make inferences about the whole population of tax returns prepared by Stinson. (*Id.*) Yet, Stinson has not produced a single accurate tax return nor has Stinson presented any evidence that shows

that the Government's sample is merely an error rather than intentional. In contrast, the Court is gravely concerned about the vestiges of fraud present in the Government's evidence that shows a common pattern of Stinson improperly preparing tax returns in similar ways for a period spanning multiple years and in multiple states. Not even a lawsuit was sufficient to prevent Stinson from continuing to falsify tax returns in the same manner in 2015.

At the hearing, Stinson argued that the Government's depositions of Stinson's customers are untrue and unreliable. Stinson reasoned that the customers are motivated to lie because they do not want to admit to a felony nor to providing false numbers to a tax return preparer. However, Stinson later argued that his customers would not receive an EITC or file a proper tax return if not for the services he provides them. If Stinson's customers are knowledgeable enough to know exactly which numbers to falsify and which responses to give to their tax return preparer to receive a higher tax return, it defies logic for them to pay Stinson to prepare their tax return. Despite that there exists a potential bias, the Court finds no persuasive reason to discount the sworn testimony of over twenty customers. In any event, the same argument could be made about the reliability of the testimony of Stinson's tax return preparers. Therefore, due to the egregious nature of Stinson's conduct, and the numerous examples of false tax returns, the Court finds that the Government is likely to succeed on the merits.

The irreparable harm, balancing of the equities, and public interest factors are so related in this case that the Court will discuss them together. If an injunction is not granted, the Government will be irreparably harmed because Stinson can continue to profit from falsifying tax returns. Moreover, the Government lacks the resources to audit every tax return that Stinson has prepared (over 9,000 tax returns) and would thus be forced to continuously monitor Stinson and bring multiple lawsuits. More significant, however, is the harm that Stinson's business causes his

customers, which cannot be separated from this equitable analysis. Stinson's customers are relying on his business to properly handle their taxes. In return, Stinson's business exposes these primarily low-income customers to individual tax liability. Both the Government and Stinson's customers will suffer irreparable harm if an injunction is not granted. Moreover, it is in the public's best interest to protect vulnerable customers from the inaccurate preparation of their taxes, not to deplete Government resources, and to maintain the public trust in the tax system.

In contrast, if an injunction is granted, Stinson will be prohibited from operating his tax preparation business and will temporarily lose his source of income. However, Stinson is still in his thirties and an injunction does not prevent him from making a living in any manner aside from tax preparation. Stinson argues that granting a preliminary injunction will disserve the public because it will shut down a business that is beneficial to low-income taxpayers that would otherwise not receive assistance in preparing their taxes. (Doc. No. 57 at pp. 17-18). Stinson's argument may have been persuasive if he was not engaging in conduct that exposed his customers to additional and burdensome tax liability. Additionally, there are other tax preparation resources available to his customers. Therefore, balancing the equities and consideration of the public interest weighs in favor of granting an injunction because of the irreparable harm that Stinson's conduct causes the Government and, most importantly, the harm to Stinson's customers.

#### **IV. CONCLUSION**

After careful consideration of the four equitable factors, the Court finds that injunctive relief is appropriate, and that a narrower injunction barring specific conduct will not suffice. Based on the record, and for good cause shown, the Court grants the motion, and enters a preliminary injunction under 26 U.S.C. §§ 7402, 7407, and 7408, as follows.

**IT IS HEREBY ORDERED** that Jason Stinson, individually and doing business as LBS Tax Services and Nation Tax Services, LLC, and anyone acting in concert or participation with him, is preliminarily enjoined pursuant to Internal Revenue Code (I.R.C.) (26 U.S.C.) §§ 7402, 7407, and 7408, from acting as a federal tax return preparer and assisting in, advising, or directing the preparation or filing of federal tax returns, amended returns, or any other federal tax documents or forms for any person or entity other than himself; investing in, providing capital or loans to, or receiving fees or remuneration from a tax return preparation business; and owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business.

**IT IS FURTHER ORDERED** that Jason Stinson, individually and doing business as LBS Tax Services and Nation Tax Services, LLC, pursuant to 26 U.S.C. § 7402, shall immediately close all tax return preparation stores that he currently owns directly or through any entity, and whether those stores do business as LBS Tax Services, Nation Tax Services LLC, or under any other name. Jason Stinson shall not thereafter re-open those tax return preparation stores or any new store(s) absent order of this Court.

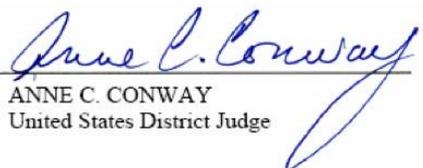
**IT IS FURTHER ORDERED** that Jason Stinson, individually and doing business as LBS Tax Services and Nation Tax Services, LLC, pursuant to 26 U.S.C. § 7402, is prohibited from assigning, transferring, or selling: (1) a personal or business Preparer Tax Identification Number(s) (PTIN); (2) a personal or business Electronic Filing Identification Number(s) (EFIN); (3) any other federally issued identification number(s) to prepare or file federal income tax returns; (4) a list of customers or any other customer information; or (5) any proprietary information pertaining to LBS Tax Services, Nation Tax Services, LLC, and any other business through which Stinson or those acting at his direction have prepared a tax return.

**IT IS FURTHER ORDERED** that Jason Stinson, individually and doing business as LBS Tax Services and Nation Tax Services, LLC, pursuant to 26 U.S.C. § 7402 is prohibited from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to LBS Tax Services, Nation Tax Services LLC, and any other tax return preparation business to which Stinson or any entity under his control is a party.

**IT IS FURTHER ORDERED** that Jason Stinson, individually and doing business as LBS Tax Services and Nation Tax Services, LLC, pursuant to 26 U.S.C. § 7402, shall, within 15 days, provide a copy of this Order to all principals, officers, managers, franchisees, employees, and independent contractors of Jason Stinson, LBS Tax Services, and Nation Tax Services, LLC, and any other tax return preparation through which Stinson or those acting at his direction have prepared a tax return.

This Order of Preliminary Injunction against Jason Stinson shall remain in full force and effect until the final resolution of this case on the merits or such time as the Court modifies, vacates, or supersedes this Order.

**DONE and ORDERED** in Chambers, in Orlando, Florida on January 28, 2016.

  
ANNE C. CONWAY  
United States District Judge

Copies furnished to:

Counsel of Record