

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
JOHN E. CARTER individually and doing)
business as MIDWESTERN FINANCIAL)
GROUP, INC; SULAYMAN MAMADOU)
JARRA individually and doing business as)
AFRICAN ART APPRAISAL SERVICES,)
)
Defendants.)

Case No. 4:16-cv-00454

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, the United States of America, alleges the following:

1. This is a civil action brought by the United States under §§ 7402(a), 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) to permanently enjoin Defendants John E. Carter (Carter) individually and doing business as Midwestern Financial Group, Inc. (MFG), Sulayman Mamadou Jarra (Jarra) individually and doing business as African Art Appraisal Services (AAAS), and anyone in active concert or participation with them, from:
 - a. acting as a federal tax return preparer, or requesting, assisting in, or directing the preparation or filing of federal tax returns (including amended returns) or other related documents or forms, for any person or entity other than themselves;
 - b. engaging in any conduct subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision of the Internal Revenue Code; and
 - c. engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

2. Carter was an income tax preparer in the Houston, Texas area during the time period approximately January 1, 2000, through December 31, 2012. Since at least 2004, Carter has been unlawfully preparing federal income tax returns that understate the tax liabilities of his customers by claiming false, improper, or inflated Schedule A deductions by utilizing false and fraudulent art appraisals. In furtherance of this scheme Carter also used forged documents to obtain refunds on behalf of his clients. Jarra, an art appraiser in the Houston area, aided and assisted Carter and provided him with false and fraudulent art appraisals and other false and fraudulent documents, such as Forms 8283, to assist Carter in understating his customers' tax liabilities and obtaining refunds for the customers. The Form 8283, "Noncash Charitable Contributions", is used to report non-cash charitable deductions over \$500 and includes information on the donated property such as the value, the attached appraisal and acknowledgement from the donee of the donated property.

Jurisdiction and Venue

3. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General.
4. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and I.R.C. § 7402(a).
5. Venue is proper under 28 U.S.C. § 1391 because both Carter and Jarra reside in Houston, Texas which is within this judicial district.

Carter and Jarra's Background

6. Carter prepares federal income tax returns for compensation and has been doing so since 1996 or 1997. He is a "tax return preparer" under I.R.C. § 7701(a)(36).

7. Both Carter and Jarra have been doing business in the Houston, Texas area. Carter operated under the business name Midwestern Financial Group, Inc. He is the 100% sole shareholder of MFG, which is the business name Carter used to prepare income tax returns. Carter was the only person at MFG who prepared income tax returns for taxpayers.
8. Carter has a degree in accounting from the University of Houston. He is not a certified public accountant.
9. Jarra is the co-owner of an African art gallery. He holds himself out as an appraiser of all types of African Art. He conducts these appraisal services through his company, African Art Appraisal Services. Jarra represented that he had a Ph.D. from Columbia University, but in fact did not.
10. On September 16, 2013, Jarra pleaded guilty to one count of willfully aiding and assisting in the preparation and presentation of false tax returns in violation of 26 U.S.C. § 7206(2) and received a sentence of probation. *U.S.A. v. Jarra*, Cause No. 4:13-cr-00483 (S.D. Tex.).
11. In February 2014, after a jury trial, Carter was found guilty of 5 counts of willfully aiding and assisting in the preparation and presentation of false tax returns in violation of 26 U.S.C. § 7206(2) and was sentenced to 41 months in prison. *U.S.A. v. Carter*, Cause No. 4:13-cr-00490-1 (S.D. Tex.). He appealed this decision to the Fifth Circuit Court of Appeals. *See U.S.A. v. John Carter*, Case No. 14-20485 (5th Cir.). On November 19, 2015, the Fifth Circuit affirmed the District Court's judgment. *Id.*

Description of Carter and Jarra's Tax-Scheme

12. Since at least 2004, Carter has continually and repeatedly understated the tax liabilities of many of his customers.

13. The table below shows the following data from IRS records: the number of federal income tax returns prepared by Carter that were filed with the IRS during each year from 2007 through 2010, how many of the returns for years 2007 through 2010 have been examined by the IRS, and how many of the examined returns were determined by the IRS to have understated the tax liabilities of those customers.

Filing Year	No. of Returns Prepared	No. of Returns Examined by IRS	No. of Examined Returns in which IRS Found Understated Tax Liabilities	Percent of Examined Returns in which IRS Found Understated Tax Liabilities
2007	201	40	40	100%
2008	207	38	38	100%
2009	205	34	34	100%
2010	214	11	11	100%
Total	827	123	123	100%

14. Carter, along with Jarra, promoted a tax avoidance scheme where Carter would meet with customers and advise them that he could obtain substantial refunds. Carter would then advise customers to donate African Tribal Art to various educational institutions and museums. Carter advised his clients that if they chose to donate the art, he would secure the art, provide an appraisal, and ensure the art was donated.
15. In furtherance of the scheme, Carter would provide to his clients an appraisal prepared by Jarra purporting to show the art to be donated. In fact, the art shown on the appraisal was substantially overvalued, and in the majority of cases, was never donated to the institutions listed. Carter would then use this false appraisal in preparing tax returns for his customers, generating substantial Schedule A deductions.
16. On many of the returns filed by Carter, the signature on the Form 8283 of the individual from the institution allegedly receiving the art was a forgery. In many cases, the art was

never donated. And in the event the art was delivered to the various institutions, the art was African street art, and most was artificially aged.

17. Additionally, the appraisals and donation information was backdated by Jarra and Carter in order to allow their customers to take a Schedule A deduction for the donated art work for the year in which Carter was preparing the returns.

Examples of Carters and Jarra's Unlawful Activity

18. Customer 1 was audited for the 2007 and 2008 tax years. Each year resulted in adjustments that stemmed from fraudulent Schedule A charitable deductions relating to alleged donated African art. Customer 1 told the IRS that Carter told him that Carter would purchase and appraise the art and then it could be donated for a deduction. Customer 1 never saw the actual art but understood that the art had been donated. A false charitable contribution of art in the amount of \$503,000.00 was claimed on the 2007 return, which resulted in a false income tax refund of \$192,198.00. Additionally, a false charitable contribution of art in the amount of \$401,000.00 was claimed on the 2008 return, which resulted in a false income tax refund of \$203,256.00. The IRS disallowed these deductions and the taxpayer agreed to the adjustments and paid the deficiency, which was in excess of \$700,000.
19. Customer 2 was audited for the 2004-2010 returns. Each year resulted in adjustments that for the most part stemmed from fraudulent Schedule A charitable deductions relating to alleged donated African art. Customer 2 informed the IRS agent that Carter purchased the art and hired the appraiser. Customer 2 never saw the art and did not know the value until the filing of the tax return. The alleged art donated on Customer 2's 2006 return was valued at \$203,000 and was allegedly donated to Texas Southern University. However, the

IRS agent confirmed that the art was not donated, and the signature of the Texas Southern University representative on the Form 8283 was forged.

20. The IRS audited Customer 3's 2004-2009 returns. Each year resulted in adjustments that for the most part stemmed from fraudulent Schedule A charitable deductions relating to alleged donated African art. Customer 3 informed the IRS agent that Carter showed her pictures of art, but she never saw the art and did not purchase any art. Customer 3 told the IRS agent that Carter provided her a tax return with the Form 8283 and told her that the art would be donated to a local university. The alleged art donated on Customer 3's return was valued at \$75,000 and was allegedly donated to Texas Southern University. However, the IRS agent confirmed that art was not received by the University, and the signature of the Texas Southern University representative on the Form 8283 was forged.

Harm Caused by Carter's and Jarra's Unlawful Tax-Preparation Activity

21. Many of Carter's and Jarra's customers are harmed by their behavior because the customers pay to prepare proper tax returns. Because Carter with the assistance of Jarra understates many of his customers' federal income tax liabilities, those customers now face assessments for tax deficiencies, interest, and penalties.
22. Carter's and Jarra's conduct also harms the United States because their customers' understated tax liabilities result in lost tax revenue. The IRS calculated that the returns prepared by Carter that it has examined understated the taxes due by a total of \$2,036,355. The IRS estimates that the total harm caused by returns Carter prepared for the 2004 through 2010 tax years to be much greater than that total.
23. Carter's and Jarra's conduct also harms the United States because the IRS must devote its limited resources to identifying and examining the tax returns of Carter's customers;

ascertaining their correct tax liabilities; collecting any taxes, interest, and penalties they owe; and recovering any tax refunds erroneously issued to them.

Count I
Injunction under I.R.C. § 7407

24. The United States incorporates by reference the allegations in paragraphs 1 through 23.
25. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from, among other things, engaging in conduct subject to penalty under I.R.C. §§ 6694 or 6695, 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 such conduct.
26. Additionally, § 7407 provides that if the court finds that a tax return preparer has continually or repeatedly engaged in such conduct, and that an injunction prohibiting only such conduct would not be sufficient to prevent that person's interference with the proper administration of the Internal Revenue Code, then the court may enjoin the person from further acting as a tax return preparer.
27. For returns prepared after May 25, 2007, § 6694 of the Internal Revenue Code imposes a penalty on any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to (a) an unreasonable position of which the preparer knew or reasonably should have known, (b) a willful attempt to understate the liability, or (c) a reckless or intentional disregard of rules or regulations.
28. For returns prepared before May 25, 2007, § 6694 imposes a penalty on any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to (a) an undisclosed or frivolous position, of which the

preparer knew or reasonably should have known, and for which there was not a realistic possibility of being sustained on its merits; (b) a willful attempt to understate the liability; or (c) a reckless or intentional disregard of rules or regulations.

29. Carter has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal income tax returns that understate his customers' liabilities based on unreasonable, unrealistic, and frivolous positions of which he knew or should have known, as well as his reckless disregard of rules or regulations.
30. Carter has continually and repeatedly engaged in fraudulent or deceptive conduct that substantially interferes with tax law administration by understating his customers' tax liabilities through false or inflated deductions.
31. If the Court does not enjoin Carter, he is likely to continue engaging in conduct subject to penalty under I.R.C. §§ 6694, as well as engaging in other fraudulent or deceptive conduct that substantially interferes with tax law administration. Carter's preparation of returns claiming improper deductions has been continuing since at least 2004 and is widespread over many customers.
32. Injunctive relief is therefore appropriate under I.R.C. § 7407.
33. The continuing and repetitive nature of Carter's misconduct demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent him from continuing to interfere with the proper administration of the tax laws. Thus, the Court should permanently enjoin Carter from acting as a tax return preparer.

Count II
Injunction under I.R.C. § 7408

34. The United States incorporates by reference the allegations in paragraphs 1 through 33.

35. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under I.R.C. § 6701 (among other provisions) if injunctive relief is appropriate to prevent the recurrence of such conduct.
36. Section 6701 of the Internal Revenue Code imposes a penalty on any person who aids or assists in, procures, or advises with respect to, the preparation or presentation of a federal tax return or refund claim, 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 would result in an understatement of another person's tax liability.
37. Carter prepares federal tax returns for his customers that he knows (or has reason to believe) will be filed with the IRS and that he knows will understate the customers' tax liabilities because Carter knowingly prepares returns that claim false or inflated deductions. Carter's conduct is thus subject to penalty under I.R.C. § 6701.
38. Jarra aids or assists Carter in preparing federal tax returns for his customers that Jarra knows (or has reason to believe) will be filed with the IRS and that he knows will understate the customers' tax liabilities. Jarra's conduct is thus subject to penalty under I.R.C. § 6701.
39. If the Court does not enjoin Carter and Jarra, they are likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Carter's and Jarra's preparation of returns claiming improper deductions has been continuing since at least 2004 and is widespread over many customers.
40. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction under I.R.C. § 7402(a)

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

42. Section 7402(a) 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.
43. Through the actions described above, Carter and Jarra have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.
44. Unless enjoined, Carter and Jarra are likely to continue to engage in such conduct and interfere with the enforcement of the internal revenue laws.
45. If Carter and Jarra are not enjoined from engaging in such conduct, the United States will suffer irreparable injury by mistakenly providing federal income tax refunds to individuals not entitled to receive them, as well as expending time and resources to identify the individuals, determine their proper federal tax liabilities, and recover the erroneous refunds from them, if possible.
46. Enjoining Carter and Jarra from engaging in such conduct is in the public interest because an injunction, backed by the Court's contempt powers, is likely to stop Carter's and Jarra's illegal conduct and the harm it causes to his customers and the United States.
47. The Court should thus grant injunctive relief under I.R.C. § 7402(a).

WHEREFORE, the United States of America requests the following:

- A. That the Court find that John E. Carter has continually or repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 and continually or repeatedly engaged in fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws;
- B. That the Court find that injunctive relief under I.R.C. § 7407 is appropriate to prevent the recurrence of such conduct and that a narrower injunction prohibiting only this specific

misconduct would not be sufficient to prevent Carter's interference with the proper administration of the internal revenue laws;

- C. That the Court find that John E. Carter and Sulayman Jarra have engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief under I.R.C. § 7408 is appropriate to prevent the recurrence of such conduct;
- D. That the Court find that John E. Carter and Sulayman Jarra have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws and that injunctive relief is necessary and appropriate to prevent the recurrence of such conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);
- E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting John E. Carter and Sulayman Jarra, and all those in active concert or participation with them, from:
 - a. acting as a federal tax return preparer, or assisting in or directing the preparation or filing of federal tax returns (including amended returns) or other related documents or forms for any person or entity other than themselves;
 - b. engaging in any conduct subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other section of the Internal Revenue Code; and
 - c. engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.
- F. That the Court retain jurisdiction over this action to enforce any permanent injunction entered against Carter and Jarra;

- G. That the Court order that the United States be entitled to conduct discovery to monitor Carter's and Jarra's compliance with the terms of any permanent injunction entered against them; and
- H. That the Court grant the United States such other relief, including costs, as is just and proper.

Respectfully submitted,

KENNETH MAGIDSON
United States Attorney

/s/ Stephanie M. Page
STEPHANIE M. PAGE
Texas State Bar No. 13428240
Attorney, Tax Division
U.S. Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
(214) 880-9749
(214) 880-9741 (Fax)
Stephanie.M.Page@usdoj.gov