

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) Case No. 3:19-cv-00335
v.)
)
JHANE BROADWAY,)
individually and doing business as)
JEPROFESSIONALZ also known as)
MAXTAXPROS,)
Defendants.)

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 Defendant, Jhane Broadway (“Broadway”), individually and doing business as Jeprofeessionalz and MaxTaxPros, and anyone in active concert or participation with her, 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. Since at least 2012, Broadway has been unlawfully preparing federal income tax returns that understate the tax liabilities of her customers by claiming false, improper, or inflated

deductions or tax credits, including, fabricated Schedule A itemized deductions and Schedule C losses. Broadway has also engaged in other improper conduct subject to penalty under the Internal Revenue Code, as described below.

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 Broadway resides in Lancaster, Texas and conducts her tax preparation activities at a business location in Desoto, Texas.

Broadway's Tax-Preparation Business

6. Broadway prepares federal income tax returns for compensation and has been doing so since at least 2012. Broadway is also known as, or has been known as, Jhane Raquel Abram and Jhane Early. She is a "tax return preparer" under I.R.C. § 7701(a)(36).

7. Since 2012, Broadway has been doing business in DeSoto, Texas under several business names, including, Jeprofeessionalz and MaxTaxPros.

8. Broadway has no formal training in taxation or tax return preparation and is not an attorney, a certified public accountant, or an enrolled agent with the Internal Revenue Service.

9. Neither Broadway nor MaxTaxPros has an electronic filing identification number (EFIN), which the IRS requires in order to file federal income tax returns electronically. Instead, Broadway, under the alias Jhane Early, is listed as the primary contact on two EFINs, which she

used to prepare and file tax returns. Additionally, Broadway used EFINs assigned to other individuals and businesses.

10. Broadway was issued a provisional PTIN (Preparer Tax Identification Number), which she uses on some of the tax returns she prepares. Other preparers at MaxTaxPros also use Broadway’s PTIN to file tax returns. Broadway also uses invalid PTINs to file tax returns.

11. Most of Broadway’s customers reside in Desoto Texas, or the surrounding area.

Description of Broadway’s Unlawful Tax-Preparation Activity

12. Since at least 2012, Broadway has prepared federal tax returns which continually and repeatedly understate the correct tax liabilities of her customers.

13. The table below shows the following data from IRS records: the known number of federal income tax returns prepared by Broadway that were filed with the IRS for years 2015 and 2016, the number of these returns that have been examined by the IRS, and the percentage of the examined returns that were determined by the IRS to have understated the tax liabilities reported on the returns.

Tax 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
2015	115	16	16	100%
2016	268	15	15	100%
Total	383	31	31	100%

14. Since at least 2015, Broadway and/or MaxTaxPros have continually and repeatedly prepared federal tax returns that they knew, or should have known, contained:

a. false, improper, or inflated itemized deductions on Schedule A (Itemized Deductions); and/or

b. false, improper, or inflated business expense deductions on Schedule C (Profit or Loss from Business (Sole Proprietorship)).

Claiming Improper Deductions

15. In some instances, Broadway inflated or fabricated deduction amounts listed on her customers' Schedules A and C related to cash charitable contributions and unreimbursed employee business expenses.

16. Broadway also claimed fake expense deductions on Schedule C for customers who did not operate businesses.

Examples of Improper Deductions Claimed on Returns Prepared by Broadway

17. For the 2015 and 2016 tax years, the IRS interviewed 19 taxpayers whose returns were prepared by Broadway and audited an additional 16 tax returns of taxpayers whose returns were prepared by Broadway. The below are examples of the various schemes used by Broadway that the IRS uncovered during its interviews and audits of these taxpayers.

18. Taxpayer 1's returns for 2015 and 2016, prepared by Broadway, contained two fake Schedule C businesses and false itemized deductions on Schedule A. Taxpayer 1's Schedule C listed two businesses, a janitorial business and a catering business. Taxpayer 1 stated, in an interview with the IRS, that he did not own and never owned a janitorial or catering business. Taxpayer 1 also took an Earned Income Credit of \$1,826 on the return and received a refund of \$10,157. Fraudulent deductions and expenses on Taxpayer 1's returns that should be removed for the 2015 year totaled \$83,131 and for the 2016 year, \$91,980.

19. Taxpayer 2's returns for 2015 and 2016, prepared by Broadway, contained two false Schedule C forms. In an interview with the IRS, Taxpayer 2 stated that he never discussed business expenses or employee business expenses with Broadway and he was not aware of the

false Schedule C expenses. Taxpayer 2 filed an amended return for 2016 to remove the fraudulent items and deductions and reported a tax deficiency of \$8,766. Taxpayer 2's 2015 return was adjusted during the audit and reflected a tax deficiency of \$8,593.

20. Taxpayer 3's returns for 2015 and 2016, prepared by Broadway, contained fraudulent Schedule C losses related to a fake photography business. Taxpayer 3 denies talking about operating a photography business with Broadway at any time. Fraudulent Schedule C losses that should be removed from Taxpayer 3's returns for 2015 totaled \$24,011 and for 2016, totaled \$38,850.

21. Taxpayer 4's returns for 2015 and 2016, prepared by Broadway, contained false Schedule A (employee business expenses) and Schedule C deductions. Taxpayer 4 stated that he never discussed operating a business with Broadway, nor did they discuss unreimbursed employee business expenses. He did not know why Broadway included a beautician and landscaping business on his 2015 and 2016 tax returns.

22. Taxpayer 5's returns for 2015 and 2016, prepared by Broadway, contained false Schedule A (employee business expenses) and Schedule C deductions and exaggerated Schedule A charitable contributions. Taxpayer 5 stated that he never discussed or provided documentation regarding a janitorial business or unreimbursed employee business expenses to Broadway. He also stated that he does not know why the cash contributions were overstated on the returns.

23. Broadway continued to prepare and file false income tax returns for the 2017 tax year. In 2017, a total of 92 tax returns were filed. Those returns included 50 Schedule Cs with losses greater than \$10,000.

Harm Caused by Broadway's Unlawful Tax-Preparation Activity

24. Many of Broadway's customers are harmed because they pay Broadway to prepare proper tax returns which, in fact, are not properly prepared. Because Broadway understates many of her customers' federal income tax liabilities, her customers now face assessments for tax deficiencies, interest, and penalties.

25. Broadway's conduct also harms the United States because the understated tax liabilities on the falsely prepared returns results in lost tax revenue. Based on its examination of the 16 tax returns prepared by Broadway and filed in 2015, the IRS calculates that those returns understated the taxes due by \$185,135, or approximately \$11,571 per return. If this average deficiency per return is applied to the un-audited returns known to have been prepared by Broadway, the IRS estimates millions of dollars of lost tax revenue has resulted due to inaccurate returns prepared by Broadway for the 2015 year.

26. Based on its examination of 15 tax returns prepared by Broadway and filed in 2016, the IRS calculates that those returns understated the taxes due by \$180,398, or approximately \$12,026 per return. If this average deficiency per return is applied to the un-audited returns known to have been prepared by Broadway, the IRS estimates millions of dollars of lost tax revenue has resulted due to inaccurate returns prepared by Broadway for the 2016 year.

27. Broadway's conduct also harms the United States because the IRS must devote its limited resources to identifying and examining the tax returns of Broadway's customers; ascertaining their correct tax liabilities; collecting any taxes, interest, and penalties they owe; and recovering any tax refunds erroneously issued due to the falsely prepared returns.

Injunction under I.R.C. § 7407

28. The United States incorporates by reference the allegations in paragraphs 1 through 27.

29. 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 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.

30. 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.

31. 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.

32. 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.

33. Broadway has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal income tax returns that understate her customers' liabilities based on unreasonable, unrealistic, and frivolous positions of which she knew or should have known, as well as her reckless disregard of rules or regulations.

34. Broadway has continually and repeatedly engaged in fraudulent or deceptive conduct that substantially interferes with tax law administration by understating her customers' tax liabilities through false or inflated deductions or credits.

35. If the Court does not enjoin Broadway, she is likely to continue engaging in conduct subject to penalty under I.R.C. § 6694, as well as continue engaging in other fraudulent or deceptive conduct that substantially interferes with tax law administration. Broadway's preparation of returns claiming improper deductions and credits has been continuous since at least 2012, and is widespread over many customers.

36. Injunctive relief is therefore appropriate under I.R.C. § 7407.

37. The continuing and repetitive nature of Broadway's misconduct demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent her from continuing to interfere with the proper administration of the tax laws. Thus, the Court should permanently enjoin Broadway from acting as a tax return preparer.

Injunction under I.R.C. § 7408

38. The United States incorporates by reference the allegations in paragraphs 1 through 37.

39. 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.

40. 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.

41. Broadway prepares federal tax returns for her customers that she knows (or has reason to believe) will be filed with the IRS and that she knows will understate her customers' tax liabilities because Broadway knowingly prepare returns that claim false or inflated deductions or credits. Broadway's conduct is thus subject to penalty under I.R.C. § 6701.

42. If the Court does not enjoin Broadway, she are likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Broadway's preparation of returns claiming improper deductions and credits has been continuing since 2012 and is widespread over many customers.

43. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Injunction under I.R.C. § 7402(a)

44. The United States incorporates by reference the allegations in paragraphs 1 through 43.

45. 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.

46. Through the actions described above, Broadway has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

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

48. If Broadway is 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 those individuals, determine their proper federal tax liabilities, and recover the erroneous refunds from them, if possible.

49. Enjoining Broadway from engaging in such conduct is in the public interest because an injunction, backed by the Court's contempt powers, is likely to stop Broadway's illegal conduct and the harm it causes both to her customers and the United States.

50. 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 Broadway 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 Broadway's interference with the proper administration of the internal revenue laws;

C. That the Court find that Broadway has 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 Broadway has 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 Broadway, and all those in active concert or participation with her, from:

1. 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 herself;

2. engaging in any conduct subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other section of the Internal Revenue Code; and

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

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Broadway, within 30 days of receiving the Court's order, to contact by U.S. mail and, if an e-mail address is known, by e-mail, all persons for whom she prepared federal tax returns, amended returns, or claims for refund for tax years 2015, 2016 and 2017, and to inform them of the permanent injunction entered against her by sending each of them a copy of the order of permanent injunction;

G. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Broadway, within 30 days of receiving the Court's order, to produce to counsel for the United States a list that identifies by name, Social Security number, address, e-mail address (if known), telephone number, and tax period, all persons for whom she prepared federal tax returns, amended returns, or claims for refund for tax years 2015 through 2017;

H. That the Court retain jurisdiction over this action to enforce any permanent injunction entered against Broadway;

I. That the Court order that the United States be entitled to conduct discovery to monitor Broadway's compliance with the terms of any permanent injunction entered against her; and

J. That the Court grant the United States such other relief, including costs, as is just and proper.

ERIN NEALY COX
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MICHELLE C. JOHNS

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