

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 1:20-cv-02831
Plaintiff,)	
)	
v.)	
)	
ANDREANA P. SMITH, and)	
ANDREANA’S PERSONAL IMPRESSIONS)	
DBA A & S TAX PROS)	
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff, United States of America, at the request of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General, pursuant to 26 U.S.C. § 7401, brings this action seeking an injunction barring Andreana P. Smith (“Smith”) and Andreanna’s Personal Impressions d/b/a A & S Tax Pros (the “Company”) (collectively, the “Defendants”) from preparing federal tax returns, engaging in the business of preparing federal tax returns, and employing any person acting as a federal tax return preparer. In support of this action, the United States alleges as follows:

Jurisdiction and Parties

1. Jurisdiction exists under 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. (“Internal Revenue Code” or “I.R.C.”) §§ 7402 and 7407.
2. Smith resides in Chicago, Illinois, within the jurisdiction of this Court.
3. The Company is located in Chicago, Illinois, within the jurisdiction of this Court.
4. Through the Company, Smith has prepared federal income tax returns for others since at least 2004.

The Defendants' Schemes

5. Smith falsifies figures reported on her customers' Schedule C, including fabricating business expenses and mischaracterizing wage income as income from conducting a trade or business (the "Schedule C Scheme").

6. Smith misrepresents her customers' filing statuses (the "Filing Status Scheme").

7. Smith inflates itemized deductions reported on her customers' Schedule A in order to fraudulently reduce her customers' taxable income (the "Schedule A Scheme").

8. Smith falsifies income or losses on customers' tax returns in order to generate a larger Earned Income Credit ("EIC") for the customer (the "EIC Scheme").

9. Smith falsifies figures reported on her customers' Form 2441, Child and Dependent Care Expenses, in order to falsely claim child care expenses (the "Child Care Scheme").

10. Smith falsifies figures reported on her customers' Form 5694, Residential Energy Credits, in order to generate a larger Residential Energy Credit (the "Energy Credit Scheme").

11. Smith falsifies education-related expenses on her customers' tax returns to increase their American Opportunity Tax Credit (the "AOTC Scheme").

The IRS's Investigation

12. The IRS investigated the Defendants' return preparation practices for tax years 2015 to the present.

13. The IRS examined 90 tax returns prepared by Smith for tax years 2015, 2016, and 2017.

14. Of those 90 examined returns, the IRS made adjustments resulting in additional tax to 84 of them. The additional tax deficiency for these returns, as determined by the IRS examinations, totals \$516,678, for an average deficiency of \$5,939 per adjusted return.

15. The IRS made contact with Smith multiple times from 2015 through 2017 warning her that she had failed to comply with the regulations governing tax return preparers.

16. EIC Due Diligence visits, in which the IRS examines prepared tax returns for preparer compliance with IRS regulations related to EIC, were conducted and resulted in penalties against Smith for failing to comply with such regulations.

17. The IRS conducted its most recent Due Diligence visit for tax year 2016. The Revenue Agent reviewed Smith's compliance with rules related to EIC, Child Tax Credit ("CTC"), and the American Opportunity Tax Credit ("AOTC"). The Agent examined 50 returns prepared by Smith. After the Agent's review of the returns, work papers, and supporting schedules, 132 penalties were asserted against Smith, or \$67,320, for failing to exercise due diligence with respect to compliance with EIC, CTC, and AOTC credits.

18. On May 5, 2017, the IRS sent a letter to Smith sanctioning her and suspending her from participation in IRS e-file for two years. After Smith entered into an installment agreement to pay the asserted penalties, the IRS issued her a new EFIN (which allowed her to again participate in IRS e-file) on March 5, 2018.

19. Despite these warnings and the penalties, Smith continued her pattern of preparing returns using the schemes described in paragraphs 5 through 11, above.

20. As part of the investigation, IRS Revenue Agents conducted numerous interviews of the Defendants' customers to determine the accuracy of the items reported on their filed returns.

21. The Revenue Agents interviewed 20 of Smith's customers with respect to returns prepared by Smith for tax years 2017 through 2018.

22. Of the 20 interviewed customers, all 20 stated that Smith had reported incorrect and false information on their returns.

23. The federal income tax returns of each interviewed customer underreported the customer's correct tax liability, due to Smith's use of one or more of the schemes described in paragraphs 5 through 11, above, as follows:

<u>Scheme</u>	<u>Number of Misrepresentations on the 20 Interviewed Customers' Federal Tax Returns</u>
Schedule A Scheme	7
Energy Credit Scheme	4
AOTC Scheme	6
EIC Scheme	2
Child Care Scheme	3
Schedule C Scheme	12
Filing Status	1
Total Misrepresentations:	35

24. As a result of the interviews, the IRS found underreporting of \$50,523.00 for the 20 tax returns – an average deficiency of \$2,526.15 for each adjusted return.

25. All of the underreporting found in those 20 returns was due to Smith's actions.

26. At least four of Smith's customers filed complaints against her with the IRS, based on the false and fraudulent items she placed on their returns.

27. Some specific examples of Smith's fraudulent tax preparation activities, based on IRS interviews with Smith's customers, are as follows:

CUSTOMER 2

28. Smith prepared CUSTOMER 1's tax return for tax year 2017.

29. CUSTOMER 1's 2017 return contained fabricated business losses of \$11,330 reported on Schedule C, and fabricated education expenses of \$2,350 for CUSTOMER 1's child.

30. CUSTOMER 1 did not incur the business losses or education expenses reported on the return described in paragraph 29, above, nor did CUSTOMER 1 give Smith a reason to believe that such losses or expenses existed. CUSTOMER 1 did not provide Smith with any documentation supporting the losses or expenses.

31. Smith reported false business losses and education expenses on CUSTOMER 1's return in order to reduce CUSTOMER 1's tax liabilities and to increase CUSTOMER 1's tax refund for the respective year.

CUSTOMER 2

32. Smith prepared CUSTOMER 2's tax return for tax year 2017.

33. CUSTOMER 2's 2017 return contained fabricated business losses of \$9,794 reported on Schedule C, fabricated residential energy expenses of \$6,963, and charitable contributions of \$4,041 reported on Schedule A.

34. CUSTOMER 2 did not incur the business losses, residential energy expenses, or charitable contributions reported on the return described in paragraph 33, above, nor did CUSTOMER 2 give Smith a reason to believe that such losses, expenses, or contributions existed. CUSTOMER 2 did not provide Smith with any documentation supporting the losses, expenses, or contributions.

35. Smith reported false business losses, residential energy expenses, and charitable contributions on CUSTOMER 2's return in order to reduce CUSTOMER 2's tax liabilities and to increase CUSTOMER 2's tax refund for the respective year.

CUSTOMER 3

36. Smith prepared CUSTOMER 3's tax return for tax year 2017.

37. CUSTOMER 3's 2017 return contained fabricated business losses of \$12,579 reported on Schedule C, fabricated residential energy expenses of \$1,635, and rental loss of \$17,781 reported on Schedule E. CUSTOMER 3's 2017 return also contained an incorrect filing status – claiming head of household instead of married filing jointly (or separately).

38. CUSTOMER 3 did not incur the business losses, residential energy expenses, or rental loss reported on the return described in paragraph 37, above, nor did CUSTOMER 3 give Smith a reason to believe that such losses or expenses existed. Further, CUSTOMER 3 told Smith that he was married. CUSTOMER 3 did not provide Smith with any documentation supporting the losses, expenses, or contributions.

39. Smith reported false business losses, residential energy expenses, and rental loss on CUSTOMER 3's return in order to reduce CUSTOMER 3's tax liabilities and to increase CUSTOMER 3's tax refund for the respective year.

CUSTOMER 4

40. Smith prepared CUSTOMER 4's tax return for tax year 2017.

41. CUSTOMER 4's 2017 return contained fabricated residential energy expenses of \$4,937 and education expenses of \$3,607.

42. CUSTOMER 4 did not incur the residential energy expenses or residential energy expenses reported on the return described in paragraph 41, above, nor did CUSTOMER 4 give

Smith a reason to believe that such expenses existed. CUSTOMER 4 did not provide Smith with any documentation supporting the expenses.

43. Smith reported false residential energy expenses and education expenses on CUSTOMER 4's return in order to reduce CUSTOMER 4's tax liabilities and to increase CUSTOMER 4's tax refund for the respective year.

CUSTOMER 5

44. Smith prepared CUSTOMER 5's tax return for tax year 2017.

45. CUSTOMER 5's 2017 return contained fabricated education expenses of \$5,000.

46. CUSTOMER 5 did not incur the education expenses reported on the return described in paragraph 45, above, nor did CUSTOMER 5 give Smith a reason to believe that such losses or expenses existed. CUSTOMER 5 did not provide Smith with any documentation supporting the losses or expenses.

47. Smith reported false education expenses on CUSTOMER 5's return in order to reduce CUSTOMER 5's tax liabilities and to increase CUSTOMER 5's tax refund for the respective year.

CUSTOMER 6

48. Smith prepared CUSTOMER 6's tax return for tax year 2017.

49. CUSTOMER 6's 2017 return contained fabricated business losses of \$11,843 reported on Schedule C, and fabricated education expenses of \$3,875 for CUSTOMER 6's child.

50. CUSTOMER 6 did not incur the business losses or education expenses reported on the return described in paragraph 49, above, nor did CUSTOMER 6 give Smith a reason to believe that such losses or expenses existed. CUSTOMER 6 did not provide Smith with any documentation supporting the losses or expenses.

51. Smith reported false business losses and education expenses on CUSTOMER 6's return in order to reduce CUSTOMER 6's tax liabilities and to increase CUSTOMER 6's tax refund for the respective year.

CUSTOMER 7

52. Smith prepared CUSTOMER 7's tax return for tax year 2017.

53. CUSTOMER 7's 2017 return contained fabricated rental losses of \$5,873 reported on Schedule E, fabricated residential energy expenses of \$7,241, and charitable contributions of \$5,781 reported on Schedule A.

54. CUSTOMER 7 did not incur the rental losses, residential energy expenses, or charitable contributions reported on the return described in paragraph 53, above, nor did CUSTOMER 7 give Smith a reason to believe that such losses, expenses, or contributions existed. CUSTOMER 7 did not provide Smith with any documentation supporting the losses, expenses, or contributions.

55. Smith reported false rental losses, residential energy expenses, and charitable contributions on CUSTOMER 7's return in order to reduce CUSTOMER 7's tax liabilities and to increase CUSTOMER 7's tax refund for the respective year.

CUSTOMER 8

56. Smith prepared CUSTOMER 8's tax return for tax year 2017.

57. CUSTOMER 8's 2017 return contained fabricated hair-styling business profits of \$9,659 reported on Schedule C, resulting in an increased EIC.

58. CUSTOMER 8 did not generate the amount of business profits reported on the return described in paragraph 57, above, nor did CUSTOMER 8 give Smith a reason to believe that such business profit existed. While CUSTOMER 8 did operate a hairstyling business,

CUSTOMER 8 either broke even or made a small profit – not \$9,659 of profit. CUSTOMER 8 did not provide Smith with any documentation supporting the reported business profits.

59. Smith reported false business profit on CUSTOMER 8's return in order to reduce CUSTOMER 8's tax liabilities, increase CUSTOMER 8's EIC, and to increase CUSTOMER 8's tax refund for the respective year.

CUSTOMER 9

60. Smith prepared CUSTOMER 9's tax return for tax year 2017.

61. CUSTOMER 9's 2017 return contained a fabricated business loss of \$11,910 reported on Schedule C, and false child care expenses of \$8,000.

62. CUSTOMER 9 did not incur the amount of business loss reported on the return described in paragraph 61, above, nor did CUSTOMER 9 give Smith a reason to believe that such business loss existed. While CUSTOMER 9 did operate a business selling purses, CUSTOMER 9 incurred a loss of approximately \$4,000 to \$5,000 – not \$11,910 of business loss. CUSTOMER 9 did not incur child care expenses of \$8,000 in 2017. CUSTOMER 9 did not provide Smith with any documentation supporting the reported business loss or child care expenses.

63. Smith reported false business losses and false child and dependent care expenses on CUSTOMER 9's return in order to reduce CUSTOMER 9's tax liabilities, increase CUSTOMER 9's EIC, increase CUSTOMER 9's CTC, and to ultimately increase CUSTOMER 9's tax refund for the respective year.

CUSTOMER 10

64. Smith prepared CUSTOMER 10's tax return for tax year 2017.

65. CUSTOMER 10's 2017 return contained fabricated business losses of \$8,208 reported on Schedule C, and fabricated a payment of personal property taxes of \$1,500 reported on Schedule A.

66. CUSTOMER 10 did not incur the business losses or personal property tax expense reported on the return described in paragraph 65, above, nor did CUSTOMER 10 give Smith a reason to believe that such losses or expenses existed. CUSTOMER 10 did not provide Smith with any documentation supporting the loss or expense.

67. Smith reported false business losses and payment of personal property tax on CUSTOMER 10's return in order to reduce CUSTOMER 10's tax liabilities and to increase CUSTOMER 10's tax refund for the respective year.

68. All tax returns referenced above for CUSTOMERs 1 through 10 were for tax year 2017, meaning that Smith prepared those returns in calendar year 2018.

69. The federal income tax returns of each interviewed customer underreported the customer's correct tax liability, due to Smith's use of one or more of the schemes described in paragraphs 5 through 11, above.

70. During processing years 2016, 2017, and 2018 Smith prepared a total of 1,410 tax returns.

71. The \$50,523 tax harm from the returns of the 20 interviewed customers together with the \$516,678 tax harm from the returns of the 90 audited customers (see paragraphs 13 and 14 above), a total of 110 returns, yields an average tax harm of \$5,454 per adjusted return, as determined by IRS examination.

72. The fraudulent returns that Smith prepared and filed have caused – and continue to cause – substantial harm to the Government by falsely reducing her customers' reported tax

liabilities, helping taxpayers avoid paying their fair share of tax, or obtain refunds to which they were not entitled.

73. Because the 110 returns examined or reviewed by the IRS represent only a portion of the 320 returns prepared by Smith for tax year 2018 alone, it is likely that the tax loss to the United States far exceeds \$560,000.

74. The United States is also harmed because the IRS must devote some of its limited resources to investigating Smith's conduct as a tax return preparer, detecting and examining inaccurate and fraudulent returns filed by Smith, and attempting to assess against and collect from their customers' unpaid taxes and penalties, some of which may not be collectible.

COUNT I: Injunction under I.R.C. § 7407 for Violation of I.R.C. §§ 6694 and 6695 for Deceptive or Fraudulent Conduct that Interferes with Internal Revenue Code Administration

75. The United States incorporates by reference the allegations in all preceding paragraphs as though fully set forth herein.

76. Pursuant to I.R.C. § 7407, a court is authorized to enjoin a tax return preparer who, among other things, engages in conduct subject to penalty under I.R.C. §§ 6694 or 6695, or who engages in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

77. I.R.C. § 7701(a)(36) defines a "tax return preparer" as a person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return or a substantial portion thereof.

78. Smith is a tax return preparer within the meaning of I.R.C. § 7701(a)(36).

79. I.R.C. § 6694(a) penalizes a tax return preparer if: (1) the preparer prepared a return or claim for refund that included an understatement of liability due to a position for which

there was not a realistic possibility of being sustained on the merits; (2) the preparer knew (or reasonably should have known) of such position; and (3) the position was not properly disclosed or was frivolous.

80. I.R.C. § 6694(e) defines understatement of liability to include any understatement of tax due or “overstatement of the net amount creditable or refundable.”

81. In violation of I.R.C. § 6694(a), Smith prepared returns for customers that understated her customers’ tax liabilities and that she knew or should have known contained positions for which there was no substantial authority or for which there was no reasonable basis.

82. I.R.C. § 6694(b) penalizes a tax return preparer who prepares a return or claim with an understatement of liability: (1) in a willful attempt to understate the liability; or (2) with a reckless and intentional disregard of rules or regulations.

83. In violation of I.R.C. § 6694(b), Smith prepared tax returns for customers that she knew or reasonably should have known contained incorrect figures by engaging in the following schemes: the Schedule A Scheme, the Schedule C Scheme, the EIC Scheme, the Child Care Scheme, the CTC Scheme, the Energy Credit Scheme, the AOTC Scheme, and the Filing Status Scheme.

84. In violation of I.R.C. § 6694(b), Smith recklessly or intentionally disregarded rules and/or regulations by manipulating her customers’ filing statuses, business income and expenses, education expenses, energy credit claims, and itemized deductions in order to understate her customers’ tax liabilities.

85. I.R.C. § 6695(g) penalizes a tax return preparer who fails to comply with due diligence requirements imposed by the Secretary of the Treasury with respect to determining eligibility for the EIC, CTC, or eligibility to file as a head of household.

86. In violation of I.R.C. § 6694(g), Smith repeatedly failed to exercise due diligence by filing tax returns claiming EICs, CTCs, AOTCs, Residential Energy Credits, and claiming a head of household filing status that she knew or had reason to know were incorrect.

87. An injunction against Smith is necessary and appropriate to prevent the recurrence of her conduct subject to penalty under I.R.C. §§ 6694 and 6695.

88. Anything less than a permanent injunction and complete bar on the preparation of tax returns is unlikely to stop her from preparing fraudulent tax returns.

COUNT II: Injunction under I.R.C. § 7402(a) for Unlawful Interference with Enforcement of the Internal Revenue Laws and Appropriateness of Injunctive Relief

89. The United States incorporates by reference the allegations in all preceding paragraphs above, as though fully set forth herein.

90. Pursuant to I.R.C. § 7402(a), a court is authorized to issue orders of injunctions as may be necessary or appropriate to enforce the internal revenue laws.

91. I.R.C. § 7402(a) expressly provides that its injunction remedy is “in addition to and not exclusive of” other remedies for enforcing the internal revenue laws.

92. Smith’s activities described above substantially interfere with the enforcement of the internal revenue laws because she prepares and files numerous fraudulent tax returns that resulted in customers not paying their correct federal tax liabilities and/or receiving tax refunds to which they were not entitled.

93. Smith has shown that she should not be allowed to continue to prepare tax returns because she has deliberately played the audit lottery on behalf of her customers. By manipulating the income and expenses on Schedule C, items for which there is no independent third-party reporting, she has selected schemes that the IRS can detect only by auditing returns or interviewing her customers. Because she knows that the IRS lacks the resources to audit every

return that includes these schedules, she is actively subverting the American tax system, which relies on taxpayers to self-report their income and expenses fully and accurately.

94. An injunction prohibiting Smith from preparing or assisting in the preparation of tax returns is needed to stop her from preparing and filing fraudulent tax returns and to prohibit her from otherwise interfering with the proper administration and enforcement of the internal revenue laws now and in the future.

95. If she is not enjoined, the United States will continue to suffer irreparable harm from the underpayment of taxes and the exhaustion of resources to enforce the internal revenue laws.

96. The public interested would be advanced by enjoining Smith because an injunction will stop her illegal conduct and the harm that conduct is causing the United States Treasury and the public.

97. An injunction under I.R.C. § 7402 is necessary and appropriate, because the United States has no adequate remedy at law.

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

A. That the Court find that Smith, through the Company, has repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 9965, and in other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws; that, pursuant to I.R.C. § 7407, an injunction merely prohibiting conduct subject to penalty under I.R.C. §§ 6694 and 6695, or other fraudulent or deceptive conduct, would be insufficient to prevent her interference with the proper administration of the tax laws; and that Defendants should be permanently enjoined from acting as a tax return preparer;

B. That the Court find that Smith, through the Company, has interfered with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to I.R.C. § 7402(a);

C. That this Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction enjoining Smith and the Company, their officers, agents, servants, employees, and attorneys, and anyone in active concert or participation with them, from directly or indirectly:

1. Preparing or assisting in the preparation of federal tax returns, amended returns, and other related documents and forms for anyone other than themselves;
2. Advising, counseling, or instructing anyone about the preparation of a federal tax return;
3. Filing or assisting in the filing of a federal tax return for anyone other than themselves;
4. Owning, managing, controlling, working for, or volunteering for a tax-return preparation business;
5. Advertising tax return preparation services through any medium, including the internet and social media;
6. Maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
7. Representing customers in connection with any matter before the IRS;
8. Employing any person to work as a federal income tax return preparer;
9. Providing office space, equipment, or services for, or in any other way facilitating, the work of any person or entity that is in the business of preparing or

filing federal tax documents or forms for others or representing persons before the IRS;

10. Referring any customer to a tax preparation firm or a tax return preparer, or otherwise suggesting that a customer use any particular tax preparation firm or tax return preparer; and/or
11. Engaging in any conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

D. That this Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter a permanent injunction enjoining Smith and the Company, its officers, agents, servants, employees, and attorneys, and anyone in active concert or participation with her or with it, from directly or indirectly operating a business that prepares federal tax returns;

E. That the Court enter an order requiring Smith and the Company to prominently post a copy of its permanent injunction (with dimensions of at least 12 by 24 inches) at the locations where the Smith or Company conducts business;

F. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Smith and the Company to produce to counsel for the United States, within 30 days of the Court's order, a list that identifies by name, social security number, address, email address, and telephone number and tax period(s) all persons for whom they prepared federal tax returns or claims for a refund, for processing years beginning in 2017 and continuing through this litigation;

G. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Smith and the Company, within 30 days of receiving the Court's order, to contact by U.S. mail and, if an email address is known, by email, all persons for whom they have prepared federal tax returns, amended tax returns, or claims for refund since January 2017, as well as all

employees or independent contractors Smith or the Company has had since January 2018, and to inform them of the permanent injunction entered against them by sending each of them a copy of the order of permanent injunction, with no other enclosures unless approved by the Department of Justice;

H. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Smith and the Company, within 45 days of receiving the Court's order, to file a declaration, signed under penalty of perjury, confirming that they have received a copy of the Court's order and complied with the terms described in paragraphs F and G of this Complaint; and

I. That this Court grant the United States such other relief as the Court deems appropriate.

UNITED STATES OF AMERICA

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