

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:18-cv-20947-KMM

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESSYCA BERNARD,

Defendant.

ORDER ON REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon the United States of America's (the "Government") Motion for Contempt Order. ("Mot.") (ECF No. 9). The Court referred the Motion to the Honorable Jacqueline Becerra, United States Magistrate Judge, who issued a Report and Recommendation recommending that the Motion be GRANTED. ("R&R") (ECF No. 14). No objections have been filed and the time to do so has passed. The matter is now ripe for review. As set forth below, the Court ADOPTS the R&R.

The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

On March 13, 2018, the Government filed a complaint seeking a permanent injunction against Jessyca Bernard ("Defendant") pursuant to 26 U.S.C. §§ 7402(a), 7407 and 7408. *See generally* ("Compl.") (ECF No. 1). Specifically, the Government sought, *inter alia*, to permanently enjoin Defendant from preparing federal tax returns; owning, managing or working in a business that prepares or assists in the preparation of tax returns engaging in activity subject to penalty under 26 U.S.C. §§ 6694, 6695 and 6701; and engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws. *See generally id.* On June 22, 2018, the Government and Defendant filed a stipulation for entry of final judgment of permanent injunction. (ECF No. 5). On June 25, 2018, the Court entered the permanent injunction.

(ECF No. 6). The permanent injunction prohibited Defendant from, *inter alia*, “preparing, filing or assisting in the preparation or filing of, or directing the preparation or filing of, federal tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than Jessyca Bernard.” *Id.*

Now, the Government moves for an order of contempt because it obtained evidence that Defendant prepared tax returns for others in violation of the permanent injunction. *See* Mot. Additionally, the Government requests that the Court order Defendant (1) to pay \$4,000 as reimbursement for the expenses of the Government’s investigation, and (2) disgorge \$75,000, which represents the fees that she received from returns that she prepared in violation of the injunction. *Id.* ¶ 17.

As set forth in the R&R, Magistrate Judge Becerra recommends granting the Motion. On May 19, 2020, Magistrate Judge Becerra held a telephonic hearing on the Motion. (ECF No. 13). At the hearing, the Parties stipulated to the facts set forth in the Government’s Motion. As such, Magistrate Judge Becerra recommends that the Court grant the Government’s Motion and enter an Order of Contempt against Defendant. This Court agrees.

Accordingly, the Parties stipulate to the following:

1. Defendant directly or indirectly prepared 438 federal tax returns in violation of the injunction,
2. Defendant used a Preparer Tax Identification Number (“PTIN”) assigned to Dave P. Mouton and an Electronic Filing Identification Number (“EFIN”) assigned to Proper Staffing, Inc. to conceal her violations of the injunction,
3. Defendant collected a fee of at least \$300 for the preparation of each tax return she prepared in violation of the injunction,
4. Defendant and Dave P. Moulton agree to surrender the PTIN and EFIN referenced in paragraph 2, and

5. In light of the foregoing, Defendant is in contempt of the permanent injunction.

UPON CONSIDERATION of the Motion, the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Magistrate Judge Becerra's R&R (ECF No. 9) is ADOPTED and the Motion (ECF No. 14) is GRANTED. It is FURTHER ORDERED that:

1. Defendant shall pay the Government \$4,000 as reimbursement incurred in the course of its investigation,
2. Defendant shall disgorge \$75,000 to the Government, representing the fees she received from her actions in violation of the injunction,
3. Interest shall accrue on these amounts from the date of this Order pursuant to 28 U.S.C. § 1961.
4. The Government may continue to monitor Defendant's compliance with the permanent injunction and this order, and engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure to ensure compliance,
5. The Court retains jurisdiction to enforce the permanent injunction,
6. The injunction remains in place and is not superseded by any term of this Order,
7. The PTIN that David P. Moulton obtained from the IRS, and the EFIN that the IRS assigned to Proper Staffing, Inc. are hereby deemed forfeited and surrendered to the IRS and the IRS may immediately take all necessary steps to cancel them,
8. This Order resolves Defendant's liability arising for violations of the injunction to date, and
9. This Order does not preclude the Government from pursuing any other current or future civil or criminal matters or proceedings, nor does this Order preclude Defendant from contesting her liability in any such future proceeding.

DONE AND ORDERED in Chambers at Miami, Florida, this 27th day of August, 2020.



K. MICHAEL MOORE
CHIEF UNITED STATES DISTRICT JUDGE

c: All counsel of record