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CAROLINE D. CIRAOLO  
Acting Assistant Attorney General

JONATHAN M. HAUCK  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683  
Ben Franklin Station  
Washington, D.C. 20044-0683  
Telephone: 202-616-3173  
Facsimile: 202-307-0054  
Email: jonathan.m.hauck@usdoj.gov  
western.taxcivil@usdoj.gov

Of Counsel:  
DANIEL BOGDEN  
United States Attorney

*Counsel for the United States*

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
HARVEY L. CAGE, d/b/a CSN Tax Service, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Case No.  
**COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER  
EQUITABLE RELIEF**

The plaintiff, United States of America, for its complaint against defendant Harvey L. Cage,  
alleges as follows:

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1. This is a civil action brought by the United States under 26 U.S.C. (“I.R.C.”) §§ 7402(a) and 7407 to enjoin Harvey L. Cage, and anyone in active concert or participation with him, from:

- a. Promoting the exclusion of foreign earned income to others;
- b. Preparing, assisting in the preparation, supervising the preparation, or any other way being involved in the preparing or filing federal tax returns, amended returns, claims for refund, or other related documents or forms containing, reporting, or in any way involving foreign earned income;
- c. Preparing, assisting in the preparation, supervising the preparation, or any other way being involved in the preparing or filing federal tax returns, amended returns, claims for refund that contain Internal Revenue Service form 2555 ( entitled “Foreign Earned Income”) or its successors, if any;
- d. Preparing or assisting in preparing or filing federal tax returns, amended returns, claims for refund, or other related documents or forms that he knows or reasonably should know will result in an understatement of federal tax liability or the overstatement of federal tax refunds as prohibited by I.R.C. § 6694;
- e. Preparing or assisting in preparing or filing federal tax returns, amended returns, claims for refund, or other related documents or forms that request a waiver of any of the requirements of the Internal Revenue Code or its associated Treasury Regulations.
- f. Preparing returns for customers and failing to provide his identifying number as required under I.R.C. § 6108(a)(4);

- 1
- 2 g. Preparing returns for customers and failing to maintain copies of those returns, or
- 3 a list of those returns by taxpayer identification number as required by I.R.C. §
- 4 6107(b);
- 5 h. Engaging in any other activity subject to penalty under I.R.C. §§ 6694 or 6695;
- 6 and
- 7 i. Engaging in conduct that substantially interferes with the administration or
- 8 enforcement of the internal revenue laws.
- 9

10 ***Jurisdiction and Venue***

- 11 2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a
- 12 delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of
- 13 the Attorney General, pursuant to I.R.C. §§ 7402 and 7407.
- 14 3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§
- 15 7402(a).
- 16 4. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396 because Harvey L. Cage
- 17 resides in Las Vegas, and because a substantial part of the actions giving rise to this suit
- 18 took place within this judicial district.

19 ***Defendant and His Activities***

- 20 5. Harvey L. Cage (hereafter “Mr. Cage”) is a tax return preparer as defined by I.R.C. §
- 21 7701(a)(36). He prepares his customers’ federal tax returns for compensation.
- 22 6. Mr. Cage has prepared tax returns for others for approximately 45 years.
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7. Since 2005, Mr. Cage has done business as CSN Tax Service, an unincorporated entity primarily located Las Vegas, Nevada. Mr. Cage has separate locations in Grand Rapids, Michigan, and Chicago, Illinois. Mr. Cage is the sole owner of CSN Tax Service.
  8. Mr. Cage and CSN Tax Service primarily prepare individual tax returns.
  9. According to Mr. Cage, he personally prepared approximately 500 to 600 returns in 2009, 600 to 700 returns in 2010, 1,000 returns in 2011 and between 1,100 and 1,200 tax returns in 2012. CSN Tax Service prepared approximately 1,000 returns in 2009, 1,400 to 1,500 returns in 2010, between 1,800 and 1,900 returns in 2011 and between 2,200 to 2,500 returns in 2012.
  10. According to Mr. Cage, he began preparing form 2555 (Foreign Earned Income) in 2009. Mr. Cage has estimated that 25% of the returns that he personally prepares contain a form 2555.
  11. The requirements to exclude foreign earned income from a qualified individual's taxes are found in I.R.C. § 911 and associated regulations. Section 911(d)(1) defines a qualified individual as an individual whose tax home is in a foreign country and who is :
    - (A) a citizen who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or
    - (B) a citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.
  12. Section 911(d)(4) creates a waiver of the 330 day period. Section 911(d)(4) states that an individual who:

1  
2 (A) is a bona fide resident of, or is present in, a foreign country for  
3 any period,

4 (B) leaves such foreign country after August 31, 1978—

5 (i) during any period during which the Secretary  
6 determines, after consultation with the Secretary of State or  
7 his delegate, that individuals were required to leave such  
8 foreign country because of war, civil unrest, or similar  
9 adverse conditions in such foreign country which precluded  
10 the normal conduct of business by such individuals, and

11 (ii) before meeting the requirements of such paragraph (1),  
12 and

13 (C) establishes to the satisfaction of the Secretary that such  
14 individual could reasonably have been expected to have met  
15 such requirements but for the conditions referred to in clause  
16 (i) of subparagraph (B),

17 shall be treated as a qualified individual with respect to the period  
18 described in subparagraph (A) during which he was a bona fide  
19 resident of, or was present in, the foreign country, and in applying  
20 subsections (b)(2)(A), (c)(1)(B)(ii), and (c)(2)(A)(ii) with respect  
21 to such individual, only the days within such period shall be taken  
22 into account.

23  
13. Treas. Reg. § 1.911-2(f) further describes the waiver of period of stay in foreign country  
due to war or civil unrest. Treas. Reg. § 1.911-2(f) states in pertinent part:

If the Secretary determines, after consultation with the Secretary of  
State or his delegate, that war, civil unrest, or similar adverse  
conditions existed in a foreign country, then the Secretary shall  
publish the name of the foreign country and the dates between  
which such conditions were deemed to exist. In order to qualify to  
make an election under this paragraph, the individual must  
establish to the satisfaction of the Secretary that the individual left  
a foreign country, the name of which has been published by the  
Secretary, during the period when adverse conditions existed and  
that the individual could reasonably have expected to meet the  
requirements of paragraph (a) of this section but for the adverse  
conditions. The individual shall attach to his return for the taxable  
year a statement that the individual expected to meet the  
requirements of paragraph (a) of this section but for the conditions

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2 in the foreign country which precluded the normal conduct of  
3 business by the individual.

4 14. Pursuant to Treas. Reg. § 1.1911-2(f) a list of countries for which a waiver of the period  
5 of stay may be granted is published. Typically, the list is published in a Revenue  
6 Procedure. For tax year 2013, the list was published in Rev. Proc. 2014-25.

7 15. Individuals who are attempting to exempt foreign earned income would typically attach a  
8 form 2555 to their individual income tax return (form 1040).

9 16. Mr. Cage gained popularity amongst the employees of various companies providing  
10 overseas services to the Department of Defense. Employees of these companies stated  
11 that they believed that Mr. Cage had a way to reduce their income tax liabilities related to  
12 the work they performed abroad.

13 17. On behalf of these clients, Mr. Cage filed forms 2555 claiming a foreign earned income  
14 exclusion for which his clients were not entitled. Mr. Cage typically wrote on the top of  
15 form 2555 "CLAIMING WAIVER" and attaching a statement entitled "REQUEST FOR  
16 CONSIDERATION OF 330 DAY WAIVER." These requests for waiver of the 330 day  
17 period were made irrespective of the Internal Revue Code, associated Treasury  
18 Regulations, relevant Revenue Procedures listing of eligible countries, and IRS published  
19 guidance on the issue.

20 18. Mr. Cage disregarded the requirements of the I.R.C. § 911 with respect to the exclusion  
21 of foreign earned income.

22 19. On April 29, 2013, Mr. Cage was interviewed by the IRS regarding his preparation  
23 practices. During the course of this conversation, Mr. Cage expressed his position that he  
does not base his request for waiver of the 330 day requirement on the country visited by

1  
2 his clients. Mr. Cage could not provide a sound legal basis for his assertion that he was  
3 compliant with the Internal Revenue Code with regard to the use of form 2555 and his  
4 attempts to exclude foreign earned income.

5 20. During the April 29, 2013 meeting, an IRS Revenue Agent discussed with Mr. Cage  
6 concerns that Mr. Cage incorrectly applied the 330 day waiver requirements, and that Mr.  
7 Cage disregarded the list of countries for which waiver was possible any given year. Mr.  
8 Cage was told the vast majority of his clients were not eligible for the exclusion because  
9 they had no intention to stay abroad for the requisite 330 days when they left the United  
10 States. Secondly, Mr. Cage was informed that the list of countries that qualify for the  
11 waiver was changed yearly, and that the list is published by the IRS.

12 21. Based on examined income tax returns prepared by Mr. Cage for tax year 2013, it is clear  
13 that Mr. Cage continued filing inappropriate forms 2555 on behalf of his clients after the  
14 April, 29, 2013 meeting.

15 22. As of the date of the filing of this complaint, 299 returns that Mr. Cage prepared which  
16 contained form 2555 have been examined. The result of these examinations has been  
17 more than \$3,700,000 of additional tax due from Mr. Cage's clients.

18 23. Mr. Cage did not always provide his preparer identification number (PTIN) on the tax  
19 returns he prepared after many of his clients were audited in violation of I.R.C. §  
20 6109(a)(4). Mr. Cage did this in an attempt to reduce the probability of his clients getting  
21 audited.  
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*Harm to the United States*

24. Mr. Cage’s conduct harms the United States because his customers are underreporting and underpaying their tax liabilities. The IRS’s examinations of Mr. Cage’s clients are on-going. At the time of the filing of this complaint, the IRS had examined 299 returns of Mr. Cage’s clients, resulting in more \$3,700,000 in additional tax assessments. As such the average examined return results in over \$12,000 in additional tax due to the United States.

25. In addition to the direct harm caused by preparing tax returns that understate customers’ tax liabilities, Mr. Cage’s activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

26. Mr. Cage’s conduct further harms the United States because the IRS must devote its limited resources to identifying his customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting additional taxes and penalties.

*Harm to Cage’s Customers*

27. Cage’s customers have been harmed because they paid him fees to prepare proper tax returns, but Cage prepared returns that incorrectly understated his customers’ correct tax liabilities or created or inflated improper refunds.

28. As a result of Cage’s improper actions, many of his customers have been required to undergo audits by the IRS. They have incurred substantial and unanticipated financial burdens due to their liability for additional tax beyond the amount reported on their original returns, in addition to penalties and statutory interest.



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

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4 29. The United States incorporates by reference the allegations made in paragraphs 1 through  
5 28.

6 30. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax  
7 return preparer from engaging in conduct subject to penalty under I.R.C. §§ 6694 or  
8 6695. Section 6694(b) of the Internal Revenue Code penalizes a tax return preparer for  
9 preparing a return or claim for refund which understates a liability due to either a willful  
10 attempt to understate tax or a reckless or intentional disregard of rules or regulations.

11 31. I.R.C. § 7407 allows for a district court to enjoin a tax return preparer if the court finds  
12 that the preparer has engaged in such conduct and that injunctive relief is appropriate to  
13 prevent the recurrence of the conduct.

14 32. If the court finds that a return preparer has continually or repeatedly engaged in such  
15 conduct, and the court also finds that a narrower injunction (i.e., prohibiting only that  
16 specific enumerated conduct) would not be sufficient to prevent that person's interference  
17 with the proper administration of the internal revenue laws, the court may enjoin the  
18 person from further acting as a return preparer.

19 33. Mr. Cage has continually and repeatedly engaged in conduct subject to penalty under  
20 I.R.C. § 6694 by willfully attempting to understate his client's liabilities and recklessly  
21 disregarding the rules and regulations concerning form 2555 and foreign earned income  
22 by preparing tax returns for customers that understate their tax liability by attempting to  
23 exclude income via a foreign earned income exclusion. Mr. Cage knew or had reason to  
know that there was no authority for the claims he made on behalf of customers, and his

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2 preparation of these returns exhibits a reckless or intentional disregard of rules or  
3 regulations within the meaning of I.R.C. § 6694(b)(2). Mr. Cage especially had reason to  
4 know that his position lacked merit after he met with IRS personnel on April 29, 2013.

5 34. Mr. Cage has engaged in conduct subject to penalty under I.R.C. §6695 by 1) failing to  
6 furnish his preparer identifying number when preparing federal tax returns as required by  
7 I.R.C. § 6109(a)(4).

8 35. Mr. Cage's repeated and continual violations of I.R.C. § 6694 fall within I.R.C. §  
9 7407(b)(1)(A), and thus are subject to an injunction under I.R.C. § 7407.

10 36. If Mr. Cage is not enjoined, he is likely to continue to intentionally disregard the rules  
11 and regulations or recklessly prepare and file federal tax returns, causing economic loss  
12 to the United States, causing the United States to commit finite, scarce, and  
13 unrecoverable resources to the examination of Mr. Cage and his customers, and exposing  
14 his customers to large tax liabilities, penalties and interest.

15 **Count II:**  
16 **Injunction under I.R.C. § 7402(a)—Necessary to Enforce the Internal Revenue Laws**

17 37. The United States realleges and incorporates by reference paragraphs 1 through 36 of the  
18 Complaint.

19 38. Section 7402 of the Internal Revenue Code authorizes a district court to issue orders of  
20 injunction as may be necessary or appropriate for the enforcement of the internal revenue  
21 laws.

22 39. Mr. Cage, through the actions described above, has engaged in conduct that substantially  
23 interferes with the enforcement of the internal revenue laws.

1  
2 40. Unless enjoined, Cage is likely to continue to engage in such improper conduct and  
3 interfere with the enforcement of the internal revenue laws. If he is not enjoined from  
4 engaging in such willful or reckless conduct, the United States will suffer irreparable  
5 injury by wrongfully providing federal tax refunds to individuals not entitled to them,  
6 much of which may not be discovered and recovered. The United States will also suffer  
7 irreparable injury because it will have to devote substantial unrecoverable time and  
8 resources auditing Defendant's customers to detect future returns understating the  
9 customers' liabilities or overstating their refunds.

10 41. While the government will suffer irreparable injury if Mr. Cage is not enjoined, he will  
11 not be harmed by being compelled to obey the law.

12 42. Enjoining Mr. Cage is in the public interest because an injunction, backed by the Court's  
13 contempt powers if needed, will stop his illegal conduct and the harm it causes the United  
14 States.

15 43. The Court should therefore impose injunctive relief under I.R.C. § 7402(a).

16 WHEREFORE, plaintiff, United States of America, prays for the following relief:

17 A. That the Court find that Mr. Cage has continually and repeatedly engaged in  
18 conduct subject to penalty under I.R.C. § 6694, and that injunctive relief is appropriate  
19 under I.R.C. § 7407 to bar him from engaging in conduct subject to penalty under I.R.C.  
20 § 6694;

21 B. That the Court find that Defendant has engaged in conduct that substantially  
22 interferes with the enforcement of the internal revenue laws, and that injunctive relief is  
23 appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent

1  
2 equity powers and I.R.C. § 7402(a);

3 C. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter a permanent  
4 injunction prohibiting Mr. Cage, and all those in active concert or participation with him,  
5 from:

- 6 1. Promoting the exclusion of foreign earned income to others;
- 7 2. Preparing, assisting in the preparation, supervising the preparation, or any  
8 other way being involved in the preparing or filing federal tax returns, amended  
9 returns, claims for refund, or other related documents or forms containing,  
10 reporting, or in any way involving foreign earned income;
- 11 3. Preparing, assisting in the preparation, supervising the preparation, or any  
12 other way being involved in the preparing or filing federal tax returns, amended  
13 returns, claims for refund that contain Internal Revenue Service form 2555 (  
14 entitled “Foreign Earned Income”) or its successors, if any;
- 15 4. Preparing or assisting in preparing or filing federal tax returns, amended  
16 returns, claims for refund, or other related documents or forms that he knows or  
17 reasonably should know will result in an understatement of federal tax liability or  
18 the overstatement of federal tax refunds as prohibited by I.R.C. § 6694;
- 19 5. Preparing or assisting in preparing or filing federal tax returns, amended  
20 returns, claims for refund, or other related documents or forms that request a  
21 waiver of any of the requirements of the Internal Revenue Code or Treasury  
22 Regulations.
- 23 6. Preparing returns for customers and failing to provide his identifying

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2 number as required under I.R.C. § 6108(a)(4);

3 7. Preparing returns for customers and failing to maintain copies of those  
4 returns, or a list of those returns by taxpayer identification number as required by  
5 I.R.C. § 6107(b);

6 8. Engaging in any other activity subject to penalty under I.R.C. §§ 6694 or  
7 6695; and

8 9. Engaging in conduct that substantially interferes with the administration or  
9 enforcement of the internal revenue laws.

10 D. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an injunction  
11 requiring that Mr. Cage, within 30 days of entry of the injunction, contact by United  
12 States mail and, if an email address is known, by email, all persons for whom he prepared  
13 a federal tax return, amended return, or any other federal tax form which included a form  
14 2555 or which referenced foreign earned income since January 1, 2012, to inform them of  
15 the permanent injunction entered against him, and include a copy of the Court's  
16 permanent injunction order, but no other documents or enclosures unless agreed to by  
17 counsel for the United States or approved by the Court, and file with the Court a sworn  
18 certificate stating that he has complied with this requirement;

19 E. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an injunction  
20 requiring Mr. Cage to produce to counsel for the United States within 30 days a list that  
21 identifies by name, social security number, address, e-mail address, telephone number,  
22 and tax period(s) all persons for whom he prepared federal tax returns or claims for  
23 refund which contained a form 2555 or which referenced foreign earned income since

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January 1, 2012;

F. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an injunction requiring Defendant to provide a copy of the Court's order to all of the principals, officers, managers, employees, and independent contractors of his tax return preparation business within three days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment or receipt of the Court's order for each person to whom he provided a copy of the Court's order;

G. That the United States be entitled to conduct discovery to monitor Mr. Cage's compliance with the terms of any permanent injunction entered against him;

H. That the Court retain jurisdiction over Mr. Cage and this action to enforce any permanent injunction entered against him; and

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I. That the Court grant the United States such other and further relief, including costs, as is just and equitable.

Dated this 12th day of March,

CAROLINE D. CIRAOLO  
Acting Assistant Attorney General

JONATHAN M. HAUCK  
Trial Attorney, Tax Division

By: /s/ Jonathan. M Hauck  
JONATHAN M. HAUCK  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683  
Washington, D.C. 20044  
202-616-3173 (v)  
202-307-0054 (f)  
[jonathan.m.hauck@usdoj.gov](mailto:jonathan.m.hauck@usdoj.gov)

Of Counsel:  
DANIEL BOGDEN  
United States Attorney

*Counsel for the United States*