

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

UNITED STATES OF AMERICA,)	
)	Case No. 15-3283
Plaintiff,)	
)	
v.)	
)	
IRVING BROWN, SR., d/b/a)	
IRVING BROWN SR. TAX SERVICES,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of a delegate of the Attorney General, seeks a permanent injunction against defendant Irving Brown, Sr., individually and doing business as Irving Brown Sr. Tax Services, from acting as a federal tax return preparer and from engaging in conduct subject to penalty under the Internal Revenue Code (26 U.S.C) (the “Code”).

Jurisdiction

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.
2. The defendant Irving Brown, Sr. (“Brown Sr.”) currently resides and does business within the jurisdiction of this Court.

The Defendant

3. Brown Sr. is a paid tax return preparer who has prepared and filed federal income tax returns for taxpayers in the Chicago area since 1999. Brown Sr. operates a seasonal tax return preparation business out of his home in Chicago, under the name Irving Brown Sr. Tax Services.

4. The Internal Revenue Service (“IRS”) assigned Irving Brown Sr. Tax Services an Electronic Filing ID Number (“EFIN”). The IRS assigns an EFIN to firms that have completed an application process and have passed a suitability check to become an authorized IRS e-file provider able to file returns electronically. Since January 1, 2012, IRS regulations have required any tax return preparer who anticipates preparing and filing 11 or more Forms 1040, 1040A, 1040EZ and 1041 during a calendar year to obtain an EFIN and use IRS e-file.

5. On January 8, 2015, the IRS suspended the EFIN of Irving Brown Sr. Tax Services. However, Brown Sr. has continued to prepare and transmit taxes to the IRS using the EFIN assigned to The Jordan Taylor Group LLC, which is another Chicago-area tax preparation business.

6. The IRS assigns every return preparer a unique identification number, called a PTIN (Preparer Tax Identification Number), which must be affixed to every return the preparer files.

7. As of April 1, 2015, Brown Sr. has prepared and filed over 100 tax returns this year, using both his own PTIN and another, incorrect, PTIN that transposes two digits in his assigned PTIN. The incorrect PTIN makes it appear that another, unrelated preparer in Illinois is filing returns using the EFIN assigned to The Jordan Taylor Group LLC.

8. Brown Sr. holds himself out as a knowledgeable and experienced income tax return preparer.

9. Brown Sr. does not hold any professional or business licenses. He claims that his tax return preparation training consists of taking a six or seven week tax preparation class in 2009, completing 40 hours of online continuing education training in 2010, attending IRS webinar presentations, and utilizing online training resources.

10. For at least five years, Brown Sr. has been assisted in tax return preparation on an occasional basis by his son, Irving Brown II (“Brown II”). According to Brown Sr., Brown II only assists Brown Sr. in the preparation of returns and does not himself prepare or finalize the returns. Brown II does not have a PTIN.

11. For at least five years, Brown Sr. has been assisted in tax return preparation by his daughter, Tuiana Brown. Tuiana Brown obtained a PTIN in 2013 and filed returns under her own PTIN in 2013 and 2014.

12. As of April 1, 2015, Brown Sr. has prepared and filed a total of 107 tax returns this year. Of these, 14 were prepared and filed under Brown Sr.’s own PTIN and 92 were prepared and filed under a PTIN of an unrelated, legitimate tax preparer whose PTIN is similar to that of Brown Sr.

13. In 2014, 445 tax returns were prepared and filed under the name Irving Brown Sr. Tax Services and 270 returns were filed under Brown Sr.’s own name.

14. In 2013, Brown Sr. prepared and filed 450 returns.

15. In 2012, Brown Sr. prepared and filed 593 returns.

16. In 2011, Brown Sr. prepared and filed 635 returns.

17. According to his records, Brown Sr. charges most customers more than \$400 for preparing a personal income tax return. His records indicate that Irving Brown Tax Services received nearly \$600,000 in fees for the preparation of tax returns in 2011, 2012, and 2013.

18. Brown Sr. worked for the Chicago Fire Department starting in 1980 and retired in 2011 with the rank of Captain.

19. Many customers of Brown Sr. are firefighters with the Chicago Fire Department.

IRS Investigations into Brown Sr.'s Tax Preparation Activities

20. In 2012, the Internal Revenue Service ("IRS") reviewed Brown Sr.'s tax return preparation practices as part of an e-file Monitoring Visit. An e-file Monitoring Visit is conducted by the IRS in order to heighten awareness of tax preparer requirements and determine general compliance with the IRS's return preparer rules.

21. During the e-file Monitoring Visit, IRS Examiner Jennifer Bell determined that Brown Sr. was not in compliance with IRS rules. She found that Brown Sr. did not have a current address and phone number on file, was not using his PTIN correctly, improperly helped his customers create a PIN when signing their returns, failed to keep a signed Form 8879 IRS e-file Signature Authorization for each return that was filed electronically, did not maintain Forms W-2, W-2 G, or 1099-R for his customers, and never completed Form 8948 Preparer Explanation for Not Filing Electronically for paper returns he filed. For these violations, Brown Sr. was assessed civil penalties.

22. Brown Sr.'s case was referred to the Lead Development Center of the IRS for further review of his tax return preparation activities, and the IRS began a civil investigation into Brown Sr.'s tax preparation activities.

23. The IRS civil investigation of the tax returns prepared by Brown Sr. and/or prepared using the PTIN assigned to Irving Brown Sr. Tax Services reveals that Brown Sr. systematically filed, or caused to be filed, fraudulent and abusive tax returns.

24. The IRS examined 94 of the returns prepared under Brown Sr.'s PTIN for the tax years 2011, 2012, and 2013. IRS representatives also interviewed 15 taxpayers regarding tax returns prepared by Brown Sr. in 2013 for tax year 2012.

25. Of the 94 returns examined for these years, all but two returns required IRS adjustments. That is, the IRS found that 98% of the examined 2011, 2012, and 2013 tax returns prepared by Brown Sr. misreported his customers' tax liabilities.

26. The total tax deficiency from the 94 tax returns examined totaled \$741,166, with an average deficiency per tax return of \$7,884.74. The IRS projects that the tax loss due to errors on tax returns prepared by Brown Sr. for tax years 2011, 2012, and 2013 is well in excess of \$1 million.

Brown Sr.'s Fraudulent Tax Preparation Activities

27. The goal of Brown Sr.'s tax-fraud activities is to significantly underreport the tax liabilities of his customers and, as a result, for Brown Sr. to profit from preparing and filing fraudulent income tax returns by charging fees for his services.

28. Brown Sr. benefits from this fraudulent activity because the results he obtains for his customers lead to repeat business and referrals through "word of mouth" among Chicago firefighters and other members of the community.

29. To carry out his tax-fraud schemes, Brown Sr. often prepares his customers' tax returns by including a fraudulent Schedule C, showing inflated or entirely fraudulent losses, in order to

offset income on the taxpayer's Form 1040. Schedule C is used by individual taxpayers to report income or loss from a sole proprietorship. Brown Sr. completely fabricates expenses purportedly incurred by his customers' purported businesses. In reality, the taxpayer owns no business, or, if he or she does own a business, the business-related expenses are entirely concocted by Brown Sr.

30. By fraudulently inflating Schedule C expenses, the returns prepared by Brown Sr. purport to show that his customers have business expenses that offset earned income and the customer is therefore entitled to a refund of income taxes previously withheld and paid to the IRS.

31. The fraudulent tax returns prepared by Brown Sr. also commonly include false Form 1040, Schedule A itemized deductions. Schedule A is used by taxpayers who choose to itemize deductions rather than use the standard deduction from adjusted gross income. Brown Sr. routinely lists charitable contributions that are entirely fabricated and he often creates false unreimbursed business expenses.

32. By creating these false Schedule A deductions, Brown Sr. is able to offset his customers' earned income to fraudulently obtain a refund of income taxes previously withheld and paid to the IRS.

33. When his customers do not have enough earned income to generate income tax refunds through fabricated Schedule A and Schedule C deductions, Brown Sr. fraudulently inflates his customers' Schedule C business income to show that the taxpayer is entitled to an earned income tax credit to which he or she is, in fact, not entitled. The Earned Income Credit or Earned Income Tax Credit, established by 26 U.S.C. § 32, is a refundable tax credit for low to

moderate income working individuals and couples, particularly those with children. The amount of benefit depends on a recipient's income and number of children.

34. Brown Sr. also frequently prepares returns claiming head of household filing status for customers who are ineligible for that status. To qualify for head of household filing status, a taxpayer must be unmarried or considered unmarried at the end of the year, have paid more than half the cost of keeping up a home for the tax year (either one's own home or the home of a qualifying parent), and, in most cases, have a qualifying person who lived in the home for more than half of the tax year, unless the qualifying person is a dependent parent. Taxpayers who qualify for the Head of Household filing status benefit from a higher standard deduction and lower tax rates compared to the single or married filing separately statuses.

35. For other customers, Brown Sr. has created false Form 1040, Schedule E expenses from rental real estate in order to create significant deductions to taxable income. Schedule E is used to report income or loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, and residual interests in REMICs.

36. In certain instances, Brown Sr. has offered to prepare, and has prepared, false invoices and receipts to substantiate these fraudulent expenses described above for his customers' use in IRS audits.

37. Some specific examples of Brown Sr.'s fraudulent tax preparation activities are as follows:

CUSTOMER 1

38. CUSTOMER 1, of Chicago, is employed as a firefighter at the Chicago Fire Department. He met Brown Sr. when Brown Sr. worked as a Captain at the Fire Department.

39. Brown Sr. prepared and filed the 2012 income tax return for CUSTOMER 1.

40. When preparing J.A.'s 2012 income tax return, Brown Sr. created false Schedule A deductions and Schedule C business losses without the knowledge and consent of CUSTOMER 1.

41. Brown Sr. falsely claimed that CUSTOMER 1 had a carpentry business on the Schedule C of Form 1040. CUSTOMER 1 did not have a carpentry business and never provided Brown Sr. information related to the false business.

42. Brown Sr. then fabricated Schedule C business expenses supposedly incurred by this fictitious carpentry business.

43. Brown Sr. manufactured Schedule C business expenses of \$24,880 in 2012 to offset CUSTOMER 1's income so that CUSTOMER 1 would obtain a refund to which he was not entitled once the return was filed.

44. In addition, when preparing CUSTOMER 1's 2012 income tax return, Brown Sr. inflated CUSTOMER 1's charitable contributions for the tax year 2012. Brown Sr. falsely claimed that CUSTOMER 1 made \$10,500 in cash charitable contributions, when in fact CUSTOMER 1 advised Brown Sr. that he made about \$4,800 in charitable donations in 2012.

45. Brown Sr. further misstated unreimbursed business expenses on CUSTOMER 1's Schedule A. The 2012 return claimed \$9,490 in unreimbursed employee expenses.

46. Due to the fraudulent Schedule A and Schedule C deductions, CUSTOMER 1 underreported his tax liabilities by \$8,203.

CUSTOMER 2

47. CUSTOMER 2, of Chicago, worked in retail sales and received public assistance. She was referred to Brown Sr. for tax preparation by a family friend.

48. Brown Sr. prepared and filed the 2012 income tax return for CUSTOMER 2.

49. When preparing CUSTOMER 2's 2012 income tax return, Brown Sr. created false Schedule C business profits without CUSTOMER 2's knowledge and consent. Due to these false business profits, CUSTOMER 2 received an Earned Income Credit refund to which she was not entitled.

50. Brown Sr. falsely claimed that CUSTOMER 2 had a hair styling business on the Schedule C of Form 1040. CUSTOMER 2 did not have a hair styling business and never provided Brown Sr. information related to the false business.

51. Brown Sr. then fabricated Schedule C business expenses and profits supposedly incurred by this fictitious hair styling business.

52. Brown Sr. manufactured Schedule C business profits of \$8,084 in 2012 to increase CUSTOMER 2's income so that she would qualify for the Earned Income Credit and obtain a refund when Brown Sr. filed CUSTOMER 2's tax return.

53. Due to the fraudulent Schedule C profits and resulting Earned Income Credit, CUSTOMER 2 received a refund of \$2,392 to which she was not entitled.

CUSTOMER 3

54. CUSTOMER 3, of Chicago, is employed as a firefighter at the Chicago Fire Department. He met Brown Sr. when Brown Sr. worked as a Captain at the Fire Department.

55. Brown Sr. prepared and filed the 2012 income tax return for CUSTOMER 3.

56. When preparing CUSTOMER 3's 2012 income tax return, Brown Sr. created false Schedule A deductions and Schedule C business losses without CUSTOMER 3's knowledge and consent.

57. Brown Sr. falsely claimed that CUSTOMER 3 had a construction business on the Schedule C of Form 1040. CUSTOMER 3 did not have a construction business and never provided Brown Sr. information related to the false business.

58. Brown Sr. then fabricated Schedule C business expenses supposedly incurred by this fictitious construction business.

59. Brown Sr. manufactured Schedule C business expenses of \$21,994 in 2012 to offset CUSTOMER 3's income so that CUSTOMER 3 would obtain a refund when the tax return was filed.

60. In addition, when preparing CUSTOMER 3's 2012 income tax return, Brown Sr. inflated CUSTOMER 3's charitable contributions for the tax year 2012. Brown Sr. falsely claimed that CUSTOMER 3 made \$6,500 in cash charitable contributions and \$480 in non-cash contributions, when in fact CUSTOMER 3 made about \$150 in charitable donations in 2012.

61. Brown Sr. further misstated unreimbursed business expenses on CUSTOMER 3's Schedule A. The 2012 return claimed \$10,262 in unreimbursed employee expenses. However, CUSTOMER 3 did not incur these expenses and did not discuss with or provide Brown Sr. any information regarding such expenses. The claimed expenses were falsified on CUSTOMER 3's 2012 tax return by Brown Sr.

62. Due to the fraudulent Schedule A and Schedule C deductions, CUSTOMER 3 underreported his tax liability by \$9,088.

CUSTOMER 4

63. CUSTOMER 4, of Chicago, is employed as a medical assistant. She was referred to Brown Sr. through word-of-mouth.

64. Brown Sr. prepared and filed the 2012 income tax return for CUSTOMER 4.

65. When preparing CUSTOMER 4's 2012 income tax return, Brown Sr. created false Schedule A deductions and Schedule C business losses without CUSTOMER 4's knowledge and consent.

66. Brown Sr. claimed that CUSTOMER 4 had a home healthcare agency on the Schedule C of Form 1040. CUSTOMER 4 did not have a home healthcare business and never provided Brown Sr. information related to the false business.

67. Brown Sr. then fabricated Schedule C business expenses supposedly incurred by this fictitious healthcare business.

68. Brown Sr. manufactured Schedule C business expenses of \$16,545 in 2012 to offset CUSTOMER 4's income so that she would obtain a refund when Brown Sr. filed CUSTOMER 4's tax return.

69. In addition, when preparing CUSTOMER 4's 2012 income tax return, Brown Sr. inflated CUSTOMER 4's charitable contributions for the tax year 2012 on her Schedule A form. Brown Sr. falsely claimed that CUSTOMER 4 made \$2,150 in cash charitable contributions and \$462 in non-cash contributions, when in fact CUSTOMER 4 did not discuss or provide Brown Sr. with any documents showing the amount of charitable contributions she made during the 2012 tax year.

70. Brown Sr. further misstated unreimbursed business expenses on CUSTOMER 4's Schedule A. The 2012 return claimed \$10,987 in unreimbursed employee expenses. However, CUSTOMER 4 did not discuss with or provide Brown Sr. any information regarding such expenses. The claimed expenses were falsified on CUSTOMER 4's 2012 tax return by Brown Sr.

71. Brown Sr. also claimed Head of Household status on CUSTOMER 4's Form 1040. However, CUSTOMER 4 was ineligible for that status because she was married and lived with her husband in the same residence in 2012.

72. Due to the fraudulent Schedule A and Schedule C deductions, CUSTOMER 4 underreported her tax liability by \$6,186.

CUSTOMER 5

73. CUSTOMER 5, of Chicago, was an engineer. He was referred to Brown Sr. through word-of-mouth.

74. Brown Sr. prepared and filed the 2011 and 2012 income tax returns for CUSTOMER 5.

75. When preparing CUSTOMER 5's 2011 and 2012 income tax returns, Brown Sr. created false Schedule A deductions and Schedule C business losses without CUSTOMER 5's knowledge and consent.

76. Brown Sr. fabricated Schedule C gross receipts and business expenses supposedly incurred by CUSTOMER 5. However, CUSTOMER 5 never provided books and records to Brown Sr. and never incurred the profits and expenses stated.

77. Brown Sr. manufactured Schedule C business expenses of \$22,553 in 2011 and \$25,481 in 2012 to offset CUSTOMER 5's income so that CUSTOMER 5 would obtain a refund when Brown Sr. filed CUSTOMER 5's tax return.

78. When CUSTOMER 5 informed Brown Sr. that his tax return was going to be audited by the IRS, Brown Sr. prepared false work orders, blank receipts, and invoices to substantiate the fraudulent Schedule C forms.

79. In addition, when preparing CUSTOMER 5's 2011 income tax return, Brown Sr. misstated unreimbursed business expenses on CUSTOMER 5's Schedule A. The 2011 return claimed \$6,284 in unreimbursed employee expenses. However, CUSTOMER 5 did not discuss with or provide Brown Sr. any information regarding such expenses. The claimed expenses were falsified on CUSTOMER 5's 2011 tax return by Brown Sr.

80. Due to the fraudulent Schedule A and Schedule C deductions, CUSTOMER 5 underreported his tax liabilities in the amount of \$5,992.33 for tax year 2011 and \$5,573.82 in tax year 2012.

CUSTOMER 6

81. CUSTOMER 6, of Chicago, is employed as a firefighter at the Chicago Fire Department. He met Brown Sr. when Brown Sr. worked as a Captain at the Fire Department.

82. Brown Sr. prepared and filed the 2011 and 2012 income tax returns for CUSTOMER 6.

83. When preparing CUSTOMER 6's 2011 and 2012 income tax returns, Brown Sr. created false Schedule A deductions and Schedule C business losses without CUSTOMER 6's knowledge and consent.

84. Brown Sr. falsely claimed that CUSTOMER 6 had a painting business on Schedule C of Form 1040. CUSTOMER 6 did not have a painting business and never provided Brown Sr. information related to the false business.

85. Brown Sr. then fabricated Schedule C business expenses supposedly incurred by this fictitious painting business.

86. Brown Sr. manufactured Schedule C business expenses of \$23,151 in 2011 and \$19,197 in 2012 to offset CUSTOMER 6's income so that he would obtain a refund when he filed CUSTOMER 6's tax return.

87. In addition, when preparing CUSTOMER 6's 2011 and 2012 income tax returns, Brown Sr. reported rental income and expenses reflecting losses on Schedule E for a property that CUSTOMER 6 owned and occupied as his personal residence. CUSTOMER 6 did not provide Brown Sr. information related to the income and expenses and the IRS does not permit a deduction for expenses associated with a taxpayers' personal residence.

88. Due to the fraudulent Schedule A and Schedule C deductions, CUSTOMER 6 underreported his tax liabilities in the amount of \$12,297 in 2011 and \$13,164 in 2012.

CUSTOMER 7

89. CUSTOMER 7, of Chicago, is an analyst. She was referred to Brown Sr. through her husband, CUSTOMER 6, who is a firefighter with the Chicago Fire Department.

90. Brown Sr. prepared and filed the 2011 and 2012 income tax returns for CUSTOMER 7.

91. When preparing CUSTOMER 7's 2011 and 2012 income tax returns, Brown Sr. created false Schedule A deductions and Schedule C business losses without CUSTOMER 7's knowledge and consent.

92. Brown Sr. falsely claimed that CUSTOMER 7 had a travel services business on Schedule C of Form 1040. CUSTOMER 7 did not have a travel services business and never provided Brown Sr. information related to the false business.

93. Brown Sr. then fabricated Schedule C business expenses supposedly incurred by this fictitious travel services business.

94. Brown Sr. manufactured Schedule C business expenses of \$22,447 in 2012 and \$21,819 in 2011 to offset CUSTOMER 7's income so that she would obtain a refund when Brown Sr. filed CUSTOMER 7's tax return.

95. In addition, when preparing CUSTOMER 7's 2011 and 2012 income tax returns, Brown Sr. inflated charitable contributions on her Schedule A forms. Brown Sr. falsely claimed that CUSTOMER 7 made \$4,670 in charitable contributions in 2012 and \$4,665 in charitable contributions in 2011, when in fact CUSTOMER 7 did not discuss or provide Brown Sr. with any documents showing the amount of charitable contributions she made during the 2011 and 2012 tax years.

96. In addition, when preparing CUSTOMER 7's 2011 and 2012 income tax returns, Brown Sr. misstated unreimbursed business expenses on CUSTOMER 7's Schedule A. The 2012 return claimed \$8,717 and the 2011 return claimed \$3,941 in unreimbursed employee expenses. However, CUSTOMER 7 did not discuss with or provide Brown Sr. any information regarding such expenses. The claimed expenses were falsified on CUSTOMER 7's 2011 and 2012 tax returns by Brown Sr.

97. When CUSTOMER 7 informed Brown Sr. that her 2011 tax return was going to be audited by the IRS, Brown Sr. advised her to “go along with the return” as filed and promised to provide her with false documentation to support the return that he had prepared.

98. Due to the fraudulent Schedule A and Schedule C deductions, CUSTOMER 7 underreported her tax liability in the amount of \$8,377 for tax year 2011 and \$8,970 in tax year 2012.

Harm to the United States

99. The fraudulent returns Brown Sr. has prepared and filed have caused and continue to cause substantial harm to the Government by fraudulently reducing customers’ reported tax liabilities, helping taxpayers to obtain fraudulent refunds and evade taxes, and by obstructing the IRS’s efforts to administer the federal tax laws.

100. Brown Sr.’s fraudulent conduct — which is essentially stealing from the United States Treasury — has caused significant damage to the fisc. The IRS’s audits show an actual harm to the United States of \$741,166. Because just a portion of Brown Sr.’s returns were audited, the IRS estimates that the harm done to the United States due to errors on tax returns prepared by Brown Sr. for tax years 2011, 2012, and 2013 is well in excess of \$1 million.

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

102. The United States is also harmed by Brown Sr.'s repeated use of a PTIN that did not belong to him, an action that actively thwarts the IRS's ability to administer the Internal Revenue Code and to identify fraudulent tax preparers.

103. The United States is also harmed by Brown Sr.'s attempts to assist his customers in falsifying receipts and invoices in preparation for audits, actions that actively thwart the IRS's ability to administer the Internal Revenue Code and to identify fraudulent tax preparers.

104. Brown Sr.'s customers have been harmed because they have paid him to prepare tax returns, and they now face large tax deficiencies and may be liable for sizable penalties and interest as a result.

105. In addition to the direct monetary and administrative harm caused by preparing returns that understate customers' tax liabilities, Brown Sr.'s illegal activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

106. Brown Sr.'s illegal conduct also causes intangible harm to honest tax return preparers, because by preparing returns that falsely or fraudulently underreport his customers' tax liabilities and inflate his customers' refunds, he gains an unfair competitive advantage over tax return preparers who do not do so and who as a result may have fewer customers.

COUNT I: Injunction under 26 U.S.C. § 7407 for Violation of 26 U.S.C. §§ 6694 and 6695

107. The United States incorporates by reference the allegations in paragraphs 1 through 106.

108. A court is authorized to enjoin an income tax return preparer who engages in conduct subject to penalty under Code sections 6694 or 6695, pursuant to 26 U.S.C. § 7407.

109. Code section 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.

110. Brown Sr. is a tax return preparer within the meaning of section 7701(a)(36).

111. Code section 6694(a) penalizes a tax return preparer if: (1) the preparer prepares a return or claim for refund that includes an understatement of liability due to a position for which there is 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.

112. Code section 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.

113. Brown Sr. is subject to penalty under Code section 6694(a) because he prepared returns for customers that underreported his customers’ tax liabilities and that he knew or should have known contained positions for which there was no substantial authority or for which there was no reasonable basis.

114. Brown Sr. is subject to penalty under Code section 6694(b) because he willfully prepared tax returns for customers that he knew contained incorrect filing statuses, fabricated business income and expenses, false unreimbursed business expenses and charitable contributions, and false Schedule E rental losses.

115. Brown Sr. is subject to penalty under Code section 6695(c) because he failed to furnish his correct preparer identifying number (“PTIN”) on 92 tax returns he prepared in 2015.

116. Anything less than a permanent injunction and complete bar on the preparation of tax returns is unlikely to stop Brown Sr. from preparing fraudulent tax returns. Brown Sr. has shown flagrant disregard for the internal revenue laws. Not only is it his pattern to file fraudulent returns, but Brown Sr. has continued his fraudulent activity, despite receiving notice of IRS investigations into his fraudulent activity. There is a high likelihood that he will continue his schemes if he is merely barred from filing improper returns.

Count II: Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701

117. The United States incorporates by reference the allegations in paragraphs 1 through 116.

118. A court is authorized to issue an injunction if an income tax preparer engages in conduct subject to penalty under 26 U.S.C. § 6701, pursuant to 26 U.S.C. § 7408.

119. Code section 6701 penalizes any person who (1) aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; (2) knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and (3) knows that such portion (if so used) would result in an understatement of the liability for tax of another person.

120. Brown Sr. has engaged in conduct subject to penalty under Code section 6701 by preparing and filing fraudulent tax returns on behalf of customers who obtain unwarranted refunds as a result.

121. Brown Sr. is subject to penalty under Code section 6701 because he prepared returns that he knew or had reason to know would be used as to material matters under federal tax law and that he knew would result in understatements of customers' tax liability.

122. The schemes Brown Sr. has used have caused and continue to cause substantial harm to the Government by fraudulently reducing his customers' reported tax liabilities, inducing the IRS to issue fraudulent refunds, and obstructing the IRS's efforts to administer federal tax laws.

123. The magnitude of the lost tax revenue caused by Brown Sr.'s fraudulent conduct is substantial. As discussed above, the IRS estimates the tax loss to the Government to be well in excess of \$1 million.

124. The United States also is harmed because the IRS must continually devote its limited resources to detecting and examining inaccurate returns filed by Brown Sr., and to attempting to assess and collect unpaid taxes from his customers.

125. An injunction against Brown Sr. is necessary and appropriate to prevent the recurrence of his conduct, subject him to penalty under Code section 6701, and to prevent him from engaging in any other conduct subject to penalty under the Internal Revenue Code.

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

126. The United States incorporates by reference the allegations in paragraphs 1 through 125.

127. A court is authorized to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws, pursuant to 26 U.S.C. § 7402(a).

128. Code section 7402(a) expressly provides that its injunction remedy is “in addition to and not exclusive of” other remedies for enforcing the internal revenue laws.

129. Brown Sr.’s activities described above substantially interfere with the enforcement of the internal revenue laws because his preparation and filing of numerous fraudulent tax returns resulted in customers not paying their true federal tax liabilities and receiving tax refunds to which they were not entitled.

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

131. Given that Brown Sr. has continued his misconduct despite the IRS investigations described above, he is likely to continue to engage in illegal conduct in the future unless enjoined by this Court.

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

133. The public interest would be advanced by enjoining Brown Sr. because an injunction will stop his illegal conduct and stop the harm that conduct is causing the United States Treasury and the public.

134. An injunction under Section 7402 is necessary and appropriate, and the United States is entitled to injunctive relief under Section 7402. The injunction, as detailed below, should bar Brown Sr., and anyone acting in concert with him, from preparing or filing tax returns

for others, representing customers before the IRS, and from otherwise engaging in conduct that interferes with the proper administration of the internal revenue laws.

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

A. That the Court find that Brown Sr. has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, that, pursuant to 26 U.S.C. § 7407, an injunction merely prohibiting conduct subject to penalty under §§ 6694 and 6695 would not be sufficient to prevent Brown Sr.'s interference with the proper administration of the tax laws, and that Brown Sr. should be permanently enjoined from acting as an income tax return preparer;

B. That the Court find that Brown Sr. has engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

C. That the Court find that Brown Sr. 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 26 U.S.C. §§ 7402(a) under the Court's inherent equity powers;

D. That this Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction enjoining Brown Sr., his officers, agents, servants, employees, and attorneys, and anyone in active concert or participation with him or with them, from directly or indirectly:

1. Preparing or filing, or assisting in preparing or filing, any federal tax return, amended return, or other federal tax document or form for any person other than himself;
2. Representing any person before the IRS, or advising, assisting, counseling, or instructing anyone about preparing a federal tax return;

3. Having an ownership interest in an entity that is in the business of preparing federal tax returns or other federal tax documents or forms for other persons or representing any person before the IRS, or advising, assisting, counseling, or instructing anyone about preparing a federal tax return;
4. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, or 6701;
5. Maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
6. Employing any person who prepares or files, or assists in preparing or filing, any federal tax return, amended return, or other federal tax document or form for any person;
7. Advertising tax return preparation services through any medium, including the internet and social media; and,
8. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

E. That the Court, pursuant to 26 U.S.C. § 7402(a), 7407, and 7408, enter an order requiring Brown Sr. to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom he prepared federal tax returns or claims for a refund, for tax years beginning in 2010 and continuing through this litigation;

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Brown Sr., 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 he has prepared federal tax returns, amended tax returns, or claims for refund since January 2011, as well as all employees or independent contractors he has had since January 2011, and to inform them of the permanent injunction entered against him by sending each of them a copy of the order of permanent injunction, with no other enclosures unless approved by the Department of Justice or the Court;

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

H. That this Court permit the United States to conduct post-judgment discovery to ensure Brown Sr.'s compliance with the permanent injunction; and

I. That this Court retain jurisdiction over Brown Sr. and over this action to enforce any injunction entered against him; and

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

CAROLINE D. CIRAOLO
Acting Assistant Attorney General

/s/ Jordan A. Konig
JORDAN A. KONIG
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington, D.C. 20044
202-305-7917 (v)
202-514-5238 (f)
Jordan.A.Konig@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
United States of America
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Jordan A. Konig
Department of Justice Tax Division
P.O. Box 55, Washington, DC 20044 (202) 305-7917

DEFENDANTS
Irving Brown, Sr. d/b/a Irving Brown Sr. Tax Services
County of Residence of First Listed Defendant Cook
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
Jonathan P. Decatorsmith
IIT Chicago-Kent College of Law
230 South Dearborn, Chicago, IL 60604 (312) 906-5050

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Table with columns: PTF, DEF, Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each column contains a list of legal categories with checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)
26 U.S.C. 7407, 7408

VII. Previous Bankruptcy Matters (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

IX. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

X. This case (check one box) Is not a refiling of a previously dismissed action is a refiling of case number previously dismissed by Judge

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the six boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Previous Bankruptcy Matters For nature of suit 422 and 423 enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this court. Use a separate attachment if necessary.

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

IX. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

X. Refiling Information. Place an "X" in one of the two boxes indicating if the case is or is not a refiling of a previously dismissed action. If it is a refiling of a previously dismissed action, insert the case number and judge.

Date and Attorney Signature. Date and sign the civil cover sheet.