

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Case No.
PAUL JEAN, individually)	
and doing business as)	
WHIZ TAX, LLC, and REJOICE)	
SERVICES & TAX, INC.,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff United States of America seeks a permanent injunction against Paul Jean, individually and doing business as Whiz Tax and Rejoice Services & Tax, permanently barring him from acting as a federal tax return preparer.

Nature of the Action

1. The United States brings this action under 26 U.S.C. § 7402(a), § 7407, and § 7408, to enjoin Jean, and any other person working in concert or participation with him from directly or indirectly:
 - (a) Preparing, assisting in the preparation of, or directing the preparation 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 himself;
 - (b) Engaging in activity subject to penalty under 26 U.S.C. § 6694, § 6695, and § 6701; or

- (c) Engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws.

Authorization

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States.

Jurisdiction and Venue

3. Jurisdiction is conferred on this Court by 28 U.S.C. § 1340 and § 1345, as well as 26 U.S.C. § 7402(a).
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 26 U.S.C. § 7407(a) because a substantial part of the events giving rise to this claim occurred within this judicial district. Venue is also proper under 28 U.S.C. §1391(b)(1) because defendant resides in this district

Defendant's Activities

5. Jean resides at 204 SE 4th Ave, Apt. 1, Boynton Beach, Florida. He holds an Associate's Degree in accounting from the City College of West Palm Beach, Florida.
6. Jean is a tax return preparer, as defined in 26 U.S.C. § 7701(a)(36).
7. Jean is the sole member of Whiz Tax, LLC, and the sole owner of Rejoice Services and Tax, Inc.
8. Jean has prepared tax returns for compensation since at least 2009.
9. Jean operates his business under the trade name Whiz Tax and advertises using this name through flyers and business cards, as well as the website www.whiztax.com.

10. Returns prepared by Jean or at his direction indicate that the preparer's firm is "Rejoice Services and Tax" and list an Employee Identification Number (EIN) belonging to that entity.
11. Whiz Tax's website advertises that the company has eleven locations, while in fact Whiz Tax currently has only three locations. Primarily, Jean operates from an office at 4469 S. Congress Ave, Suite 120, Lake Worth, Florida.
12. Jean and individuals working in concert with him and at his direction prepared and filed at least 2,798 returns during the calendar years 2012-2014. Approximately 25% of these returns were prepared by Jean personally, and the rest were prepared at Jean's direction by other individuals working for him.
13. During the years indicated, Jean personally prepared or directed the preparation and filing of the following number of returns:

<u>Calendar year</u>	<u>Number of Returns</u>
2012	1,087
2013	872
2014	839

14. Jean has personally prepared or directed the preparation and filing of at least 355 returns during 2015.
15. Most of the income tax returns prepared by Jean or at his direction have understated his customer's liability or overstated their income by falsely claiming credits or creating or inflating deductions.
16. Jean's customers provide him with correct information concerning their finances and other matters pertaining to their tax liability. However, Jean ignores that information and

reports false information to fabricate or inflate credits and/or deductions. Jean reports the false information in a variety of ways.

17. Upon information and belief, in some instances Jean has prepared two returns for a customer. One return is shown to the customer but not filed with the IRS, while the other return is filed with the IRS but not shown to the customer. The filed return claims a larger refund than the return shown to the customer by using at least one of the schemes described below. Jean then keeps the fraudulent excess refund reported on the filed return. While Jean remits the refund reported on the unfiled return shown to his customers, he retains the excess refund claimed on the fraudulent return he files in their name.

Falsely Claiming Credits

18. The IRS conducted a detailed review of 1,242 returns prepared by Jean or at his direction for the 2011 tax year and determined that the majority of these returns claimed at least one fraudulent credit. This review included both the 1,087 returns filed in calendar year 2012, as listed in paragraph 13, above, and returns that were transmitted to the IRS but not accepted for filing due to a technical or other deficiency.
19. Of the 1,242 returns reviewed by the IRS, 1,107 claimed the Hope education credit, 777 claimed a fuel tax credit, and 535 claimed an Earned Income Tax Credit based on "HSH," or household help, income, which is a common type of income misreported by dishonest tax return preparers to wrongfully inflate the EITC because it does not correspond to an informational return, such as a 1099 or W-2, filed by an employer. These numbers are unusually high and indicate that the credits are likely fraudulent.

20. Jean continues to prepare many returns that claim fraudulent credits by one or more of the schemes described below. Some of the credits are refundable, meaning the amount of the credit is refunded to the taxpayer regardless of the amount paid.

Educational credits

21. Jean, or individuals working at his direction, prepare returns that falsely claim tax credits for education expenses that were not actually incurred by the taxpayer.
22. In general, education credits are claimed on a Form 8863 with an individual income tax return. The credits are generally “Lifetime Learning Credit” or “Hope Scholarship Credit” authorized by 26 U.S.C. § 25A, or an “American Opportunity Credit,” which modifies the Hope Scholarship Credit in years 2009 through 2012.
23. Usually, an educational institution which receives payments from a student is required to file a Form 1098-T with the IRS and provide the student a copy. The Form 1098-T lists the student’s name and social security number. As such, most valid claims for an education credit correspond with a Form 1098-T
24. The IRS analysis of returns filed by Jean or at his direction for 2011 indicates that over 85% of the education credits claimed on those returns were fraudulent. As noted above, Jean prepared 1,107 returns that claimed a Hope education credit for 2011. Those returns claimed credits based on 1,301 purported students (because some returns included a claim for more than one student). Only 165 of those 1,301 purported students were issued a Form 1098-T by any education institution. The remaining 1,136 claims are highly suspect due to the absence of a corresponding Form 1098-T.
25. The return prepared by Jean for taxpayer C.K. for the 2012 tax year is an example of Jean’s scheme for claiming false education credits.

26. C.K.'s 2012 tax return included a Form 8863 which claimed a refundable American Opportunity Credit of \$998. The Form included a statement that C.K. attended Palm Beach State College and received a 1098-T from the school. The IRS examined C.K.'s return and determined that she actually had no educational expenses in 2012 and no Form 1098-T had been issued to her. The IRS disallowed the claimed credit in full.
27. C.K. agreed that the credit should be disallowed and executed an affidavit stating that she did not attend college in 2012, had not provided Jean with any information to the contrary, and was not aware that the credit was claimed on her return.

Fuel tax credits

28. Jean, or preparers working at his direction, have prepared many fraudulent federal income tax returns for customers using IRS Form 4136 to claim credits for federal tax paid on fuels that are patently false. In using and preparing these forms, the preparer misapplied IRC § 6421(a), which provides a fuel tax credit only to taxpayers who operate farm equipment or other off-highway business vehicles. Moreover, the equipment or vehicles using the fuel must not be registered for highway uses.
29. An example of a fictitious fuel credit prepared by or at the direction of Jean is the joint individual income tax return for taxpayers M.R. and J.R. for the 2011 tax year.
30. The Form 4136 filed with the 2011 return for M.R. and J.R. return claimed that they used 2,975 gallons of undyed kerosene for an off-highway business use, resulting in a \$723 fuel credit.
31. M.R. and J.R. stated to a Tax Compliance Officer that they did not have any expenses that would qualify for the fuel tax credit and were not aware that the credit had been

reported on their return. They agreed that the credit should be fully disallowed. The IRS disallowed the claimed credit in full.

Earned income tax credit

32. Jean prepared returns that falsely claim or inflate the Earned Income Credit, which is a refundable tax credit designed to help low-income individuals and couples, especially those with children. *See* 26 U.S.C. § 32. Because of the way the Earned Income Credit is structured, taxpayers with very low income (typically less than \$10,000) can increase the amount of credit they receive by increasing their income. Accordingly, an unscrupulous tax preparer can illegally enlarge the refunds of low-income clients by falsely inflating their income.
33. The return Jean prepared for L.W. for 2012 demonstrates Jean's scheme to falsely claim or inflate the EITC. In that year, L.W. received a W-2 from her employer reporting that she had received wage income of \$5,337. Jean, however, prepared a return which claimed that she earned \$10,023 in income. The additional \$4,686 was reported as "HSH," or household help, income, which is a common type of income reported by tax return preparers to wrongfully inflate the EITC because it does not correspond to an informational return, such as a 1099 or W-2, filed by an employer.
34. An IRS employee examined L.W.'s 2012 return and disallowed the portion of the EITC that was due to the false HSH income.
35. L.W. agreed with this adjustment and submitted an affidavit stating that Jean had provided her with a copy of her tax return that did not correspond with the return that he had filed with the IRS on her behalf.

Creating or inflating deductions

36. Jean prepares returns that fabricate or wrongfully inflate itemized deductions reported on a Schedule A (such as the deduction for mortgage interest paid or for cash contributions to charity) or business expense deductions reported on a Schedule C (such as expenditures for supplies or office expenses).

Other tax return preparation activities subject to penalty

37. Jean has continually and repeatedly failed to furnish a copy of the return he prepared and filed for customers, in violation of 26 U.S.C. §§ 6107(a) and 6695(a).
38. Jean has continually and repeatedly failed to comply with the due diligence requirements set forth in 26 U.S.C. § 6695(g), and accompanying regulations, to determine his customers' eligibility to claim EITCs or the amount they are entitled to claim. Jean typically attaches a Form 8867, Paid Preparer's Earned Income Credit Checklist, to returns claiming an EITC, as required. However, Jean does not obtain or keep the required supporting documents which are identified on the Form 8867, nor does he document the inquiries he made or his customers' responses.

Harm to the United States and His Customers

39. Jean's tax return preparation activities have resulted in the loss of significant tax revenue through tax understatements and claims for refundable credits his customers are not eligible to take.
40. Returns prepared by Jean cause the United States to issue refunds, either of tax already withheld or of refundable credits, to which taxpayers are not entitled. Once the refunds are wrongfully issued, the government must expend resources to attempt to recover the tax erroneously refunded as a result of Jean's fraudulent tax return preparation.

41. In addition, Jean's tax return preparation activities have forced the United States to expend significant resources to examine and correct the returns he prepares.
42. To date, the IRS has completed examinations of 277 returns prepared by or at the direction of Jean for the tax years 2011 through 2013. The IRS determined that there was a tax deficiency reported on 269 of those returns, i.e. 97% of the returns. The examinations resulted in a total adjustment of \$1,206,179, or \$4,354 for each return examined.
43. Given the number of returns prepared by Jean or at his direction and the high percentage of returns that understated the client's tax liability, the loss to the United States Treasury caused by Jean's return preparation activities is estimated to be millions of dollars.
44. In addition, Jean's tax return preparation harms his customers. Many of the customers assert that they did not see the return filed by Jean on their behalf and that the amount of the refund they received was less than the amount of the refund claimed. These customers face unexpected financial difficulty when their refund claims are denied by the IRS and they are required to repay the amounts to which they were not entitled.

COUNT I:
INJUNCTION UNDER 26 U.S.C. § 7407
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. §§ 6694 AND 6695

45. The United States incorporates by reference the allegations in paragraphs 1 through 44.
46. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a person who is a tax return preparer from engaging in certain prohibited conduct or from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes the following.

- a. Engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a tax return preparer who prepares a return that contains an understatement of tax liability or an overstatement of a refund due to an unreasonable position that the return preparer knew or show have known was unreasonable.
 - b. Engaging in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws.
47. In order for a court to issue an injunction, the court must find that:
 - a. The tax return preparer engaged in the prohibited conduct; and
 - b. Injunctive relief is appropriate to prevent the recurrence of such conduct.
48. If a tax return preparer's conduct is continual or repeated and the court finds that a narrower injunction would not be sufficient to prevent the preparer's interference with the proper administration of the internal revenue laws, the court may permanently enjoin the person the person from acting as a tax preparer. *See* 26. U.S.C. § 7407(b).
49. Jean has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing returns that understate the filers' tax liabilities and overstate their refunds based on unreasonable and reckless positions.
50. As described in paragraphs 1 through 44, above, Jean prepares returns that claim deductions for expenses that were not incurred by the taxpayer and credits to which the taxpayer is not entitled. Jean does so with the knowledge that the positions he took on the returns were unreasonable and lacked substantial authority. Jean has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694(a).

51. Jean has also engaged in conduct subject to penalty under 26 U.S.C. § 6694(b) by willfully understating his customers' liability and acting with a reckless and intentional disregard of rules and regulations.
52. Jean has continually and repeated engaged in conduct subject to penalty under 26 U.S.C. § 6695(a) by failing to furnish a copy of the return to the taxpayer as required by 26 U.S.C. 6107(a).
53. Because Jean has continually and repeatedly engaged in conduct that violates 26 U.S.C. §§ 6694 and 6695 and substantially interferes with the administration of the Internal Revenue laws, injunctive relief is necessary to prevent this misconduct. Without an injunction, Jean is likely to continue preparing false federal income tax returns.
54. A narrower injunction would be insufficient to prevent Jean's interference with the administration of the federal tax laws because of the extent and breadth of his fraudulent tax return preparation activities. As noted above, the vast majority of returns the IRS has examined have contained substantial misstatements using a variety of schemes. Indeed, the IRS may not yet have identified all of the schemes used by Jean to understate income. Failure to permanently enjoin Jean will require the IRS to spend additional resources to uncover all of Jean's future schemes. The harm resulting from these schemes includes both the expenditures of these resources and the revenue loss caused by the improper deductions and credits Jean claims on returns he prepares.

COUNT II:
ALTERNATIVE RELIEF
INJUNCTION UNDER 26 U.S.C. §7408
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. § 6701

55. The United States incorporates by reference the allegations contained in paragraphs 1 through 44.
56. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under 26 U.S.C. § 6701, which penalizes a person who aids or assists in the preparation of tax returns that the person knows will result in an understatement of tax liability.
57. Jean has engaged in conduct subject to penalty under 26 U.S.C. § 6701 by preparing or directing the preparation of income tax returns that claim a tax credit when he knew that the taxpayer was not entitled to the credit and by preparing returns that claim deductions he knew to be false or inflated.
58. Jean's repeated actions such as those described in paragraphs 1 through 37, above, fall within 26 U.S.C. § 7408(c)(1), and injunctive relief is appropriate to prevent recurrence of this conduct.
59. Accordingly, if Jean is not fully barred from preparing tax returns for others pursuant to 26 U.S.C. § 7407, he should be permanently enjoined from preparing any returns that improperly claim or inflate a claim to a tax credit.

COUNT III:
ALTERNATIVE AUTHORITY TO BAR JEAN FROM TAX RETURN PREPARATION
INJUNCTION UNDER 26 U.S.C. § 7402 FOR UNLAWFUL INTERFERENCE WITH THE
ENFORCEMENT OF THE INTERNAL REVENUE LAWS

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

61. Section 7402(a) of the Internal Revenue Code authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of Internal Revenue laws.
62. Jean has repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of Internal Revenue laws.
63. If Jean continues to act as a tax return preparer, his conduct will result in irreparable harm to the United States, for which it has no adequate remedy at law. The harm caused by Jean's conduct includes the following:
 - a. Jean's conduct has caused and will continue to cause substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable;
 - b. Unless Jean is enjoined from preparing returns, the IRS will have to devote substantial and unrecoverable time and resources auditing his customers individually to detect false, fraudulent, or overstated refund claims in future returns; and
 - c. The detection and audit of erroneous tax credits claimed on returns prepared by Jean will be a significant burden on IRS resources.

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

A. That the Court find that Paul Jean has repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. § 6694 and §§ 6695(a) and (g) and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar Paul Jean and any other person working in concert or participation with him from directly or indirectly preparing, assisting in the preparation of, or directing the preparation of federal income 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 himself;

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

C. That the Court find that Jean has repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the Internal Revenue laws, and that injunctive relief against Jean is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a);

D. That the Court enter a permanent injunction prohibiting Jean or any other person working in concert or participation with him from directly or indirectly:

- (1) preparing, assisting in the preparation of, or directing the preparation of federal income 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 himself;
- (2) engaging in activity subject to penalty under 26 U.S.C. § 6694, 6695, and 6701; and
- (3) engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws;

E. That the Court enter an injunction requiring Jean:

- (1) At his own expense, to provide a copy of the final injunction entered against him in this action, as well as a copy of the Complaint setting forth the allegations as to

how Jean fraudulently prepared federal income tax returns, to each person for whom he prepared federal income tax returns or any other federal tax forms after January 1, 2013;

(2) To turn over to the United States a list with the name, address, telephone number, email address, and social security number or other taxpayer identification number of all customers for whom he prepared returns after January 1, 2013;

(3) To file a sworn statement with the Court evidencing his compliance with the foregoing directives within forty-five (45) days of entry of the final injunction in this action; and

(4) To keep records of his compliance with the foregoing directives, which may be produced to the Court, if requested, or the United States pursuant to paragraph F, below;

F. That the Court enter an order allowing the United States to monitor Jean's compliance with the injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure;

G. That the Court authorize the Internal Revenue Service to revoke immediately any Preparer Tax Identification Numbers held by or assigned to Jean, or any other person working in concert or participation with him, pursuant to 26 U.S.C. § 6109 and any Electronic Filing Identification Numbers held by or assigned to any such person pursuant to 26 C.F.R. § 1.6011-7; and

H. That the Court grant the United States such other and further relief as the Court deems appropriate.

Dated: April 15, 2015

Respectfully submitted,

CAROLINE D. CIRAOLO
Acting Assistant Attorney General
Tax Division
U.S. Department of Justice

By: s/Gregory L. Jones
GREGORY L. JONES
Oregon State Bar No. 06580
MARISSA MILLER
Trial Attorneys, Tax Division
U.S. Department of Justice
Post Office Box 14198
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-3254
Fax: (202) 514-9868

Of counsel:
WIFREDO A. FERRER
United States Attorney
Southern District of Florida