

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 3:15-cv-1654-RMG
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLINTON A. BROOMFIELD,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

The United States of America complains and alleges as follows:

1. This is a civil action brought by the United States under 26 U.S.C. §§ 7402(a), 7407, and 7408 to enjoin defendant Clinton A. Broomfield, and anyone in active concert or participation with him, from:
  - a. acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
  - b. preparing or assisting in preparing or filing federal tax returns, amended returns, or other related documents or forms that they know or reasonably should know will result in an understatement of tax liability or the overstatement of federal tax refunds as prohibited by 26 U.S.C. § 6694;
  - c. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6701, or any other penalty provision in the Internal Revenue Code; and
  - d. engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

*Jurisdiction and Venue*

2. This action has been requested by the Chief Counsel of the Internal Revenue Service (“IRS”), a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General.

3. Jurisdiction is conferred on the Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).

4. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396 because the defendant resides in this district and a substantial part of the actions giving rise to this suit took place in this district.

*Background*

5. Clinton A. Broomfield resides in Lexington, South Carolina, within the jurisdiction of the Court.

6. Broomfield has an accounting degree from South Carolina State University and has prepared tax returns for over 16 years.

7. Broomfield and two other individuals, Stacy Middleton and Tony McGill, formed MBM Tax and Accounting Services, LLC, in 1997 to prepare tax returns and provide other financial services. In 2007, Broomfield, Middleton, and McGill ended their formal partnership and opened separate tax preparation businesses. After the partnership dissolved, Broomfield originally operated as MBM Tax and Accounting, LLC, but since 2010 has operated as Summerville MBM Tax Service. Though his formal partnership with McGill and Middleton ended in 2007, Broomfield continues to share advertising expenses with his former partners.

8. In July 2013, this Court issued an order of permanent injunction against Middleton that, inter alia, bars him from preparing federal tax returns for others. United States v. Middleton, 2:13-cv-1011-RMG (D.S.C.).

9. Broomfield employed two additional tax preparers at his Summerville business, Jessica Geddis and Marilyn Lester. Geddis was enjoined by this Court from preparing federal tax returns for others in 2013. United States v. Geddis, Case No. 2:13-cv-2332-DCN (D.S.C.).

10. Broomfield, individually and through his business, prepares between 2300 and 2400 federal individual income tax returns (“Forms 1040”) annually.

*The IRS’s Investigation of Broomfield’s Improper Conduct*

11. During its investigation of Stacey Middleton’s conduct, the IRS discovered that Broomfield – Middleton’s former partner – engaged in similar improper conduct when preparing returns for others. Specifically, a review of returns he prepared showed that he consistently claimed false and frivolous deductions and credits on his customers’ returns. As a result, the IRS opened an investigation on Broomfield.

12. The IRS notified Broomfield of its investigation on May 1, 2012, and interviewed him on May 30, 2012.

13. Even after Broomfield was notified that he was under investigation, he continued to prepare returns containing false and frivolous deductions and credits on his customers’ returns.

14. IRS examinations of 147 returns Broomfield prepared for others for the 2010 through 2012 tax years showed that Broomfield regularly claimed an improper filing status, fictitious deductions and credits, or overstated and duplicated otherwise valid deductions. These illegal practices decreased his customers’ tax liabilities and/or increased the amounts of their tax refunds. Indeed, the IRS examinations resulted in an increase of his customers’ tax liabilities in

123 of those 147 returns – an 83.6% deficiency rate. The average deficiency in reported tax was \$2,817 per return. The examinations also revealed that Broomfield uses a fictitious taxpayer identification number (“TIN”) on returns he prepared to conceal the fact that Broomfield prepared those returns.

15. Though the IRS has yet to examine the returns Broomfield prepared for the 2013 and 2014 tax years, the IRS has indexed all returns Broomfield prepared or reviewed for those years in its Electronic Fraud Detection System (“EFDS”). Reports generated from the EFDS for 2013 and 2014 show, *inter alia*, the names of his customers, filing status, exemptions, adjusted gross income, tax liability, payments, overpayments, education, child, and earned income tax credits, and Schedule C profit or loss. By reviewing the EFDS reports, the IRS has determined that the returns Broomfield prepares include a disproportionate number of items that are frequently abused, such as head of household status, Schedules C, and the earned income tax credit. This suggests that Broomfield continues to engage in the improper conduct that the IRS uncovered during its examinations of returns Broomfield prepared.

16. Based on its examinations and review of returns prepared or reviewed by Broomfield, the IRS estimates that Broomfield’s conduct has already cost the United States millions of dollars in tax revenue, and that millions more could be lost if Broomfield is not enjoined from preparing returns in the future.

*False, Improper, and Inflated Deductions*

17. Broomfield seeks fraudulent tax refunds for customers or, at a minimum, to reduce their liability, by fabricating bogus deductions on Forms 1040, Schedule A (Itemized Deductions), and Schedule C (Profit or Loss from Business). Broomfield reports nonexistent

business expenses and deductions on his customers' returns to create phony business losses that offset their wages and fraudulently reduce their income tax liability.

18. For example, Broomfield prepared returns for customer "M.A." for 2010 and 2011 that claimed an improper filing status and numerous fraudulent items. M.A. did not have any children in 2010 and 2011 and provided Broomfield only with his income as shown on Forms W-2 and 1099 that he received. Broomfield, however, reported the following fictitious information on M.A.'s returns:

- Head of Household filing status;
- Fictitious qualifying persons, even though M.A. did not have any children during 2010 and 2011;
- \$3,000 (2010) for child care expense;
- \$6,262 (2010) in Schedule C Car & Truck Expenses; and
- \$1,958 (2010) in additional Schedule C deductions.

19. The IRS examined M.A.'s 2010 and 2011 returns. As a result of the exam, the IRS adjusted M.A.'s filing status to single, disallowed the deductions and qualifying persons above, and increased M.A.'s tax liabilities by \$5,476 for 2010 and \$2,032 for 2011, excluding penalties and interest.

20. Broomfield also prepared joint returns for customers "M.C. and L.C." for 2010, 2011, and 2012 that claimed numerous fraudulent items. M.C. and L.C. provided Broomfield only with their wage information and mortgage interest statement to prepare their returns. Broomfield, however, reported the following fictitious information on their returns:

- \$5,862 (2010), \$8,590 (2011), and \$8,576 (2012) in unreimbursed employee business expenses; and
- \$3,862 (2010), \$4,573 (2011), and \$3,500 (2012) in cash charitable contributions.

21. The IRS examined M.C. and L.C.'s tax returns. As a result of the exam, the IRS disallowed all of M.C. and L.C.'s unreimbursed employee business expenses for 2010 and 2011

and nearly all of their unreimbursed employee business expenses for 2012 and charitable contributions for 2010, 2011, and 2012. Those changes resulted in an increase of M.C. and L.C.'s tax liabilities by \$1,207 for 2010, \$1,703 for 2011, and \$1,313 for 2012, excluding penalties and interest.

22. Similarly, Broomfield prepared joint returns for customers "G.R. and S.R." for 2010 and 2011 that claimed numerous fraudulent items. G.R. and S.R. provided Broomfield with their wage information to prepare their returns. Broomfield, however, reported the following fictitious credits, deductions, and information on their return:

- \$2,550 (2010) and \$5,145 (2011) in education credits;
- \$1,000 (2011) IRA contribution deduction; and
- A non-qualifying dependent (2010).

23. The IRS examined G.R. and S.R.'s 2010 and 2011 returns. During the exam, G.R. and S.R. admitted that they were not students and that they did not make any IRA contributions in 2011. They also agreed that their claimed dependent did not qualify as a dependent. As a result, the IRS disallowed the education credits, IRA deduction, and claimed dependent on their 2010 and 2011 tax returns. Those changes increased G.R. and S.R.'s tax liabilities by \$2,939 for 2010 and \$4,395 for 2011, excluding penalties and interest.

#### *Harm Caused by Broomfield*

24. Broomfield's customers have been harmed because they paid Broomfield fees to prepare proper tax returns, but Broomfield prepared returns that substantially understated his customers' correct tax liabilities or created or inflated improper refunds. Many customers now face large income tax deficiencies and may be liable for sizable penalties and interest.

25. Broomfield's conduct harms the United States because his customers are underreporting and underpaying his tax liabilities. The IRS has examined 147 federal income

tax returns that Broomfield prepared for customers for the tax years 2010 through 2012, with a total of \$414,122 in lost revenue (an average of \$2,817 per return) based on false claims and deductions. If this average deficiency per return was spread over the universe of returns Broomfield prepared, the IRS estimates that Broomfield's return preparation could have resulted in millions of lost revenue to the United States for returns prepared for tax years 2008 through 2014.

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

27. Broomfield further harms the United States because the IRS must devote its limited resources to identifying his customers, ascertaining their correct tax liabilities, recovering any funds erroneously issued, and collecting additional taxes and penalties.

*Count I: Injunction under 26 U.S.C. § 7407*

28. The United States incorporates by reference the allegations in the above paragraphs.

29. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a return preparer who prepares a return that contains an understatement of tax liability or overstatement of a refund that is due to an unreasonable position which the return preparer knew or should have known was unreasonable, or engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

30. In order for a court to issue such an injunction, the court must find (1) that the preparer has engaged in such conduct, and (2) that injunctive relief is appropriate to prevent the recurrence of the conduct.

31. The court may permanently enjoin the person from further acting as a federal tax preparer if it finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws.

32. Broomfield has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing federal income tax returns that understate his customers' liabilities or overstate their refunds based on unrealistic, frivolous, and reckless positions.

33. Broomfield's continual and repeated violations of § 6694 fall within 26 U.S.C. § 7407(b)(1)(A) and (D), and thus are subject to an injunction under § 7407.

34. Broomfield has prepared phony tax returns for years and has continued to do so even after he learned that he was under investigation by the IRS. If he is not enjoined, Broomfield is likely to continue to prepare and file false and fraudulent tax returns, causing economic loss to the United States, causing the United States to commit finite, scarce, and unrecoverable resources to the examination of Broomfield and his customers, and exposing his customers to large liabilities that include penalties and interest.

35. Broomfield's continual and repeated conduct subject to an injunction under 26 U.S.C. § 7407, including his audacious and repeated bogus claims of expenses and deductions, including fictitious business expenses, demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent his interference with the proper administration

of the internal revenue laws. Thus, he should be permanently barred from acting as tax return preparers.

*Count II: Injunction under 26 U.S.C. § 7408*

36. The United States incorporates by reference the allegations in the above paragraphs.

37. 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 if injunctive relief is appropriate to prevent recurrence of such conduct.

38. Section 6701 of the Internal Revenue Code penalizes any person who aids or assists the preparation or presentation of any portion of a federal tax return when the person knows or has reason to believe that such portion will be used in connection with a material matter arising under the internal revenue laws and knows that if it is so used it will result in an understatement of another person's tax liability.

39. Broomfield prepares federal tax returns for customers that he knows will understate their correct tax liabilities, because he knowingly prepares returns claiming improper expenses and deductions. Broomfield's conduct is thus subject to a penalty under § 6701.

40. If the Court does not enjoin Broomfield, he is likely to continue to engage in conduct subject to penalty under § 6701. Broomfield's preparation of returns claiming improper expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under 26 U.S.C. § 7408.

*Count III: Injunction under 26 U.S.C. § 7402(a)  
Necessary to Enforce the Internal Revenue Laws*

41. The United States hereby incorporates by reference the allegations in the above paragraphs.

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

43. Broomfield, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

44. Unless enjoined, Broomfield is likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Broomfield is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them, much of which will never be discovered and recovered. The United States will also suffer irreparable injury because it will have to devote substantial unrecoverable time and resources auditing Broomfield's customers to detect future returns understating the customers' liability or overstating their refund.

45. While the United States will suffer irreparable injury if Broomfield is not enjoined, they will not be harmed by being compelled to obey the law.

46. Enjoining Broomfield is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop his illegal conduct and the harm it causes the United States.

47. The Court should therefore impose injunctive relief under 26 U.S.C. § 7402(a).

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

A. That the Court find that Broomfield has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 and has continually and repeatedly engaged in other fraudulent and deceptive conduct that substantially interferes with the administration of the tax laws, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar him from acting as federal tax return preparer and from engaging in conduct subject to penalty under 26 U.S.C. § 6694;

B. That the Court find that Broomfield has 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 bar him from engaging in conduct subject to penalty under 26 U.S.C. § 6701;

C. That the Court find that Broomfield has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and 26 U.S.C. § 7402(a);

D. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Broomfield and all those in active concert or participation with him from:

- (1) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
- (2) preparing or assisting in preparing or filing federal tax returns, amended returns, or other related documents or forms that he knows or reasonably should know will result in an understatement of tax liability or the overstatement of federal tax refund(s);
- (3) engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6701, or any other penalty provision in the Internal Revenue Code; and
- (4) engaging in any 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 injunction requiring that Broomfield, within 30 days of entry of the injunction, contact by United States mail and, if an e-mail address is known, by e-mail, all persons for whom he prepared a federal tax return since January 1, 2009, to inform them of the permanent injunction entered against him, including sending a copy of the order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court, and file with the Court a sworn certificate stating that they have complied with this requirement;

F. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Broomfield to produce to counsel for the United States within 30 days a list that identifies by name, social security number, address, e-mail address, telephone number, and tax period(s) all persons for whom he prepared federal tax returns or claims for refund since January 1, 2009;

G. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Broomfield to provide a copy of the Court's order to all of his or Summerville MBM Tax Service's principals, officers, managers, employees, and independent contractors within fifteen 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 they provided a copy of the Court's order;

H. That the Court enter an order authorizing the IRS to rescind any EFIN and/or PTIN issued to Broomfield, Summerville MBM Tax Service, and any employees of Summerville MBM tax Service;

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

J. That the Court retain jurisdiction over Broomfield and over this action to enforce any permanent injunction entered against him; and

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

Respectfully submitted,

CAROLINE D. CIRAULO  
Acting Assistant Attorney General  
Tax Division

THOMAS K. VANASKIE  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 14198  
Ben Franklin Station  
Washington, D.C. 20044-0683  
Tel: (202) 305-7921  
Fax: (202) 514-4963  
thomas.k.vanaskie@usdoj.gov

WILLIAM N. NETTLES  
United States Attorney  
District of South Carolina

By: s/ J. Douglas Barnett  
J. DOUGLAS BARNETT (#2144)  
Assistant United States Attorney  
1441 Main Street, Suite 500  
Columbia, South Carolina 29201  
Telephone: (803) 929-3000  
Facsimile: (803) 252-2759  
E-mail: doug.barnett@usdoj.gov

April 16, 2015