

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
JOHN R. BARTELS, individually	)	
and d/b/a JOHN'S TAX SERVICE,	)	
	)	
	)	
Defendant.	)	

**Complaint and Request for Injunctive Relief**

Plaintiff, the United States of America, for its complaint against John R. Bartels states as follows:

**Jurisdiction and Venue**

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402, and 7407.
2. This suit is brought under §§ 7402 and 7407 of the Internal Revenue Code (26 U.S.C.) to restrain and enjoin Bartels from preparing federal income tax returns for others, engaging in any activity subject to penalty under 26 U.S.C. § 6694, 6695, or 6701, and engaging in conduct that substantially interferes with the administration and enforcement of the internal revenue laws.
3. 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 under 26 U.S.C. §§ 7402, and 7407.

4. Bartels does business as John's Tax Service, 1450 Concordia Avenue, Saint Paul, Minnesota, within this judicial district.

5. Since the late 1980s, Bartels, an unenrolled return preparer, has prepared federal income tax returns in Saint Paul, Minnesota.

6. The IRS estimates that Bartels has prepared 7,141 federal income tax returns from January 1, 2002 to September 30, 2005 (the approximate end of the 2004 filing season).

7. Since January, 2006, when the 2005 filing season began, Bartels has prepared approximately 268 federal income tax returns, many of which claim head-of-household status.

**The Minnesota Department of Revenue's Investigation of Bartels**

8. During 2003 and 2004, the Minnesota Department of Revenue audited numerous Minnesota individual state income tax returns prepared by Bartels for the 1999 through 2002 tax years.

9. Minnesota taxpayers are required to attach a copy of their federal income tax return to their Minnesota individual income tax return, and the filing statuses and certain itemized deductions claimed by Bartels on his customers' Minnesota individual income tax returns are identical to those claimed on Bartels's customers' federal income tax returns.

10. As a result of its extensive investigation, the Minnesota Department o

Revenue determined that 47 Minnesota individual income tax returns prepared by Bartels contained egregious errors, including incorrect filing statuses and false or fraudulent itemized deductions, evidencing Bartels's willful understatement of his customers' income and tax owed.

11. On February 17, 2005, the Minnesota Department of Revenue issued an Audit Summary notifying Bartels that he was subject to return-preparer penalties for his fraudulent return preparation.

12. The Minnesota Department of Revenue's Audit Summary described Bartels's fraudulent return preparation as follows: "The returns with respect to which these penalties are assessed contain egregious, recurring errors. . . . The pattern and nature of the errors unearthed during detailed audits and taxpayer interviews make clear that errors were the product of willful attempts to understate the tax of affected taxpayers. In many instances, [Bartels] filed using an incorrect filing status. For example, it was common for [Bartels] to file separate returns for married persons inappropriately reducing the tax by utilizing a filing status of Head of Household or Single. In other cases, [Bartels] manufactured itemized deductions having no basis in fact and not related to any information furnished by the taxpayer."

13. The Minnesota Department of Revenue's Audit Summary also noted Bartels's fraudulent conduct in advising his customers to lie to state investigators: "Several taxpayers stated that they were advised [by Bartels] to defeat the audit process by falsifying documentation and provid[ing] false information, including fabricated

mileage logs, receipts, and lists of charitable contributions, to Department of Revenue tax auditors.”

14. On March 8, 2005, Bartels entered into a consent agreement with the Minnesota Department of Revenue and agreed to pay \$23,500 in penalties for preparing the fraudulent returns referenced above.

### **The IRS’s Investigation of Bartels**

15. Shortly after the Minnesota Department of Revenue’s investigation of Bartels, the IRS began investigating his return-preparation activities.

16. As part of this investigation, the IRS examined 161 federal income tax returns Bartels prepared for the 2002, 2003, and 2004 tax years.

17. Of the 165 returns the IRS examined, 155 (96%) reported improper filing status. Bartels repeatedly claimed head-of-household status for his married customers, and in some cases single status, so that his customers could take a greater deduction than if they had filed married filing jointly. Under federal law, married taxpayers must file as either “married filing jointly” or “married filing separately.”

18. Under the Internal Revenue Code, married couples who file jointly are presently entitled to a \$10,000 standard deduction.

19. Under the Internal Revenue Code, individual taxpayers who file claiming head-of-household status are presently entitled to a \$7,300 standard deduction.

20. Under the Internal Revenue Code, individual taxpayers who file claiming single status are presently entitled to a \$5,000 standard deduction.

21. Bartels benefits financially by fraudulently having his married customers claim head-of-household filing status, because the resulting tax understatements and larger tax refunds his customers receive lure customers away from honest return preparers who file returns claiming the proper filing status.

22. The IRS investigation revealed that when Bartels's married customers had more than one dependent child, Bartels typically used head-of-household filing status for each parent, in order to purport to meet the head-of-household filing requirement of providing a dependent child's main home. This resulted in improperly claiming total deductions of \$14,600 (\$7,300 plus \$7,300) rather than the \$10,000 standard deduction allowed by law for married filing jointly.

23. The IRS investigation revealed that when Bartels's married customers had only one child, Bartels typically used head-of-household status for one parent, who reported the child as a dependent, and single filing status for the other parent. This resulted in improperly claiming total deductions of \$12,300 (\$7,300 plus \$5,000) rather than the \$10,000 standard deduction allowed by law for married filing jointly.

### **Bartels's Knowledge of His Customers' Marital Status**

24. Bartels did not inform his customers of the filing status he claimed on their returns, nor the filing requirements for head-of-household status with them before filing the returns with the IRS.

25. The IRS interviewed Bartels's customers to determine the extent of Bartels's inquiry into the customers' marital status, with respect to the 155 returns that the IRS determined reported improper filing statuses.

26. The IRS has determined that 125 (78%) of these returns contained improper filing statuses that can be directly tied to Bartels's fraudulent return preparation, because these customers told the IRS that Bartels knew they were married and not separated or living apart during the tax year.

27. Bartels prepared separate returns for married customers claiming head-of-household or single status even for married couples who sat across from Bartels at his desk in his St. Paul office.

28. The IRS has determined that, with respect to the remaining 30 returns with improper filing statuses, it could not determine conclusively whether the customers informed Bartels that they were married and living together during the tax year.

**Bartels Prepared Returns Containing  
False and Duplicative Itemized Deductions**

29. In addition to the false filing statuses discussed above, at least 100 (62%) of the 161 returns the IRS examined contained unsubstantiated deductions, or, where two separate returns were prepared for married customers, duplicative itemized deductions for real estate taxes and mortgage interest paid.

30. In some cases, Bartels would prepare a return for one spouse reporting all of the couples' itemized deductions, and prepare a separate return for other spouse

claiming the standard deduction. This, combined with Bartels's use of incorrect filing statuses, further understated customers' true tax liabilities.

31. Because Bartels frequently prepared separate returns for married couples at the same time, Bartels knew or should have known that he was claiming duplicative and false deductions for his customers.

32. Bartels's duplicative deductions for real estates taxes and mortgage interest paid improperly allowed his customers to claim more deductions than they were entitled to.

**Bartels Continued to Prepare False or Fraudulent Returns  
After the Minnesota Department of Revenue's Investigation**

33. After the Minnesota Department of Revenue had entered into a consent agreement with Bartels, Bartels was interviewed by an IRS revenue agent who was investigating Bartels's return-preparation activities.

34. In this interview, Bartels admitted to having some problems with the Minnesota Department of Revenue but asserted that he had corrected the problems.

35. Contrary to Bartels's assertion, however, several of the false federal income returns the IRS detected were filed after Bartels entered into after the Minnesota Department of Revenue notified Bartels that return preparer penalties would be assessed against him.

**Bartels Told His Customers to Lie to  
Government Investigators and Provided Documents  
to Them to Falsely Substantiate Items He Claimed on Their Returns**

36. During the IRS investigation, one customer told that IRS that, after he learned that the IRS was examining her 2002, 2003, and 2004 returns, Bartels told him to come to his office to manufacture documents that would substantiate various items claimed on the filed returns.

37. When this customer confronted Bartels about items falsely claimed by Bartels on her returns, Bartels admitted to him that he had inflated some of the items, saying he did so because “the IRS never looks.”

38. Bartels also advised another customer under audit by the Minnesota Department of Revenue to lie to the state investigator about various items falsely claimed by Bartels on the federal and state returns he prepared, and to prepare false vehicle mileage and charitable contributions for the Minnesota Department of Revenue audit.

39. Bartels also provided other customers under audit by the Minnesota Department of Revenue with blank mileage logs and instructed them to prepare false vehicle mileage logs to substantiate mileage deductions claimed by Bartels on their federal and state returns. Bartels told one customer, who was not entitled to any mileage deduction because she was reimbursed for mileage by her employer, to be “creative” and prepare a log that would match the exact vehicle mileage deduction that was claimed on the tax return.

**Bartels’s Return-Preparation Has Caused  
an Estimated \$9 Million Harm to the Treasury**

40. From 2002 to 2005, Bartels continually and repeatedly prepared federal



income tax returns falsely claiming head-of-household filing status for married customers, falsely claiming single filing status for some of his married customers, claiming false and duplicative itemized deductions for married customers who filed separate returns, and repeatedly advised his customers to lie to state investigators and the IRS when audited.

41. Based on the 125 federal tax returns Bartels has prepared where his customers have informed the IRS or Minnesota Department of Revenue investigators that Bartels knew they were married and living together during the tax year, and thus not entitled to claim head of household or single filing status, the actual tax loss caused by Bartels's fraudulent return preparation for these returns alone is \$172,481, or \$1,380 per return.

42. If, as further investigation is likely to confirm, all of the 7,141 returns prepared by Bartels since January 1, 2002 contain similar false items, the harm to the United States caused by Bartels's fraudulent return preparation is likely over \$9 million.

43. The IRS recently listed return-preparer fraud as part of its 2006 "Dirty Dozen" tax scams.

44. The harm to the Government will increase if Bartels is not immediately enjoined because the 2005 return-filing season has begun, Bartels operates his business only from January to April each year, and Bartels continues to prepare federal income tax returns falsely claiming head-of-household status for the majority of his married customers.

45. The harm to the Government is also manifested by the many hours already

spent by IRS employees in reviewing Bartels-prepared tax returns and interviewing his numerous customers, which is needed to determine whether or not the customers were entitled to claim head-of-household status or to claim the various itemized deductions on their returns. This harm to the Government will continue as the IRS continues to audit Bartels's customers and to assess and collect additional taxes owed.

### **Count I**

#### **Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701**

46. The United States incorporates by reference the allegations in paragraphs 1 through 45.

47. Section 7408 of 26 U.S.C. authorizes a court to enjoin persons who have engaged in conduct subject to penalty under 26 U.S.C. § 6701 from engaging in further such conduct. Section 6701 imposes a penalty on any person who aids in the preparation of any portion of a return or other document, who knows the portion or document will be used in connection with any material matter under the internal revenue laws, and who knows the portion or document (if so used) would result in understating another person's tax liability.

48. Bartels prepared tax returns and assisted in preparing tax returns and other documents for customers that were intended to be used (and were used) in connection with material matters arising under the internal revenue laws.

49. Bartels knew that these returns and other documents (if so used) would result in understatements of customers' tax liabilities. Bartels thus engaged in conduct

subject to penalty under 26 U.S.C. § 6701.

## Count II

### Return-preparer injunction under 26 U.S.C. § 7407

50. The United States incorporates by reference the allegations in paragraphs 1 through 49.

51. 26 U.S.C. § 7407 authorizes a court to enjoin a person from (among other things):

- engaging in conduct subject to penalty under 26 U.S.C. § 6694 (which penalizes a return preparer who prepares or submits a return that contains an unrealistic position); and
- engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

If the return preparer's misconduct is continual or repeated and the Court finds that a narrower injunction (*i.e.*, prohibiting only specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of federal tax laws, the Court may enjoin the person from further acting as a return preparer.

52. Bartels has continually and repeatedly prepared and filed federal income tax returns that contain unrealistic positions, conduct that is subject to penalty under 26 U.S.C § 6694.

53. Bartels has continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

### Count III

#### (Unlawful Interference with the Enforcement of the Internal Revenue Laws)

54. The United States incorporates by reference paragraphs 1 through 55.

55. Through the conduct described above, Bartels has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws. Unless enjoined by this Court, Bartels is likely to continue to engage in such conduct. Bartels's conduct is causing irreparable injury to the United States, and the United States has no adequate remedy at law:

- a. Bartels's conduct, unless enjoined, is likely to cause a substantial loss of revenue to the United States Treasury. Unless Bartels is enjoined the IRS will have to expend substantial time and resources to detect future customers' returns with substantial understatements, and may be unable to detect all of them.
- b. The detection and audit of returns filed by Bartels's customers will place a serious burden on the IRS's resources.
- c. If Bartels is not enjoined, he likely will continue to engage in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701 that substantially interferes with the enforcement of the internal revenue laws.

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

A. That the Court find that Bartels has engaged in repeated and continual conduct subject to penalty under 26 U.S.C. § 6694, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar Bartels from acting as a income-tax-return preparer;

B. That the Court find that Bartels 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 him from engaging in further such conduct;

C. That the Court find that Bartels engaged in conduct that interferes with the enforcement of the internal revenue laws and substantially interferes with the proper administration of the internal revenue laws, and that injunctive relief against them is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. §§ 7407 and 7402(a);

D. That the Court, under 26 U.S.C. § 7407, enter a permanent injunction permanently barring Bartels from acting as a federal income tax return preparer;

E. That the Court, under 26 U.S.C. §§ 7402, 7407 and 7408, enter a permanent injunction prohibiting Bartels and his representatives, agents, servants, employees, attorneys, independent contractors, and those persons in active concert or participation with him, from directly or indirectly:

- (1) engaging in any conduct subject to penalty under 26 U.S.C. § 6694, *i.e.*, preparing any part of a return or claim for refund that includes an unrealistic position;
- (2) acting as a federal-income-tax return preparer;
- (3) engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws; and
- (4) engaging in conduct subject to penalty under 26 U.S.C. § 6701, *i.e.*, assisting or advising others with respect to the preparation of any tax returns, forms, or other documents to be used in connection with any material matter arising under the internal revenue laws knowing they will (if so used) result in the understatement of another person's tax liability; and

F. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring Bartels to contact all persons and entities for whom he prepared any federal income tax returns or other tax-related documents after January 1, 2000, and inform those persons of the entry of the Court's findings concerning the falsity of representations made by Bartels on their tax returns, and that a permanent injunction has been entered against Bartels.

G. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring Bartels to turn over to the United States a list of the names, addresses, e-mail addresses, phone numbers, and Social Security numbers of all individuals or entities for whom Bartels prepared or assisted in the preparation of any tax-related documents, including claims for refund or tax returns since January 1, 2000.

H. That this Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and

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

THOMAS B. HEFFELFINGER  
United States Attorney

s/Michael R. Pahl

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