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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LARRY P. GOODYKE, individually and doing business as CONSULTANTS BY 5 and PC COMPUTERZ TAX SERVICE,

Defendant.

CV-S-05-1154-PMP-PAL

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The plaintiff, the United States of America, complains and alleges against defendant, Larry P. Goodyke, individually and doing business as Consultants by 5 and PC Computerz Tax Service, as follows:

1. This is a civil action brought by the United States pursuant to sections 7402(a), 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) ("I.R.C.") to restrain and enjoin defendant, Larry P. Goodyke, and all those in active concert or participation with him from:

(a) Acting as a federal tax return preparer or requesting, assisting in, or directing the preparation and/or filing of federal tax returns for any person or entity other than himself;

(b) Appearing as a representative on behalf of any person or organization before the Internal Revenue Service;

(c) Understating customers' tax liabilities as penalized by I.R.C. § 6694;

(d) Failing to list a tax identification number or to sign tax returns for which he is a tax-return preparer and other conduct subject to penalty under I.R.C. § 6695;

(e) Engaging in activity subject to penalty under I.R.C. § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that he knows would result in an understatement of another person's tax liability;

(f) Filing, or assisting or directing others in filing, documents with state or local governments concerning a Notice of Federal Tax Lien filed by the Internal Revenue Service against any person or entity other than himself; and

(g) Engaging in any other conduct subject to any penalty under the Internal Revenue Code or any conduct that interferes with the administration and enforcement of the internal revenue laws.

Jurisdiction

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, pursuant to the provisions of I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28, United States Code, and I.R.C. §§ 7402(a), 7407, and 7408.

Defendant

4. Defendant Larry P. Goodyke resides in Henderson, Nevada, within this judicial district.

5. Larry P. Goodyke registered "Consultants by 5" as a fictitious firm name with the Clark County (Nevada) Clerk's Office. The Clerk's Office lists him as the owner of the fictitious firm name.

Defendant's activities

6. Defendant, operating under the business names of Consultants by 5 or PC Computerz Tax Service, prepares and files frivolous federal income tax returns or claims for refund for others.

7. He advertises tax services on his website, www.consultantsby5.com.

8. The services advertised on his website include "neutralizing" IRS Notices of Federal Tax Lien.

9. Defendant holds himself out as knowledgeable on federal tax law.

10. Defendant has prepared and filed with the IRS federal income tax returns for customers that fail to include the customers' wage income reported by their employers to the IRS on information returns, such as Form W-2. The words "NOT LIABLE" are stamped in half-inch letters on the

first page of the customer's tax return. The return typically falsely reports no tax due and fraudulently requests all federal tax withholdings refunded to the customer.

11. Defendant has prepared and filed with the IRS amended federal income tax returns for customers that reduce previously reported wage income to zero. The explanation section of the amended return states the following or something substantially similar: "PLEASE BE ADVISED THAT I AM AMENDING MY [YEAR] 1040 FORM. AFTER CAREFUL STUDY AND RESEARCH OF THE LAWS, CODES, CFR REGULATIONS OF TITLE 26 AND USC TITLE 26 AND THE IRS INSTRUCTION BOOK, I HAVE DETERMINED THAT I AM 'NOT LIABLE'. PLEASE REFUND THE AMOUNT AS SHOWN ABOVE." The return typically falsely reports no tax due and fraudulently requests all federal tax withholdings refunded to the customer.

12. Upon information and belief, defendant has prepared and filed with the IRS federal income tax returns for customers that report wage income as taxable income but also fraudulently claim all or most of the wage income as a miscellaneous deduction. This offsets the wage income so that an amount equal to the wage income has no or minimal net effect on taxable income, and, therefore, no tax is owed. The explanation of the fraudulent deduction is stated as follows: "IRC 1001 and following; NO GAIN REALIZED // even exchange of property - Labor (property) - Money (property) // Butcher's Union Co. v. Cresent City Co., 111 US 746 S.Ct.Rptr., pp.660-661 // Coppage v. Kansas 236 U.S. 1, at 14 (1915)." The return typically falsely reports no tax due and fraudulently requests all federal tax withholdings refunded to the customer.

13. Defendant has signed some of these returns as the paid preparer.

14. Defendant has failed to sign other returns as the paid preparer and has otherwise failed to identify himself on returns that he has prepared.

15. Upon information and belief, defendant has prepared and filed at least 475 federal income tax returns asserting these fraudulent arguments. The returns fraudulently request refunds totaling more than $10.4 million. The most recently detected fraudulent return was filed in August 2005.

16. Upon information and belief, defendant has prepared returns for customers in 28 states across the country.

17. Upon information and belief, defendant charges his customers a fee for his services. He may refer to this payment as a "donation."

Harm to the public

18. Defendant's preparation of false and fraudulent tax returns, to the extent that the IRS does not detect them and issues erroneous refunds, has resulted in customers receiving tax refunds to which they are not legally entitled. Although the IRS believes it has detected and not issued most of the refunds fraudulently requested by defendant, it has discovered that it has issued at least two erroneous refunds, totaling $3,206.

19. The United States is harmed because defendant's customers are not reporting and paying their correct tax liabilities. The average tax refund requested on the approximately 475 returns discovered by the IRS

is over $22,000. The taxes understated on all returns is over $10.4 million.

20. The United States is also harmed because the IRS is forced to devote its limited resources to identifying defendant's customers and recovering any erroneous refunds that are issued. Given these limited resources, identifying and recovering all revenues lost from defendant's preparation of false and fraudulent returns may be impossible.

21. For defendant's customers that the IRS has identified, the IRS must review and respond to correspondence, request that they file correct returns, assess penalties, and audit them to determine the correct tax liability. This effort is required for each return filed.

22. In addition to the harm caused by his preparation of tax returns that understate his customers' tax liabilities, defendant's activities undermine public confidence in the administration of the federal tax system and incite noncompliance with the internal revenue laws.

23. Defendant's customers have been harmed because they have paid defendant fees or "donations" to prepare tax returns that understate their correct federal income tax liabilities. Customers who receive erroneous refunds then must pay back the taxes plus interest. Regardless of whether the IRS issues a refund, customers may have to pay penalties and some customers could also face criminal prosecution.

24. On January 5, 2005, in response to questions posed during the IRS's investigation of defendant's return-preparation activities,

defendant falsely told two IRS revenue agents that he had not filed tax returns for others since the early 1980's.

Count I

Injunction under I.R.C. § 7407 for violation of I.R.C. §§ 6694 and 6695

25. The United States incorporates by reference the allegations in paragraphs 1 through 24.

26. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin an income tax preparer from:

(a) engaging in conduct subject to penalty under I.R.C. § 6694 (which penalizes a tax return preparer who prepares or submits a return that contains an unrealistic position);

(b) engaging in conduct subject to penalty under I.R.C. § 6695 (which penalizes a tax return preparer who fails to sign a return as a paid preparer or to furnish an identifying number on the return or to keep a list of customers or copies of tax returns and turn over the list or copies to the IRS upon request); or

(c) engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court 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, the court may enjoin the person from further acting as a federal income tax return preparer.

27. Defendant has prepared at least 475 federal income tax returns that included false or fraudulent statements regarding the excludibility of wage income from taxation or the deductibility of wage income from taxable income. In so doing, he understated his customers' federal tax liabilities and asserted positions which he knew or reasonably should have known were unrealistic under I.R.C. § 6694.

28. On some of these returns, defendant failed to list his name or a trade name as preparer and failed to list a related taxpayer ID on his customers' returns in violation of I.R.C. § 6695.

29. Defendant refused to provide the IRS a list of his customers by falsely asserting that he has not recently prepared income tax returns for others.

30. Defendant's actions, as described above, fall within I.R.C. § 7407(b)(1)(A) and (D), and are, thus, subject to being enjoined under I.R.C. § 7407.

31. If he is not enjoined, defendant is likely to continue to prepare and file tax returns that include false or fraudulent statements regarding the excludibility of wage income from taxation or the deductibility of wage income from taxable income and to file tax returns that fail to list his name or a trade name as preparer and fail to list his identifying taxpayer ID.

Count II

Injunction under I.R.C. § 7408 for violation of I.R.C. § 6701

32. The United States incorporates by reference the allegations in paragraphs 1 through 31.

33. I.R.C. § 7408 authorizes a court to enjoin persons engaging in any conduct subject to penalty under I.R.C. § 6701 from engaging in such conduct or any conduct subject to penalty under the Internal Revenue Code if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

34. I.R.C. § 6701 imposes a penalty on any person who prepares or assists in the preparation of a return, affidavit, or other document that the person knows or has reason to believe will be used in connection with any material matter arising under the internal revenue laws, and that the person knows would result in an understatement of tax liability.

35. Defendant prepares returns and other documents that he files for his customers. He, thus, knows or has reason to believe, that the returns he prepared would be used in connection with material matters arising under the internal revenue laws.

36. Defendant knows that the returns and other documents he prepares will result in understatements of his customers' tax liabilities because he knowingly omits or deducts wage income from the returns and he knows that the internal revenue laws require wage income to be included on the returns and that it cannot be deducted under I.R.C. § 1001.

37. If he is not enjoined, defendant is likely to continue to prepare returns asserting frivolous positions to understate his customers' tax liabilities.

Count III

Injunction under I.R.C. § 7402(a) for unlawful interference with the enforcement of the internal revenue laws

38. The United States incorporates by reference the allegations of paragraphs 1 through 37.

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

40. Defendant, through his actions as described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

41. The federal income tax returns that defendant prepared for his customers improperly and illegally understated his customers' federal income tax liabilities.

42. If defendant is not enjoined from engaging in fraudulent and deceptive conduct, such as preparing false or fraudulent tax returns, the United States will suffer irreparable injury from revenue losses caused by defendant.

43. While the United States will suffer irreparable injury if he is not enjoined, defendant will not be harmed by being compelled to obey the law.

44. The public interest would be advanced by enjoining defendant because an injunction, backed by the Court's contempt powers if needed, will stop his illegal conduct and the harm the conduct is causing to the United States Treasury.

45. If defendant is not enjoined, he is likely to continue to interfere with the enforcement of the internal revenue laws.

WHEREFORE, the plaintiff, the United States of America, respectfully prays as follows:

A. That the Court find that Larry P. Goodyke, individually or doing business as Consultants by 5 or PC Computerz Tax Service, has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695 and has continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws, and that a narrow injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court find that Larry P. Goodyke, individually or doing business as Consultants by 5 or PC Computerz Tax Service, has engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

C. That the Court find that Larry P. Goodyke, individually or doing business as Consultants by 5 or PC Computerz Tax Service, has engaged in conduct that 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 I.R.C. § 7402(a);

D. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Larry P. Goodyke, individually or doing business as Consultants by 5 or PC Computerz Tax Service, 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 and/or filing of federal tax returns for any person or entity other than himself;

(2) Appearing as a representative on behalf of any person or organization before the Internal Revenue Service;

(3) Understating customers' tax liabilities as penalized by I.R.C. § 6694;

(4) Failing to list a tax identification number or to sign tax returns for which he is a tax-return preparer and other conduct subject to penalty under I.R.C. § 6695;

(5) Engaging in activity subject to penalty under I.R.C. § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that he knows would result in an understatement of another person's tax liability;

(6) Filing, or assisting or directing others in filing, documents with state or local governments concerning a Notice of Federal Tax Lien filed by the Internal Revenue Service against any person or entity other than himself; and

(7) Engaging in any other conduct subject to any penalty under the Internal Revenue Code or any conduct that interferes with the administration and enforcement of the internal revenue laws.

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Larry P. Goodyke within fifteen days to contact by United States Mail and, if an e-mail address is known, by

e-mail, all persons for whom he and those in active concert with him prepared a federal tax return to inform them of the Court's findings concerning the falsity of his prior representations and enclose a copy of the permanent injunction against him;

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Larry P. Goodyke to produce to counsel for the United States within fifteen days 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 refund since January 1, 2002;

G. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an injunction requiring defendant and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, to remove within eleven days from his websites including, www.consultantsby5.com, all materials advertising his services as an income tax preparer or tax consultant and all false and fraudulent statements concerning the meaning and application of the internal revenue laws, to display prominently at the top of the first page of the website a complete copy of the permanent injunction in not less than 12-point type, and to maintain the website for one year with a complete copy of the Court's permanent injunction so displayed throughout that time;

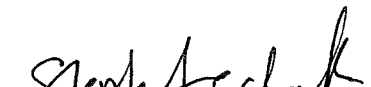
H. That the Court retain jurisdiction over Larry P. Goodyke, individually and doing business as Consultants by 5 and PC Computerz Tax Service, and over this action for the purpose of enforcing any permanent injunction entered against defendant;

I. That the United States be entitled to conduct discovery for the purpose of monitoring defendant's compliance with the terms of any permanent injunction entered against him; and

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

DATED this 16th day of September 2005.

DANIEL G. BOGDEN
United States Attorney



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