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CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. BEVERLY J. HILL and DARRELL J. HILL, individually and doing business as SUPERIOR CLAIMS MANAGEMENT, Defendants.	No. CV '05 0877 PHX DGC COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The plaintiff, the United States of America, complains and alleges against the defendants, Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, 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 the defendants, Beverly J. Hill and Darrell J. Hill, and all those in active concert or participation with them 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 themselves, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service;

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

(c) Failing to list a tax identification number or to sign tax returns for which either defendant is a tax-return preparer as penalized by I.R.C. § 6695;

(d) 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 they know would result in an understatement of another person's tax liability; and

(e) Engaging in other conduct that interferes with the administration and enforcement of the internal revenue laws.

Jurisdiction

2. This action has been authorized and 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.

Defendants

4. Defendants Beverly J. Hill and Darrell J. Hill, a married couple, reside in Mesa, Arizona, within this judicial district.

5. Beverly J. Hill and Darrell J. Hill registered Superior Claims Management as a trade name with the Arizona Secretary of State. The state lists them as owners of the trade name.

Defendants' activities

6. Defendants, operating under the business name of Superior Claims Management, prepare and file frivolous federal income tax returns or claims for refund for others.

7. They falsely advertise on their website, www.getmytaxesback.com, that "wage earnings are not 'taxable profit'" and that most citizens have been overpaying taxes their entire lives. They fraudulently boast that they can "put your past taxes in your bank" by filing returns that reduce reported income to zero.

8. Defendants have prepared and filed with the IRS at least 253 customer federal income tax returns since 2002 that fail to include wage income reported on information returns, such as Form W-2. The last known such return was filed in November 2004. The returns fraudulently request refunds of over $1.2 million in total.

9. Defendants attach a five- or six-page supplement to each tax return that sets forth out-of context quotations from various state and federal court cases to assert falsely that wage income does not fall under the definition of income that is taxable under the Internal Revenue Code. In particular, the supplement stated, "The Supreme Court of the United States had already established that my wages for my labor was/ and is not income!"

10. Defendants improperly sign their names on their customers' returns in lieu of their customers' signatures and attach an executed power of attorney to the return. Defendants fail to complete the information required of preparers on the tax forms, including listing their or their trade name as preparer and listing their taxpayer ID.

11. Defendants charge their customers 25% of any tax refund paid to the customers.

12. The IRS has thus far discovered 253 fraudulent returns prepared and filed by defendants, and 21 refunds that have been erroneously issued based on fraudulent returns

and claims prepared and filed by the defendants. The approximate total of these erroneous refunds is $200,000.

Harm to the public

13. Defendants' 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 substantial tax refunds to which they are not legally entitled. The average tax refund requested on the 253 returns discovered by the IRS is over $4,700.

14. The United States is harmed because defendants' customers are not reporting and paying their correct tax liabilities. Although the IRS has not issued most of the refunds requested by the Hills, it has issued at least 21 erroneous refunds for an approximate total of $200,000. The taxes requested by all returns detected by the IRS is over $1.2 million.

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

16. For defendants' customers that it has identified, the IRS must review and respond to correspondence, request that they change their positions by filing correct returns, assess penalties, and audit them to determine the correct tax liability. This effort is required for each return filed.

17. In addition to the harm caused by their preparation of tax returns that understate their customers' tax liabilities, the Hills' activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

18. Defendants' customers have been harmed because they have paid defendants fees in the form of a percentage of any refund received to prepare tax returns that

understate their correct federal income tax liabilities. The customers then end up having to pay back taxes plus interest and penalties. Some customers could under some circumstances also face criminal prosecution.

Count I

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

19. The United States incorporates by reference the allegations in paragraphs 1 through 18.

20. 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 furnish an identifying number or to keep a list of customers or copies of tax returns and turn over the list or copies to the IRS upon request);

(c) misrepresenting their experience or education as a tax return preparer; or

(d) 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.

21. Defendants have prepared at least 253 federal income tax returns that included false or fraudulent statements regarding the excludibility of income from taxation. In so doing, defendants understated their customers' federal taxable income and asserted

positions which they knew or reasonably should have known were unrealistic under I.R.C. § 6694.

22. On these returns, defendants have failed to list their or their trade name as preparers and failed to list a related taxpayer ID on their customers' returns in violation of I.R.C. § 6695.

23. Defendants' 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.

24. If they are not enjoined, defendants are likely to continue to file tax returns that include false or fraudulent statements regarding the excludibility of income from taxation and to file tax returns that fail to list their or their trade name as preparer and fail to list a related taxpayer ID.

Count II

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

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

26. I.R.C. § 7408 authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under I.R.C. § 6701 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

27. 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.

28. Defendants prepare returns and other documents that they file for their customers. They, thus, know or have reason to believe, that the returns they prepared

would be used in connection with material matters arising under the internal revenue laws.

29. Defendants know that the returns and other documents they prepare will result in understatements of their customers' tax liabilities because they knowingly omit wage income from the returns and they know that the internal revenue laws require wage income to be included on the returns.

30. If they are not enjoined, defendants are likely to continue to prepare returns understating their customers' tax liabilities.

Count III

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

31. The United States incorporates by reference the allegations of paragraphs 1 through 30.

32. 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.

33. Defendants, through their actions as described above, have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

34. The federal income tax returns that defendants prepared for their customers improperly and illegally understated their customers' federal income tax liabilities.

35. If defendants are 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 defendants.

36. While the United States will suffer irreparable injury if defendants are not enjoined, defendants will not be harmed by being compelled to obey the law.

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

38. If defendants are not enjoined, they are 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 Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695 and have continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court find that Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, have 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 Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, have 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 Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, and all those in active concert or participation with them 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 themselves, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service;

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

(3) Failing to list a tax identification number or to sign tax returns for which either defendant is a tax-return preparer as prohibited by I.R.C. § 6695;

(4) 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 they know would result in an understatement of another person's tax liability; and

(5) Engaging in other 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 Beverly J. Hill and Darrell J. Hill within fifteen days to contact by United States Mail and, if an e-mail address is known, by e-mail, all persons for whom they prepared a federal tax return to inform them of the Court's findings concerning the falsity of the defendants' prior representations and enclose a copy of the permanent injunction against them;

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Beverly J. Hill and Darrell J. Hill 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 they 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 defendants and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, to remove within eleven days from their websites including, www.getmytaxesback.com, all materials advertising their

services as income tax preparers or consultants and all false and fraudulent statements concerning the meaning and application of the internal revenue laws, including (but not limited to) any statements that income from wages is not includible in taxable income, 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;

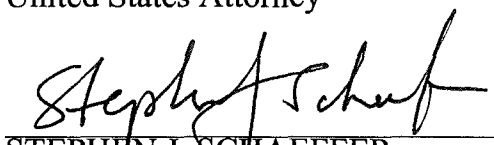
H. That the Court retain jurisdiction over Beverly J. Hill and Darrell J. Hill, individually and doing business as Superior Claims Management, and over this action for the purpose of enforcing any permanent injunction entered against defendants;

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

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

DATED this 21st day of March, 2005.

PAUL K. CHARLTON
United States Attorney



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