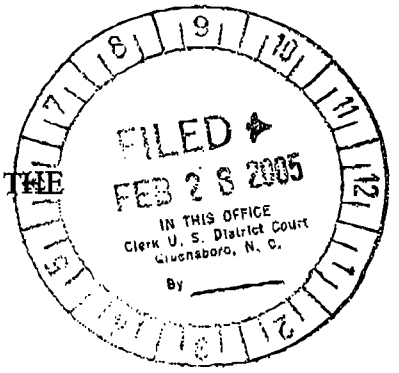


IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	Civil No.
OSCIE K. PARKER,	)	
Defendant.	)	1:05CV00167

COMPLAINT FOR PERMANENT INJUNCTION

This is a civil action brought by the United States to permanently enjoin Defendant Oscie K. Parker from preparing federal income tax returns for others, representing customers before the IRS, and advising, counseling, or instructing anyone about the preparation of a federal tax return.

Jurisdiction

1. 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, pursuant to Internal Revenue Code (I.R.C.) (26 U.S.C.) §§ 7402(a), 7407 and 7408.

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§ 7402(a), 7407, and 7408.

3. Parker resides within this judicial district at 232 Misty Drive, Thomasville, NC 27360.

Facts Common to All Counts

4. Parker prepares or assists in the preparation of federal income tax returns for other people for compensation.

5. Parker operates his return-preparation business under the names MPS Tax Service, Fastest Tax Refund Service, Bill Jackson Enterprises, Inc., Agencia De Trabajo Latina, and Providian, Ltd.

6. For tax years 2000 through 2003, Parker prepared 269 federal income tax returns for customers, and signed his own name as preparer on each one.

7. For tax years 2000 through 2003, Parker also assisted in preparing (or prepared and signed using an alias, or signed using another person's name) returns for customers. Because Parker failed to sign his own name and give his social security number on these returns as required by law, the IRS does not yet know how many such returns Parker helped to prepare.

8. The IRS has audited 59 returns Parker prepared or assisted in preparing for tax years 2000 through 2002, and found that every one of these returns contained false information.

9. The returns Parker prepares or assists in preparing for customers contain false exemptions, false deductions, false earned income tax credits, and falsely claim head-of-household status. Also, Parker falsely classifies his customers' hobbies as businesses and improperly deducts the hobby expenses on the customers' returns.

10. Parker forges some of his customers' signatures on their tax forms and does not provide all of his customers with copies of their returns.

11. Parker also has his customers' federal tax refunds direct deposited into an account that Parker controls, and then Parker does not pay the full amount of the refund to his customers.

12. Parker continues to prepare fraudulent returns for customers, variously using his own name and other names as preparer.

13. Parker's actions cause harm to the United States and to the public.

14. The IRS issues erroneous refunds based on fraudulent returns prepared by Parker and is then forced to audit Parker's customers and take collection action to attempt to recoup the money.

15. During the audits, Parker prepares or instructs others to prepare false invoices and receipts for submission to the IRS.

16. The IRS estimates that the federal income tax returns Parker prepares or assists in preparing contain an average tax understatement of about $3,000 per return, for a total estimated loss of at least $807,000 for the 269 returns he is known to have prepared for tax years 2000 through 2003.

17. The Government has spent considerable time and resources auditing returns prepared by Parker and collecting the taxes owed and erroneous refunds paid.

18. Parker has also harmed his customers because they pay Parker to prepare these fraudulent returns, and, after the audit, are responsible for paying all deficiencies, interest, and penalties.

Count I:
Injunction under I.R.C. § 7408 for Violation of I.R.C. § 6701

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

20. 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.

21. I.R.C. § 6701 penalizes any person (1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; (2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and (3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person.

22. Parker prepares or assists in the preparation of income tax returns for his customers.

23. Parker knows or has reason to believe that these income tax returns will be filed with the IRS and thus will be used in connection with a material matter arising under the internal revenue laws.

24. Parker knows that the tax returns he prepares will result in understatements of the liability for tax of another person.

25. Parker knows that the receipts and invoices he provides to support the fraudulent tax returns are themselves false and fraudulent and, if used, will result in understatements of tax of another person.

26. If Parker is not enjoined, he is likely to continue to engage in conduct which violates § 6701.

Count II:
Injunction under I.R.C. § 7407 for Violation of I.R.C. §§ 6694 and 6695

27. The United States incorporates by reference the allegations in paragraphs 1 through 26.

28. I.R.C. § 7407 authorizes a court to issue an injunction if an income tax return preparer engages in conduct subject to penalty under I.R.C. § 6694 or § 6695.

29. I.R.C. § 6694(a) penalizes a tax return preparer if (1) the preparer prepares a return or claim for refund that includes an understatement of liability due to a position for which there is not a realistic possibility of being sustained on the merits; (2) the preparer knew (or reasonably should have known) of such position; and (3) the position was not disclosed in accordance with IRC § 6662(d)(2)(B)(ii) or such position was frivolous.

30. I.R.C. § 6694(b) penalizes a tax return preparer who prepares a return or claim with an understatement of liability (1) in a willful attempt to understate the liability or (2) with a reckless and intentional disregard of rules or regulations.

31. I.R.C. § 6695 penalizes a tax return preparer who does not furnish a copy of the tax return to the customer, penalizes a tax return preparer who does not sign his name to tax returns he prepares, and penalizes a tax return preparer who endorses or otherwise negotiates a refund check issued to a taxpayer.

32. Parker's conduct as described above is subject to penalty under §§ 6694(a), 6694(b) and 6695.

33. Parker has prepared income tax returns that include understatements of his customers' liability which had no realistic possibility of being sustained on the merits; Parker knew or reasonably should have known about these understatements; Parker did not disclose them in accordance with IRC § 6662(d)(2)(B)(ii); and such understatements are frivolous. Parker has thus engaged in conduct subject to penalty under § 6694(a).

34. Parker prepares returns for customers with false entries in a willful attempt to understate the customers' liability or with a reckless and intentional disregard of rules and

regulations. Parker has thus engaged in conduct subject to penalty under § 6694(b).

35. Parker did not furnish his customers with copies of their tax returns, did not sign all of the tax returns he prepared, and had his customers' refunds direct deposited into an account Parker controls. Parker has thus engaged in conduct subject to penalty under § 6695.

36. Parker has continually and repeatedly engaged in conduct that violates §§ 6694 and 6695. An injunction merely prohibiting Parker from engaging in conduct subject to penalty under §§ 6694 and 6695 would not be sufficient to prevent his interference with the proper administration of the tax laws. Accordingly, Parker should be permanently enjoined from acting as an income tax return preparer.

Count III:
Injunction under I.R.C. § 7402(a) for Unlawful Interference with Enforcement of the Internal Revenue Laws and Appropriateness of Injunctive Relief

37. The United States incorporates by reference the allegations in paragraphs 1 through 36.

38. I.R.C. § 7402(a) authorizes a court to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws.

39. I.R.C. § 7402(a) expressly provides that its injunction remedy is "in addition to and not exclusive of" other remedies for enforcing the internal revenue laws.

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

41. Parker's conduct causes irreparable harm to the United States and to his customers.

42. Parker is causing and will continue to cause substantial revenue losses to the United

States Treasury, much of which may be unrecoverable.

43. If Parker is not enjoined, he is likely to continue to engage in conduct that interferes with the enforcement of the internal revenue laws.

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

45. The public interest would be advanced by enjoining Parker because an injunction will stop his illegal conduct and the harm that conduct is causing to the United States Treasury.

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

A. That the Court find that Parker 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;

B. That the Court find that Parker has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and that, pursuant to I.R.C. § 7407, an injunction prohibiting such conduct would not be sufficient to prevent Parker's interference with the proper administration of the tax laws and that Parker should be enjoined from acting as an income tax return preparer;

C. That the Court find that Parker is interfering with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to I.R.C. § 7402(a) and the Court's inherent equity powers;

D. That this Court, pursuant to I.R.C. § 7408, enter a permanent injunction prohibiting Parker, individually and doing business under the various names listed in this complaint or under

any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

1. Engaging in activity subject to penalty under I.R.C. § 6701, including aiding or assisting in, procuring, or advising with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; knowing (or having reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and knowing that such portion (if so used) would result in an understatement of the liability for tax of another person; and

2. Engaging in any other activity subject to penalty under I.R.C. § 6701.

E. That this Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Parker, individually and doing business under the various names listed in this complaint or under any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and all persons in active concert or participation with him, from directly or indirectly acting as a federal income tax return preparer;

F. That this Court, pursuant to I.R.C. § 7402(a), enter a permanent injunction prohibiting Parker, individually and doing business under the various names listed in this complaint or under any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

1. Preparing or assisting in the preparation of any federal tax return for anyone other than himself;

2. Advising, counseling, or instructing anyone about the preparation of a federal tax return;

3. Representing customers in connection with any matter before the IRS; and

4. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

G. That this Court, pursuant to I.R.C. § 7402(a), require Parker at his own expense to contact by mail all customers for whom he has prepared federal tax returns or assisted in preparing tax returns, and send them a copy of this Complaint and the permanent injunction order, and to certify to the Court within eleven days of entry of the permanent injunction that he has complied with this provision;

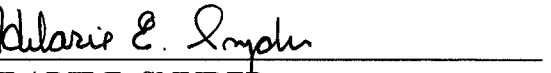
H. That this Court require Parker to provide the United States with a list of everyone for whom he has prepared (or helped to prepare) a federal tax return and a list of all of his customers.

I. That this Court permit the United States to conduct post-judgment discovery to ensure Parker's compliance with the permanent injunction; and

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

Respectfully submitted,

ANNA MILLS S. WAGONER
United States Attorney



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