IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	Civil No.
	)	
v.	)	
	)	
LINDA BORDEN a/k/a CHRISTY BENSON, NEW INNOVATIONS OF CENTRAL FLORIDA, INC.; NEX, INC.; NEXCLICK LLC; and B & B CONSULTING SERVICES, INC.	)	
	)	
Defendants.	)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff United States of America, in its complaint against defendants Linda Borden, also known as Christy Benson; New Innovations of Central Florida, Inc.; Nex, Inc.; NexClick LLC; and B & B Consulting Services, Inc. states as follows:

Nature of Complaint

1. This is a civil action brought by the United States of America pursuant to 28 U.S.C. §§ 1340 and 1345, and Internal Revenue Code (I.R.C.) §§ 7402, 7407, and 7408, to enjoin defendants Linda Borden; New Innovations of Central Florida, Inc.; Nex, Inc.; NexClick LLC; and B & B Consulting Services, Inc. from:

a. Organizing, selling, or participating in abusive tax shelters, plans, or programs that advise or encourage taxpayers to attempt to evade the assessment of their correct federal tax obligations;

b. Making false statements about the legality of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of

participating in such tax shelters, plans, or programs;

c. Instructing or advising taxpayers to understate their federal-income-tax liabilities;

d. Further acting as a federal-income-tax-return preparer, or in the alternative, preparing federal tax returns for others which will result in the understatement of any tax liability;

e. Promoting the false and frivolous position that federal-income taxes can be legally reduced or eliminated by creating home-based "businesses" that lack any business purpose and whose sole purpose of which is to evade taxes;

f. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the promotion of false tax schemes or the preparation of false income-tax returns;

g. Misrepresenting her eligibility to practice before the IRS and her experience or education as an income-tax-return preparer; and

h. Engaging in any activity subject to penalty under I.R.C. §§ 6694, 6695, 6700, and 6701.

Jurisdiction

2. This action has been requested by the Acting Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction 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 28 U.S.C. §§ 1340 and 1345, and I.R.C. §§ 7402(a), 7407, and 7408.

4. Venue is proper in the United States District Court for the Middle District of Florida under 28 U.S.C. § 1391.

Defendants

5. Linda Borden resides at 501 Mirasol Circle, Suite 417, Celebration, FL 34747. Linda Borden is the sole owner and operator of New Innovations of Central Florida, Inc., Nex, Inc., NexClick LLC, and B & B Consulting Services, Inc.

An Overview of Borden's Scheme: Fabricating Home-Based Business Deductions

6. The defendants promote an abusive tax scheme whereby they advise their customers to deduct non-deductible personal living expenses as business expenses through the use of a home-based business. The defendants then prepare false income-tax returns for customers claiming bogus business expenses. They "zero-out" customers' returns so income such as wages and capital gains are offset by fictitious losses from the home-based business, thereby eliminating reported tax liability.

7. Borden promotes and markets her abusive scheme through NexClick, LLC, and its affiliated entities:

> NexClick, LLC- Organized in 2000; a membership organization promoting Borden's fraudulent home-based business scheme, steering customers to her tax-return-preparation businesses;
>
> New Innovations of Central Florida, Inc.- Borden's original tax-return-preparation business;
>
> Nex, Inc.- The tax return-preparation-business Borden established when the IRS started auditing customers of New Innovations of Central Florida, Inc.; and
>
> B & B Consulting Services, Inc.- Borden's current tax-return-preparation

business. She abandoned Nex, Inc. and started this business when she was told by the IRS that she was under investigation.

8. Borden requires that customers join NexClick before she will agree to prepare any tax returns. Borden charges a fee to join NexClick, usually $2,899. She touts NexClick membership as a complete package that allows customers to go to seminars on a variety of topics including tax planning, trust and estates, and financial planning. In fact, NexClick is simply a marketing organization for Borden's fraudulent tax-preparation services. NexClick membership buys the customer fraudulent tax-preparation services for the current year and the ability to attend seminars promoting her tax-evasion scheme.

9. Borden recruits new customers by falsely claiming she can legally eliminate virtually all of the customers' federal-income-tax liabilities. Borden tells potential customers that she knows a secret loophole in the Internal Revenue Code and that if a person joins NexClick, she will share her knowledge.

10. NexClick members are "entitled" to have one of Borden's affiliated entities prepare their current income-tax return and, for an additional fee of $1,550, prepare returns for prior years—all reporting bogus business deductions. The defendants prepare current returns with an attached Schedule C or a Form 1120-S. Either method results in the customer claiming losses from the operation of the home-based business to offset income. The losses are created by deducting non-deductible personal expenses as business expenses.

Borden's Purported Tax Expertise

11. Borden describes herself as an expert in income tax law. She claims that she has been in practice since 1985 and has built a very large tax practice helping the "very rich do exactly what the government allows them to do."

12. Borden advertises that she is a Certified Public Accountant (CPA). She is not a licensed CPA in Florida, and upon information and belief is not so licensed in any other state.

13. Borden has at different times stated that she holds a bachelors degree in accounting and finance from either the University of Florida, Gainesville; or Stetson University. Borden does not hold a degree from the University of Florida or Stetson University.

14. Borden has told customers that she attends law school. Borden has never attended law school.

15. Borden has told customers that she sat on an IRS "ethics committee." She has never held any such position.

Borden's Promotion of her Abusive Tax Scheme

16. Borden has promoted her scheme through word of mouth, radio advertisements, the Internet, and through recruiting seminars held in Florida, New Jersey, and Georgia. Borden falsely tells prospective customers that they can use a valid business, or simply create a fictitious business, to deduct personal expenses as business expenses.

17. In the course of her promotion, Borden has made the following false

statements that have then been reflected on fraudulent income-tax returns the defendants have prepared for customers:

a. Personal living expenses are deductible.

b. Thinking about starting a business is the same as starting a business.

c. Helping friends and relatives with their computer problems free of charge is a computer-consulting business.

d. Customers can deduct $1,000 per month in rent they pay to themselves for their personal residence.

e. There is an additional deduction on the Schedule C and/or Form 1120-S for dependents. Customers can deduct up to $5,100 per dependent and the dependent does not have to report that amount as income.

f. A customer can rent his house out to his "company" for a "business party" once a month. The "business" can take a deduction for an amount equal to what rent for a place with a similar setup would cost (*e.g.*, a 3000 square foot facility with parking, restrooms, etc.)

g. Customers can use holidays such as Thanksgiving Day or Christmas Day as business "functions" so that when the customer buys food and other things for dinner parties, his "business" can deduct the expenses.

h. Deductible expenses include payments for personal services, including haircuts, manicures, cosmetics, and dry-cleaning. Such items are deductible because they are needed for the customer to look his or her best as a business person.

Borden's Return Preparation: Her Promotion in Action

18. Once NexClick has received a customer's membership fee, Borden offers to have an affiliated business prepare the customer's tax returns. Once the customer agrees, Borden asks the customer for his W-2 forms and a list of personal assets that states the assets' value. Borden states that personal assets for this purpose include things such as

living room and dining room furniture and home entertainment equipment. If the customer does not know an asset's value the defendants simply create a fictitious value.

19. After acquiring the W-2s and the asset lists, the defendants categorize the "assets" as "office expenses" on the schedule C or 1120-S. If the expense generated from the assets does not sufficiently offset the customer's income, the defendants make up other expenses such as "advertising costs" to further reduce the customer's reported income. They continue adding such fictitious expenses until the business "losses" roughly equal the customer's income, so that the customer reports little to no tax liability.

Other Fraudulent and Deceptive Conduct

20. Borden has failed to sign federal income tax returns she has prepared as is required by law.

21. Borden has unlawfully forged the name "Christy Benson" instead of signing her own name on returns she has prepared.

22. Borden has failed to furnish her identifying number, as the law requires, on returns she has prepared.

23. Borden has on more than one occasion lied to IRS investigators.

Borden's Knowledge of the Illegality of Her Scheme

24. Borden claims she is an expert in income-tax law. She says she has been in business since 1985. She knows or should know that her scheme is frivolous.

25. Borden has taken affirmative steps to frustrate IRS efforts to investigate her fraudulent scheme. When Borden was informed that she was under IRS investigation she

abandoned Nex, Inc., and established B & B Consulting Services, Inc. Under B & B Consulting Services she prepares federal-income-tax returns for customers. But, instead of signing her name as the preparer she forges the name "Christy Benson," or she illegally leaves the tax preparer signature block empty, leaving the false impression that the customer prepared the return. Borden's attempt to evade detection as a return preparer shows that she knows her scheme is illegal.

Harm to the United States

26. The defendants have been preparing fraudulent tax returns for customers for at least seven years. The IRS has identified Borden customers in 22 states. The defendants' tax-preparation activities have resulted in their customers understating tax liabilities by at least $15 million. Some of these understatements may never be recovered by the IRS.

27. Borden has promoted her bogus tax theory since at least 2000. In that time she has held many promotional seminars.

28. The defendants will not cease this illegal activity unless enjoined.

Injunction under I.R.C. § 7408 for violations of §§ 6700 and 6701

29. The United States incorporates by reference the allegations contained in paragraphs 1 through 28.

30. I.R.C. § 7408 authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under I.R.C. §§ 6700 or 6701 from engaging in further such conduct if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct.

31. Section 6700 imposes a penalty on any person who organizes or participates in the sale of a plan or arrangement and in so doing makes a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by participating in the plan or arrangement and that person knows or has reason to know is false or fraudulent as to any material matter.

32. Section 6701 imposes a penalty on any person who aids in the preparation of any portion of a return, knowing the portion will be used to assert a position under the internal revenue laws and knowing the portion will, if used, result in an understatement of federal tax liability.

33. The defendants have organized and promote an abusive tax scheme based on bogus home-based business deductions. In promoting the scheme, the defendants have made false and fraudulent statements regarding the deduction of expenses for home-based businesses. The defendants know or have reason to know that their statements are fraudulent in violation of I.R.C. § 6700.

34. The defendants prepare income tax returns that they know will result in the understatement of federal income tax liability in violation of I.R.C. § 6701.

35. The defendants have engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701 in connection with the promotion and preparation of tax returns relating to home-based businesses. Unless enjoined by this Court, the defendants are likely to continue to engage in this conduct. Injunctive relief is appropriate under I.R.C. § 7408.

Injunction Under I.R.C. § 7407

36. The United States incorporates by reference the allegations contained in paragraphs 1 through 28 above.

37. I.R.C. § 7407 authorizes this Court to enjoin an income-tax-return preparer from:

a. engaging in conduct subject to penalty under I.R.C. § 6694 (which penalizes a return preparer who knowingly 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 return preparer who wilfully fails to sign a return when required, or who fails to furnish an identifying number as required)

c. misrepresenting his experience or education as an income tax preparer; or

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

Additionally, if the Court finds that the preparer has continually or repeatedly engaged in such conduct and the Court finds that a narrower injunction (*i.e.*, prohibiting only that specific conduct) would be insufficient to prevent that person's interference with the proper administration of federal tax law, the Court can enjoin the person from further acting as a federal income tax preparer.

38. The defendants have prepared numerous federal-income-tax returns claiming deductions for the non-deductible personal expenses of their customers. In so doing, they have asserted positions that they know, or should know, are unrealistic within the meaning of I.R.C. § 6694.

39. Borden is subject to penalty under I.R.C. § 6695 because she repeatedly fails to sign returns she prepares, or fails to sign her legal name on returns she prepares; instead forging an ex-co-worker's name, "Christy Benson." Borden also fails to furnish her tax identification number on returns she prepares, as is required by law.

40. Borden misrepresents her credentials and qualifications to practice before the IRS in violation I.R.C. § 7407. Borden has falsely advertised that she is a CPA, holds a college degree, and is in law school.

41. The defendants have engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws in violation of I.R.C. § 7407. Borden has lied to revenue agents, thereby impeding the IRS's investigation of the defendants' activities.

42. Borden's actions described above fall within I.R.C. §§ 7407(b)(1)(A), (B), and (D), and are thus subject to injunction under § 7407.

43. Borden's continual and repeated conduct, subject to injunction under I.R.C. § 7407, combined with her other conduct described in this complaint, requires that she be permanently enjoined from acting as an income-tax-return preparer.

Injunction Under I.R.C. § 7402

44. The United States incorporates by reference the allegations contained in paragraphs 1 through 43 above.

45. Borden, through the conduct described above, has engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue

laws. Unless enjoined by this Court, she is likely to continue to engage in such conduct. Borden's conduct results in irreparable harm to the United States for which the United States has no adequate remedy at law. The United States is entitled to injunctive relief under I.R.C. § 7402(a).

WHEREFORE, the plaintiff United States prays for the following relief:

A. That the Court find that defendants Linda Borden a/k/a Christy Benson; NexClick, LLC; New Innovations of Central Florida, Inc.; Nex, Inc.; and B & B Consulting Services, Inc.; engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701, and that injunctive relief is appropriate under I.R.C. § 7408 to prevent the defendants from engaging in further such conduct;

B. That the Court find that the defendants engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and that injunctive relief is appropriate under I.R.C. § 7407 to prevent the defendants from engaging in further such conduct;

C. That the Court find that the defendants engaged in conduct that substantially interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate under I.R.C. § 7407 to prevent the defendants from engaging in further such conduct;

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

E. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting the defendants from acting as income-tax-return preparers;

F. That the Court, pursuant to I.R.C. §§ 7402 and 7408, enter a permanent injunction prohibiting the defendants and prohibiting their representatives, agents, servants, employees, attorneys, and those persons in active concert with them, from directly or indirectly by means of false, deceptive, or misleading commercial speech from:

1. Organizing, promoting, marketing, or selling any abusive tax shelter, plan or arrangement that incites taxpayers to attempt to violate the internal revenue laws or unlawfully evade the assessment of their federal tax liabilities;

2. Causing other persons and entities to understate their federal tax liabilities and avoid paying federal taxes;

3. Further engaging in any conduct subject to penalty under I.R.C. § 6700, *i.e.*, making or furnishing, in connection with the organization or sale of an abusive shelter, plan, or arrangement, a statement defendants know or have reason to know is false or fraudulent as to any material matter;

4. Further engaging in any conduct subject to penalty under I.R.C. § 6701, *i.e.*, preparing any tax forms or other documents to be filed with the IRS that defendants know, if so filed, will result in the understatement of another person's income tax liability; and

5. Further engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws;

G. That this Court, pursuant to I.R.C. §§ 7402, 7407, and 7408, enter an injunction requiring defendant Linda Borden to contact:

1. All persons for whom Borden has record of defendants preparing a federal-income-tax return or any other federal tax form from January, 1996 through the present; and

b. All persons who purchased a membership in NexClick, LLC;

and inform those persons of entry of the Court's findings concerning the falsity of defendant's representations, the falsity of the tax returns prepared on their behalf, the possibility of a frivolous filing penalty against them, the possibility that the United States may seek to collect any additional federal-income taxes, penalties, and interest which they may owe, and the entry of the permanent injunction against the defendants Linda Borden a/k/a Christy Benson; NexClick, LLC; New Innovations of Central Florida, Inc.; Nex, Inc.; and B & B Consulting Services, Inc.; and

H. That the Court grant the United States such other and further relief as the Court deems appropriate.

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