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CLARENCE MADDOX  
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IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ABELARDO ERNEST CRUZ, NATIONS )  
 BUSINESS CENTER, INC., NATIONS )  
 TAX SERVICE, INC., RUTH REAL, and )  
 RUTH REAL & ASSOCIATES, INC., )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_/

07-61003

CIVIL ACTION NO.

CIV-ZLOCH

MAGISTRATE JUDGE  
SNOW

**COMPLAINT FOR PERMANENT INJUNCTION**

The United States of America, by and through R. Alexander Acosta, United States Attorney for the Southern District of Florida, hereby files this complaint for permanent injunction and alleges as follows:

1. This is a civil action brought by the United States of America under Sections 7402(a), 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) ("IRC") to enjoin Abelardo Ernest Cruz, Nations Business Center, Inc., Nations Tax Service, Inc., Ruth Real, and Ruth Real & Associates, Inc., from:

- a. Preparing, filing or assisting in the preparation or filing of any federal income tax return for any other person or entity;
- b. Providing any tax advice or services for compensation, including preparing or filing returns, providing consultative services, or representing customers;
- c. Engaging in conduct subject to penalty under IRC §§ 6694 or 6701, including preparing or filing a return or claim for refund that includes an unrealistic or frivolous position or preparing or filing a return or claim for refund that willfully or recklessly understates a tax liability;

- d. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the preparation or filing of false tax returns.

#### AUTHORIZATION

2. This action has been authorized by the 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 IRC §§ 7402, 7407 and 7408.

#### JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and IRC § 7402.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396, and IRC §§ 7407 and 7408.

#### DEFENDANTS

5. Defendant Abelardo Ernest Cruz resides at 6699 NW 70<sup>th</sup> Place, Parkland, Florida 33067, within the Southern District of Florida.

6. Defendant Nations Business Center, Inc. (“NBC”) is a corporation organized under the laws of the State of Florida. NBC maintains its principal place of business at 2510 NW 97<sup>th</sup> Avenue, Suite 140, Miami, Florida 33172, within the Southern District of Florida.

7. Defendant Nations Tax Service, Inc. (“NTS”) is a corporation organized under the laws of the State of Florida. NTS maintains its principal place of business at 9868 W. Sample Road, Coral Springs, Florida 33065, within the Southern District of Florida.

8. Defendant Ruth Real resides at 14440 SW 285<sup>th</sup> Street, Homestead, Florida 33033, within the Southern District of Florida.

9. Defendant Ruth Real & Associates, Inc. (RR&A) is a corporation organized under the laws of the State of Florida. RR&A maintains its principal place of business at 2510 NW 97<sup>th</sup> Avenue, Suite 140, Miami, Florida 33172, within the Southern District of Florida.

DEFENDANTS' FRAUDULENT TAX PREPARATION SCHEME

10. Defendant Cruz, individually or through defendants NBC and NTS, has been preparing tax returns on behalf of clients since 1983.

11. Defendant Real has worked as an employee of both defendants NBC and NTS, and she has also worked through her company, defendant RR&A. Defendant Real, individually or through defendants NBC, NTS and RR&A, has been preparing tax returns or assisting with the preparation of tax returns on behalf of clients since 1992.

12. Since at least 2004, the defendants have engaged in a fraudulent tax preparation scheme by overstating and fabricating deductions and credits on their clients' tax returns in order to reduce their clients' tax liabilities or increase their refunds.

13. Sample audits conducted on tax returns prepared by the defendants for tax years 2003 and 2004 reveal a pattern of false claims, including:

- a. fabricated depreciation deductions for truck driver clients, including claiming deductions for major repairs or overhauls to trucks or tractors that were never made, and inflating the amount of deductions for major repairs or overhauls that did occur;

- b. unsubstantiated casualty losses for real and personal property; and
- c. overstated employee business expenses.

14. In furtherance of their fraudulent tax preparation scheme, defendant Real purports to represent some of defendants' clients during the IRS audit process, even though she is not authorized to do so. Real engages in a pattern of behavior and tactics designed to obstruct and delay the audit process.

15. Upon information and belief, the majority of defendants' clients are unaware of the material fabrications made on their respective tax returns by the defendants, nor do they realize that defendant Real is not authorized to represent them during the audit process.

DEFENDANTS' KNOWLEDGE OF THE ILLEGALITY OF THEIR SCHEME

16. Defendants know or should know that their conduct is illegal.

17. Defendant Cruz has post-graduate degrees in business administration and law, and has been preparing tax returns on behalf of clients, individually or through defendants NBC and NTS, for over 20 years.

18. Defendant Real has been preparing or assisting with the preparation of tax returns on behalf of clients, individually or through defendants NBC, NTS and RR&A, for approximately 15 years. Over the last 10 years, defendant Real has purported to represent defendants' clients during the IRS audit process.

19. The IRS has assessed tax preparer return penalties against Defendant Cruz on twelve occasions with respect to returns that he prepared, individually or through Defendant NBC, for tax years 1993, 1994, 1996, 1999 and 2002. The assessment of these penalties has had no deterrent effect on Cruz's fraudulent tax preparation practices.

20. Despite having knowledge of the illegality of their scheme, the defendants continue to engage in a pattern of fabricating deductions and other information on tax returns they have prepared on behalf of clients.

#### HARM TO THE UNITED STATES

21. The Internal Revenue Service conducted sample audits of returns prepared by the defendants for the 2003 and 2004 tax years. The sample audits revealed that the average tax loss for returns prepared by the defendants on behalf of clients for the 2003 tax year was \$7,093.09 per return. The average tax loss for returns prepared for the 2004 tax year was \$6,370.38 per return.

22. Extrapolating these results to the entire population of returns prepared by the defendants for tax years 2003 and 2004, the United States estimates that the tax loss caused by defendants' fraudulent practices exceeds \$55 million.

#### COUNT I: INJUNCTION UNDER § 7407

23. The United States incorporates by reference the allegations contained in paragraphs 1 through 22 above.

24. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin income tax return preparers from, among other things, (a) engaging in conduct subject to penalty under I.R.C. § 6694, which penalizes return preparers who knowingly prepare a return that contains an unrealistic position, who willfully attempt to understate tax liability on a return that they prepare, or who prepare a return that understates tax liability as a result of their reckless or

intentional disregard of rules or regulations; and (b) engaging in any fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

25. Defendants have engaged in conduct subject to penalty under IRC § 6694 by preparing income tax returns based on unsubstantiated and fraudulent deductions and credits. Defendants know that these tax returns do not have a realistic possibility of being sustained on the merits if questioned by the IRS.

26. Defendants engage in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

27. Defendants' actions described above fall within IRC § 7407(b)(1) and thus defendants are subject to injunction under § 7407.

28. Because of defendants' continued and repeated conduct subject to injunction under IRC § 7407, they should be permanently enjoined from acting as income tax return preparers.

#### COUNT II: INJUNCTION UNDER IRC § 7408

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

30. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin tax return preparers from, among other things, engaging in conduct subject to penalty under IRC § 6701, which penalizes a person for aiding or assisting in the preparation of a return or other document which the person knows will result in an understatement of tax liability.

31. Defendants have engaged in conduct subject to penalty under IRC § 6701

by preparing income tax returns based on unsubstantiated and fraudulent deductions and credits. Defendants know that these deductions do not have a realistic possibility of being sustained on the merits if questioned by the IRS.

32. Defendants' actions described above fall within IRC § 7408(c)(1), and injunctive relief is appropriate to prevent recurrence of their conduct.

33. Accordingly, defendants should be permanently enjoined from acting as income tax return preparers, pursuant to IRC § 7408(b).

### COUNT III: INJUNCTION UNDER IRC § 7402

34. The United States incorporates herein by reference the allegations in paragraphs 1 through 33 above.

35. Section 7402(a) of the Internal Revenue Code authorizes a district court to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

36. Defendants, through the conduct described above, have engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws. Unless enjoined by this Court, they are likely to continue to engage in such conduct. Defendants' conduct causes significant injury to the United States. The United States is entitled to injunctive relief under IRC § 7402(a) to prevent such conduct.

### APPROPRIATENESS OF INJUNCTIVE RELIEF

37. Unless enjoined, defendants are likely to continue to engage in the conduct described above.

38. Defendants' conduct, as described above, causes irreparable harm to the

United States. Specifically, defendants' conduct has caused and will continue to cause substantial revenue losses to the United States Treasury, some of which may never be recovered, thus resulting in a permanent loss. Unless the defendants are enjoined, the IRS will have to devote a substantial amount of its limited resources detecting and auditing future fraudulent returns prepared by the defendants.

39. If the defendants are not enjoined, they likely will continue to engage in conduct subject to penalty under IRC §§ 6694 and 6701.

40. If the defendants are not enjoined, they likely will continue to engage in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

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

A. That the Court find that defendants Abelardo Ernest Cruz, Nations Business Center, Inc., Nations Tax Service, Inc., Ruth Real, and Ruth Real & Associates, Inc. continually and repeatedly engaged in conduct subject to penalty under IRC §§ 6694 and 6701, or otherwise engaged in conduct that interfered with the enforcement of the internal revenue laws, and that injunctive relief against them is appropriate pursuant to IRC §§ 7402(a), 7407 and 7408 to prevent recurrence of that conduct;

B. That the Court enter a permanent injunction prohibiting the defendants from directly or indirectly:

1. Preparing, filing or assisting in the preparation or filing of any federal income tax return for any other person or entity;
2. Providing any tax advice or services for compensation, including preparing or filing returns, providing consultative services, or representing customers;

3. Engaging in conduct subject to penalty under IRC §§ 6694 or 6701, including preparing or filing a return or claim for refund that includes an unrealistic or frivolous position or preparing or filing a return or claim for refund that willfully or recklessly understates a tax liability; or
4. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the preparation or filing of false tax returns;

C. That the Court enter an injunction:

1. Requiring the defendants, at their own expense, to send by certified mail, return receipt requested, a copy of the final injunction entered against them in this action to each person for whom they, or anyone at their direction or in their employ, prepared federal income tax returns or any other federal tax forms after January 1, 2000;
2. Requiring the defendants, and anyone who prepared tax returns at the direction of or in the employ of the defendants, to turn over to the United States copies of all returns or claims for refund that they prepared for customers after January 1, 2000;
3. Requiring the defendants, and anyone who prepared tax returns at the direction of or in the employ of the defendants, to turn over to the United States a list with the name, address, telephone number, e-mail address (if known), and social security number or other taxpayer identification number of all customers for whom they prepared returns or claims for refund after January 1, 2000;
4. Requiring the defendants, within forty-five days of entry of the final injunction in this action, to file a sworn statement with the Court evidencing their compliance with the foregoing directives; and
5. Requiring the defendants to keep records of their compliance with the foregoing directives, which may be produced to the Court, if requested, or to the United States pursuant to paragraph D, below;

D. That the Court enter an order allowing the United States to monitor the defendants' compliance with this injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

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

Respectfully submitted,

R. ALEXANDER ACOSTA  
United States Attorney



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BRIAN R. HARRIS  
Florida Bar No. 512001  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 14198  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 514-6483  
Facsimile: (202) 514-9868  
Email: [brian.r.harris@usdoj.gov](mailto:brian.r.harris@usdoj.gov)