

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
JOHN WASZCZAK, individually and	)	
d/b/a H & J Tax Service,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT FOR PERMANENT INJUNCTION**

This is a civil action brought by the United States to permanently enjoin defendant John Waszczak, individually and d/b/a H & J Tax Service, from preparing federal income tax returns, amended federal income tax returns and other related documents and forms for others; filing federal income tax returns for others, representing customers before the Internal Revenue Service (“IRS”), advising, assisting, counseling, or instructing anyone about the preparation of a federal tax return; engaging in any activity subject to penalty under 26 U.S.C. § § 6694, 6695, or 6701; promoting tax-fraud schemes or other plans or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of federal income taxes; or engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

**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 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 26 U.S.C. §§ 7402(a), 7407, and 7408.

3. Mr. Waszczak resides in and operates a business, H & J Tax Service, in Meriden, Connecticut, within the jurisdiction of this Court.

**Facts Common to All Counts**

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

5. Mr. Waszczak operates a business that provides tax return preparation services under the name H & J Tax Service. Many of Mr. Waszczak's customers have a limited understanding of spoken and written English and lack knowledge of federal income tax laws.

6. As of September 9, 2008, the IRS has determined that Mr. Waszczak prepared 9,638 federal income tax returns for the tax years 2003, 2004, 2005, and 2006.

7. As of March 31, 2008, the IRS had examined 131 tax returns prepared by Mr. Waszczak for the 2003 through 2006 tax years. Adjustments were made to 93% of those returns which resulted in additional tax of \$334,934.00 being owed by those taxpayers.

8. In 31% of the tax returns examined, adjustments were made to the taxpayers' Schedule C, as a result of overstated expenses or fabrications of Schedule C businesses. On some of these returns, Mr. Waszczak improperly deducted taxpayers' personal commuting expenses as a business expense. On 21% of the tax returns examined, Mr. Waszczak improperly deducted personal clothing and commuting expenses as business expenses. On 35% of the tax

returns examined, adjustments were required to the taxpayers' Schedule A for charitable deductions that could not be substantiated. Mr. Waszczak habitually included a \$500.00 non-cash charitable deduction on every Schedule A he prepared because this amount did not require the taxpayer to submit additional documentation to the IRS to substantiate the deduction. In addition, the IRS has examined several returns prepared by Mr. Waszczak containing Schedules E that have unsubstantiated expenses for items such as repairs and depreciation.

9. For example, Mr. Waszczak prepared a 2004 Form 1040 for taxpayers S.S. and L.S. of Meriden, Connecticut that contained a Schedule C reporting that taxpayer S.S. operated a landscaping business. The IRS examined this return and determined that Mr. Waszczak established this Schedule C business for this taxpayer after asking the taxpayer if he paid anyone to perform landscaping services on his new residence. When the taxpayer answered in the affirmative, Mr. Waszczak prepared a Schedule C for this taxpayer reporting a \$10,241 loss from this fictitious business.

10. In addition, Mr. Waszczak prepared a 2004 and 2005 Form 1040 for taxpayers J.J. and A.J. of Meriden, Connecticut that contained Schedules A that reported charitable cash gifts of \$1,550.00 and \$1,880.00, respectively. During the course of the examination of these taxpayers' returns, Mr. Waszczak provided a copy of a letter to an IRS examiner purportedly written by the pastor of the taxpayers' church to substantiate these cash contributions. The IRS examiner contacted the pastor and determined after further investigation that Mr. Waszczak had drafted the letter himself and forged the pastor's signature on the letter.

10. Mr. Waszczak's actions cause harm to the United States and to the public.

11. The IRS has issued erroneous refunds based on fraudulent returns prepared by Mr. Waszczak and has then had to audit his customers and take collection action to attempt to recoup the money. Based on the average actual tax loss per examined return of \$2,839.00, and assuming that an examination of all returns prepared by Mr. Waszczak resulted in similar average losses per return, the potential total tax deficiencies are estimated to be \$24.6 million for the four-year period that Mr. Waszczak has prepared returns.

12. The IRS has spent considerable time and resources auditing returns prepared by Mr. Waszczak and collecting the taxes owed and erroneous refunds paid.

13. Mr. Waszczak has also harmed his customers because they pay him to prepare these returns, and, after the fraud is detected, are responsible for paying all taxes, interest, and penalties.

**Count I:  
Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701**

14. The United States incorporates by reference the allegations in paragraphs 1 through 13.

15. A court is authorized to issue an injunction if an income tax preparer engages in conduct subject to penalty under 26 U.S.C. § 6701, pursuant to 26 U.S.C. § 7408.

16. Section 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.

17. Mr. Waszczak prepares or assists in the preparation of federal income tax returns for his customers.

18. Mr. Waszczak knew or had reason to believe that these income tax returns would be filed with the IRS and thus would be used in connection with a material matter arising under the internal revenue laws.

19. Mr. Waszczak knew that the federal tax returns he prepares will result in understatements of other persons' tax liabilities.

20. If Mr. Waszczak is not enjoined, he is likely to continue to engage in conduct which violates § 6701.

**Count II:  
Injunction Under 26 U.S.C. § 7407 for Violation of 26 U.S.C. § 6694**

21. The United States incorporates by reference the allegations in paragraphs 1 through 20.

22. A court is authorized to issue an injunction if an income tax return preparer engages in conduct subject to penalty under 26 U.S.C. § 6694 or § 6695, pursuant to 26 U.S.C. § 7407.

23. Section 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 26 U.S.C. § 6662(d)(2)(B)(ii) or was frivolous.

24. Section § 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.

25. Mr. Waszczak's conduct as described above is subject to penalty under §§ 6694(a), and 6694(b).

26. Mr. Waszczak has prepared income tax returns that include understatements of his customers' liabilities which had no realistic possibility of being sustained on the merits; Mr. Waszczak knew or reasonably should have known about these understatements; Mr. Waszczak did not disclose them in accordance with 26 U.S.C. § 6662(d)(2)(B)(ii); and such understatements are frivolous. Mr. Waszczak has thus engaged in conduct subject to penalty under § 6694(a).

27. Mr. Waszczak 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. Mr. Waszczak has thus engaged in conduct subject to penalty under § 6694(b).

28. Mr. Waszczak has continually and repeatedly engaged in conduct that violates § 6694. An injunction merely prohibiting Mr. Waszczak from engaging in conduct subject to penalty under § 6694 would not be sufficient to prevent his interference with the proper administration of the tax laws. Accordingly, Mr. Waszczak 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**

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

30. A court is authorized to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws, pursuant to 26 U.S.C. § 7402(a).

31. Section 7402(a) expressly provides that its injunction remedy is “in addition to and not exclusive of” other remedies for enforcing the internal revenue laws.

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

33. Mr. Waszczak’s conduct causes irreparable harm to the United States and to his customers.

34. Mr. Waszczak is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

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

36. The United States will suffer irreparable injury if Mr. Waszczak is not enjoined. This outweighs the harm to Mr. Waszczak from being enjoined from return-preparation and violating tax laws.

37. The public interest would be advanced by enjoining Mr. Waszczak 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, prays for the following:

A. That the Court find that Mr. Waszczak has engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to

prevent a recurrence of that conduct;

B. That the Court find that Mr. Waszczak has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694, and that, pursuant to 26 U.S.C. § 7407, an injunction prohibiting such conduct would not be sufficient to prevent Mr. Waszczak's interference with the proper administration of the tax laws and that Mr. Waszczak should be enjoined from acting as an income tax return preparer;

C. That the Court find that Mr. Waszczak 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 26 U.S.C. § 7402(a) and the Court's inherent equity powers;

D. That this Court, pursuant to 26 U.S.C. § 7408, enter a permanent injunction prohibiting Mr. Waszczak,, individually, and doing business under the name H & J Tax Service, 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:

1. Engaging in activity subject to penalty under 26 U.S.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 26 U.S.C. § 6701 or any other provisions of the Internal Revenue Code.

E. That this Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Mr. Waszczak, individually, and doing business under the name H & J Tax Service,

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 26 U.S.C. § 7402(a), enter a permanent injunction prohibiting Mr. Waszczak, individually, and doing business under the name H & J Tax Service, 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. Filing or assisting in the filing of a federal income tax return for anyone other than himself;
4. Owning, managing, controlling, working for, or volunteering for a tax-return-preparation business;
5. Representing customers in connection with any matter before the IRS; and
6. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

G. That this Court, pursuant to 26 U.S.C. § 7402(a), require Mr. Waszczak at his own expense to contact by mail all customers for whom he has prepared federal tax returns, amended returns, or other federal tax documents or forms since January 1, 2006, and send them a copy of this Complaint and the permanent injunction order, and to certify to the Court within thirty (30) days of entry of the permanent injunction that he has complied with this provision. This mailing

shall include a cover letter in a form either agreed to by counsel for the government or approved by the Court, and shall not include any other documents or enclosures;

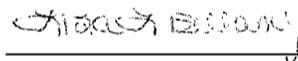
H. That this Court require Mr. Waszczak to provide the United States within fifteen (15) days of the date of the entry of an order with a list of everyone for whom he has prepared (or helped to prepare) a federal tax return since January 1, 2006, and set forth on said list all of the names, addresses, e-mail addresses, telephone numbers, and social security numbers of the customers;

I. That this Court permit the United States to conduct post-judgment discovery to ensure Mr. Waszczak'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,

NORA DANNEHY  
United States Attorney



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