

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 TRAVIS NICHOLAS STENLINE,)
 individually and d/b/a Nick Tax or)
 Nick's Taxes,)
)
 Defendant.)
 _____)

**COMPLAINT FOR PERMANENT INJUNCTION
AND OTHER RELIEF**

The plaintiff, United States of America, alleges against defendant, Travis Nicholas Stenline, individually and doing business as Nick Tax or Nick's Taxes, as follows.

1. The United States brings this complaint to enjoin Travis Nicholas Stenline, and any entity through which he conducts business and all persons and entities in active concert or participation with him, from directly or indirectly:

- (a) Preparing or filing, or assisting in the preparation or filing of any federal tax return for any other person or entity;
- (b) Engaging in conduct subject to penalty under 26 U.S.C. § 6701, *i.e.*, preparing or assisting others in the preparation of any tax form or other document to be used in connection with a material matter arising under the internal revenue laws and which the defendant knows will (if so used) result in the understatement of tax liability;
- (c) Engaging in conduct subject to penalty under 26 U.S.C. § 6694 by understating taxpayers' liabilities;
- (d) Engaging in conduct subject to penalty under 26 U.S.C. § 6695 by failing to furnish a customer list to the IRS and failing to exercise due diligence in

determining eligibility for the earned income credit; and

- (e) Engaging in similar conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

2. This action has been requested by 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 §§ 7402, 7407 and 7408 of the Internal Revenue Code, 26 U.S.C. (the “Code”).

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

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because the defendant resides in this district and because a substantial part of the actions giving rise to this suit took place in this district.

Defendant

5. Travis Nicholas Stenline resides and conducts business in Seagoville, Texas.

6. Stenline sometimes conducts business using the name Nick Tax or Nick’s Taxes.

Defendant’s Activities

7. Stenline is a tax return preparer as defined by Code § 7701(a)(36). He prepares other people’s tax returns for compensation.

8. The IRS has identified 254 federal income tax returns prepared and filed by Stenline for the 2006 tax year. Each of the returns claims a tax refund.

9. At least 242 of the returns contain false or fraudulent items and understate the taxpayer’s income taxes.

Telephone Excise Tax Refund Fraud

10. At least fifty federal income tax returns prepared by Stenline for tax year 2006 make a bogus claim for the Telephone Excise Tax Refund (“TETR”). The filing of fraudulent TETR claims was the number one fraudulent scheme among the IRS’s “2007 ‘Dirty Dozen’ Tax Scams.”

11. The TETR is a one-time credit available on 2006 federal income tax returns, designed to refund previously collected federal excise taxes on long-distance or bundled telephone service from February 2003 through August 2006. Taxpayers could claim the standard TETR credit, which ranged from \$30 to \$60, or could request a refund based on the actual amount of telephone excise tax they paid.

12. Taxpayers claiming the TETR based on the actual amount of telephone excise taxes paid were required to report that amount on IRS Form 8913, “Credit for Federal Telephone Excise Tax Paid,” which had to be attached to their 2006 federal income tax returns.

13. Stenline prepared and filed federal income tax returns on behalf of customers for tax year 2006 that claimed inflated TETR credits, totaling in excess of \$100,000.

14. For example, one 2006 return prepared by Stenline for customer Caricia Henderson claims a \$4,017 TETR credit. As part of this false total amount, this customer’s return falsely claimed that the customer paid \$3,745 in federal excise taxes for long distance service in one eight-month period from December 2005 to July 2006. For the customer to have paid this amount of excise tax, the customer would have to have paid approximately \$15,604 per month for long-distance telephone service during this period. Stenline reported \$15,339 of total income for this customer for 2006, although information provided to the IRS from employers showed only about \$600 of actual income.

15. Similarly, Stenline prepared another customer’s 2006 income tax return falsely

claiming TETR credit in the amount of \$3,892 for excise taxes paid over a 23-month period. To be entitled to that credit, the customer (Calvin Pettie) would have to have paid more than \$5,050 per month for service. According to the return prepared by Stenline, this customer had only \$15,240 of income for all of 2006. IRS records, based on information provided by employers, show actual income of this customer to be only \$72.

“Zero Return” Fraud

16. Stenline also prepared and filed twelve “zero” returns for his customers for tax year 2006. On these returns, Stenline reported no wages and no taxable income for his customers. However, he reported on the returns that the customers had taxes withheld from a Form 1099 and requested a refund of the amount purportedly withheld. The refund requests were completely erroneous.

17. The twelve returns reported zero income and reported the following amounts as withheld from a Form 1099:

<u>Customer</u>	<u>Amount Reported as Withheld</u>
J. Burke	\$ 5,478.00
C. Crawford	\$ 5,340.00
D. Cunningham	\$ 4,864.00
E. Epps	\$ 5,827.00
D. Gay	\$ 5,783.00
M. Hood	\$ 5,834.00
T. Lewis	\$ 5,789.00
G. Robinson	\$ 5,638.00
J. Ross	\$ 5,513.00
L. Scott	\$ 5,528.00

L. Smith	\$ 5,532.00
D. Sockwell	\$ 5,634.00

18. Stenline requested refunds for the above amounts plus a \$30 TETR refund claim for each customer.

19. In fact, no Form 1099 had been issued to the customers showing any withholdings, and no Form 1099 had been filed with the IRS with respect to the customers. Stenline did not attach a Form 1099 or any other substantiating document to the return showing either income or withholdings.

Fuel Tax Credit Fraud

20. Stenline has prepared and filed false or fraudulent tax returns for customers using IRS Form 4136, "Credit for Federal Tax Paid on Fuels." In using and preparing these forms, Stenline misapplied Code § 6421(a) ("fuel tax credit"). The fuel tax credit is a credit available only to taxpayers who operate farm equipment or other off-highway business vehicles. Stenline improperly claims the credit for customers who do not meet these requirements.

21. For example, Stenline prepared a 2006 federal income tax return for customer Reginald Penn who worked for a machine and metal shop in Lancaster, Texas. On the return, Stenline falsely claimed a fuel tax credit of \$916 based on a purported purchase of 5,000 gallons of gasoline for off-highway use. Stenline reported that half of the gasoline had a "04" type of use, which, according to IRS regulations, is for gasoline used in a boat engaged in commercial fishing. Penn was not engaged in commercial fishing.

Earned Income Credit and Other False Claims

22. Stenline's fraudulent federal tax return preparation is not limited to preparing returns with improper fuel tax credits and false TETR credits. Stenline also prepared returns that falsely claim the earned income tax credit, education credit, dependency exemptions and other fraudulent expenses and deductions.

23. Stenline failed to comply with the due diligence required by law with respect to determining his customers' eligibility for the earned income credit. *See* Treas. Reg. § 1.6695-2(b).

24. For tax year 2006 alone, Stenline prepared and filed more than 200 returns that contained false wage or withholding information.

Failure to Comply with IRS Request for Information under Code § 6107(b)

25. On or around May 5, 2008, pursuant to Code § 6107(b), the IRS requested from Stenline a list of those persons for whom he prepared tax returns for the years 2005 through 2007.

26. Stenline failed to provide that list to the IRS.

Harm Caused by Stenline

27. The 242 false or fraudulent returns prepared by Stenline that have been identified by the IRS erroneously claim refunds of over \$880,000. Stenline's refund rate on returns he prepared for his customers is 100%.

28. Stenline's customers have been harmed because they paid Stenline fees to prepare tax returns that substantially understate their correct tax liabilities. Many customers now face large income tax deficiencies and may be liable for sizeable penalties and interest.

29. In addition to the direct monetary harm caused by preparing returns that understate

customers' liabilities, Stenline's activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

30. Stenline's conduct results in the IRS having to devote resources to identifying Stenline's customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting any additional taxes and penalties.

31. The IRS has notified Stenline that his program is under investigation, and that his conduct may be subject to penalties under Code §§ 6694, 6695 and 6701, and subject to an injunction under Code §§ 7402, 7407 and 7408.

COUNT I – Injunction under Code § 7407

32. Code § 7407 authorizes a court to enjoin a tax return preparer if, *inter alia*, the court finds that the return preparer has engaged in conduct subject to penalty under Code §§ 6694 or 6695, and that injunctive relief is appropriate to prevent the recurrence of the conduct.

33. Code § 6694(b) imposes penalties on a tax return preparer who willfully attempts to understate the tax liability of another person or whose reckless or intentional disregard of rules and regulations results in the understatement of the tax liability.

34. Code § 6695(d) imposes penalties on a tax return preparer who fails to provide a copy of his customer list upon request of the IRS pursuant to Code § 6107(b).

35. Code § 6695(g) imposes penalties on a tax return preparer who fails to exercise due diligence in determining eligibility of a taxpayer for the earned income credit.

36. Stenline has engaged in conduct subject to penalty under Code § 6694(b) preparing returns that he knows contain complete fabrications, such as false expenses and false charitable contributions, and understate the liabilities of the customer.

37. Stenline has engaged in conduct subject to penalty under Code § 6695(d) by failing

to provide a list of those persons for whom he prepared tax returns as requested by the IRS.

38. Stenline has engaged in conduct subject to penalty under Code § 6695(g) by failing to exercise due diligence in determining the eligibility of his customers for the earned income credit.

39. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, Stenline is likely to continue preparing and filing false federal income tax returns of the type described in this complaint.

40. Stenline should be permanently enjoined under Code § 7407 from acting as a tax return preparer. His repeated and continual conduct subject to injunction under § 7407 demonstrates that a narrower injunction prohibiting specific misconduct would be insufficient to prevent his interference with the proper administration of the internal revenue laws.

COUNT II – Injunction under Code § 7408

41. Code § 7408 authorizes courts to enjoin any person from engaging in conduct that is subject to penalty under Code § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

42. Code § 6701(a) penalizes any person who aids or assists in the preparation of any portion of a federal tax return or other document knowing that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it would result in an understatement of another person's tax liability.

43. Stenline has prepared and filed federal tax returns for customers knowing that the returns understate the customers' correct federal tax liability. His conduct is subject to penalty under Code § 6701.

44. Unless enjoined by the Court, Stenline is likely to continue to prepare tax returns that

he knows will result in the understatement of tax liability.

45. Stenline should therefore be enjoined under Code § 7408 from engaging in conduct subject to penalty under Code § 6701.

COUNT III – Injunction under Code § 7402

46. Code § 7402 authorizes courts to issue injunctions “as may be necessary or appropriate for the enforcement of the internal revenue laws.” The remedies available to the United States under that statute “are in addition to and not exclusive of any and all other penalties.” Code § 7402(a).

47. Stenline, through the actions described above, has engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws, and is likely to continue to engage in such conduct unless enjoined.

48. Stenline’s conduct is causing irreparable injury to the United States and an injunction under Code § 7402(a) is necessary and appropriate. If Stenline is not enjoined the United States will suffer irreparable injury by erroneously providing tax refunds to persons not entitled to receive them and by taxpayers not reporting and paying the correct amount of taxes.

49. Unless Stenline is enjoined, the IRS will have to devote substantial time and resources to identify and locate his customers, and then examine those customers’ tax returns and liabilities. Pursuing all individual customers may be impossible given the IRS’s limited resources.

50. Enjoining Stenline is in the public interest because an injunction will stop his illegal conduct and the harm it causes the United States.

51. The Court should order injunctive relief under Code § 7402(a).

WHEREFORE, the United States of America requests the following relief:

A. The Court find that Stenline has continually and repeatedly engaged in conduct subject to penalty under Code §§ 6694, 6695 and 6701, and that injunctive relief limited to prohibiting such conduct would not be sufficient to prevent Stenline's interference with the proper administration of the Internal Revenue Code;

B. The Court, pursuant to Code §§ 7407 and 7402(a), enter a permanent injunction prohibiting Stenline from preparing or filing, or assisting in the preparation or filing, of federal tax returns or other related documents and forms for others;

C. The Court find that Stenline has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against him and anyone acting in concert with him is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and Code § 7402(a);

D. The Court find that Stenline has engaged in conduct that is subject to penalty under Code § 6701, and an injunction under Code § 7408 is appropriate;

E The Court, pursuant to Code § 7402(a), enter an injunction requiring Stenline to provide the United States a list of the names, addresses, social security numbers (and any other federal tax identification numbers) and telephone numbers of all persons for whom he prepared or assisted in preparing federal tax returns since January 1, 2006, and to file with the Court, within fifteen days of the date the permanent injunction is entered, a certification signed under penalty of perjury stating that he has done so;

F. The Court, pursuant to Code § 7402(a), enter an injunction requiring Stenline to contact by United States mail (or by e-mail, if a postal address is unknown) all persons for whom he has prepared a federal tax return since January 1, 2006, to inform them of the Court's findings in this matter and enclose a copy of the injunction entered against him, and to file with the Court

within fifteen days of the date the permanent injunction is entered, a certification signed under penalty of perjury that he has done so;

G. The Court authorize the United States to engage in post-judgment discovery to monitor compliance with the terms of any injunction entered against him; and

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

Respectfully submitted,

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