

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:10CV06
)	
ERIN PRYOR, individually,)	
d/b/a/ EP Express Tax Service,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR PERMANENT INJUNCTION

This is a civil action brought by the United States to permanently enjoin defendant Erin Pryor, individually and d/b/a EP Express 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. Ms. Pryor resides in and operates a business, EP Express Tax Service, in Cincinnati, Ohio, within the jurisdiction of this Court.

Facts Common to All Counts

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

5. Ms. Pryor operates a business that provides tax return-preparation services under the name EP Express Tax Service.

6. Ms. Pryor prepared and filed 234 federal tax returns during the period January 1, 2007, through December 31, 2008. Ms. Pryor was the principal and responsible official for the electronic filing identification number ("EFIN") used to transmit these returns to the Internal Revenue Service ("IRS.") Ms. Pryor's name is also shown as the paid preparer on these returns.

7. Many of the returns that Ms. Pryor prepared for customers were frivolous tax submissions pursuant to 26 U.S.C. § 6702 as they contained a disabled access credit ("DAC") for purported expenditures made by a business to conform to the Americans With Disabilities Act. To qualify for the DAC, a taxpayers must have an eligible small business and business or

income-earning activity which generated the credit. Ms. Pryor submitted these tax returns to the IRS which claimed a DAC knowing that the taxpayer did not own a business.

8. In addition to the frivolous DAC claims, Ms. Pryor also prepared returns for her customers with fraudulent claims for the Telephone Excise Tax Refund (“TETR.”)

9. 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 March 31, 2003, through July 31, 2006. Taxpayers could claim the standard TETR, which ranged from \$30 to \$60, or could request a refund based on the actual amount of telephone excise tax that they paid. Taxpayers claiming the TETR based on the actual amount of telephone excise taxes they paid were required to report that amount on an IRS Form 8913, “Credit for Federal Telephone Excise Tax Paid,” which had to be attached to their 2006 federal income tax return.

10. For example, Ms. Pryor prepared a federal income tax return for taxpayer M.M.C. of Sachse, Texas, reporting \$882 of TETR on Form 8913 attached to the taxpayer’s return. For the taxpayer to have paid this amount of excise tax, the taxpayer would have to have an average monthly phone bill of \$3,267.

11. Ms. Pryor also prepared and filed federal income tax returns for many customers that contained false wages and federal withholding tax credits. This false wage and withholding information resulted in a fraudulent claim for Earned Income Tax Credits (“EITC”) if the EITC was also claimed on those returns.

12. Ms. Pryor’s actions cause harm to the United States and to the public.

13. The IRS has issued erroneous refunds based on fraudulent returns prepared by Ms. Pryor and has then had to audit Ms. Pryor’s customers and take collection action to attempt to

recoup the money. The IRS has incurred an actual tax loss to date from the examined returns in excess of \$1.0 million.

14. The IRS has spent considerable time and resources auditing returns prepared by Ms. Pryor and collecting the taxes owed and erroneous refunds paid.

15. Ms. Pryor has also harmed her customers because they pay her 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**

16. The United States incorporates by reference the allegations in paragraphs 1 through 15.

17. 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.

18. 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.

19. Ms. Pryor prepares or assists in the preparation of federal income tax returns for her customers.

20. Ms. Pryor 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.

21. Ms. Pryor knows that the federal tax returns she prepares will result in understatements of other persons' tax liabilities.

22. If Ms. Pryor is not enjoined, she 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 and 6695**

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

24. 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.

25. 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 § 6662(d)(2)(B)(ii) or was frivolous.

26. 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.

27. Ms. Pryor's conduct as described above is subject to penalty under §§ 6694(a) and 6694(b).

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

29. Ms. Pryor 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. Ms. Pryor has thus engaged in conduct subject to penalty under § 6694(b).

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

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

31. The United States incorporates by reference the allegations in paragraphs 1 through 30.

32. 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).

33. 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.

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

35. Ms. Pryor’s conduct causes irreparable harm to the United States and to her customers.

36. Ms. Pryor is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

37. If Ms. Pryor is not enjoined, she is likely to continue to engage in conduct that interferes with the enforcement of the internal revenue laws.

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

39. The public interest would be advanced by enjoining Ms. Pryor because an injunction will stop her 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 Ms. Pryor 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 Ms. Pryor 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 Ms. Pryor’s interference with the

proper administration of the tax laws and that Ms. Pryor should be enjoined from acting as an income tax return preparer;

C. That the Court find that Ms. Pryor 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 Ms. Pryor, individually and doing business as EP Express Tax Service or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with her, 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 Ms. Pryor, individually and doing business as EP Express Tax Service or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and all persons in active concert or participation with her, 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 Ms. Pryor, individually and doing business as EP Express Tax Service or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with her, from directly or indirectly:

1. Preparing or assisting in the preparation of any federal tax return for anyone other than herself;
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 herself;
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 Ms. Pryor at her own expense to contact by mail all customers for whom she 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 she has complied with this provision;

H. That this Court require Ms. Pryor to provide the United States with a list of everyone for whom she has prepared (or helped to prepare) a federal tax return since January 1, 2007 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 Ms. Pryor'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,

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