

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA,) CIVIL ACTION NO. 3:10-cv-00510-JFA
)
Plaintiff,)
)
v.)
)
DOROTHY LEE ANDERSON d/b/a)
DL ANDERSON TAX SERVICE,)
)
Defendant.)

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The plaintiff, the United States of America, complains and alleges against defendant, Dorothy Lee Anderson d/b/a DL Anderson Tax Service as follows:

1. This is a civil action brought by the United States pursuant to sections 7401, 7402(a), 7407, and 7408 of the Internal Revenue Code (“26 U.S.C.”) to restrain and enjoin defendant Dorothy Lee Anderson d/b/a DL Anderson Tax Service (or any other entity she does business as), and all those in active concert or participation with her, from:

- (a) Acting as a federal tax return preparer or requesting, assisting in or directing the preparation and/or filing of federal tax returns for any person or entity other than herself, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service (“IRS”);
- (b) Understating tax liabilities in a manner subject to penalty under 26 U.S.C. § 6694;
- (c) Engaging in activity subject to penalty under 26 U.S.C. § 6695, including, but not limited to, failing to furnish tax returns to taxpayers, and endorsing or otherwise receiving tax refund checks either through direct deposit into her own personal account or any other account she controls or any other mechanism;

- (d) Engaging in activity subject to penalty under 26 U.S.C. § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that she knows would result in an understatement of another person's tax liability;
- (e) Engaging in any other conduct that is subject to penalty under the Internal Revenue Code or that interferes with the proper administration and enforcement of the internal revenue laws; and
- (f) Obtaining, using, or retaining any other person's Social Security number or other federal tax identification number or federal tax return information in any way for any purpose without that person's express written consent.

Jurisdiction

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 26 U.S.C. §§ 7401, 7407, and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. §§ 7402(a), 7407, and 7408.

Defendant

4. Defendant Dorothy Lee Anderson ("Anderson") resides in Hopkins, South Carolina within the jurisdiction of this Court. Anderson is an un-enrolled tax return preparer who operates or has operated under the name DL Anderson Tax Service ("DL Anderson") within the jurisdiction of this Court.

Venue

5. Venue is proper in the District of South Carolina pursuant to 28 U.S.C. §§ 1391(b). Anderson resides and operates or has operated DL Anderson in Hopkins, South Carolina, within this

judicial district. From this office, Anderson provided services to her customers and prepared and filed the tax returns as described below.

Defendant's activities

6. In October 2007, Anderson applied for and obtained an Electronic Filing Indicator Number ("EFIN") from the IRS with the last three numbers XXX599. This number allowed Anderson to electronically file tax returns on behalf of taxpayers.

7. During the 2008 filing season, Anderson electronically filed 451 federal income tax returns for the year 2007 using the EFIN with the last three numbers XXX599. Of these returns, almost 99% claimed a refund owed and 49% claimed the earned income tax credit.

8. In total, Anderson electronically filed 451 returns that claimed refunds totaling over \$1.2 million. The IRS, however, issued refunds totaling \$480,170.25 after its own internal filters determined that some of these taxpayers were not entitled to a refund of any overpayment or to the earned income tax credit.

9. During the 2008 filing season, Anderson electronically filed fraudulent 2007 federal income tax returns with the IRS on behalf of a significant number of taxpayers without their authorization or knowledge. Anderson then forged these individuals' electronic signatures, and listed a South Carolina address where these individuals did not reside or otherwise have any connection. Anderson signed these returns as a paid preparer and then electronically filed them using her EFIN.

10. The tax returns Anderson fraudulently prepared and filed using individuals' names and social security numbers without their knowledge or authorization sought refunds of income taxes by fraudulently claiming such things as the earned income tax credit even though a significant

number of these taxpayers were incarcerated and did not work, claiming improper withholding allowances, and claiming dependents they did not have.

11. The actions described in paragraph 9 resulted in the creation of false refunds. The understatement of tax liability on the returns Anderson fraudulently filed led to the erroneous issuance of tax refund checks. While the IRS's internal filters prevented the issuance of more than \$700,000 in false refunds, the returns Anderson filed generated more than \$480,000 in refunds. Of that, more than \$290,000 was directly deposited into Anderson's own bank account or bank accounts she controlled in violation of 26 U.S.C. § 6695(f). Thus far, the IRS has determined that Anderson absconded with at least \$223,345 of the fraudulently obtained tax refunds which she spent for personal use.

12. By filing the tax returns described above in paragraphs 9 and 10 without the taxpayers' knowledge or consent, and then stealing the taxpayers' refunds, Anderson perpetrated identity theft on taxpayers from whom the defendant has wrongfully obtained social security numbers and other sensitive tax information. A search under the names listed on the tax returns Anderson electronically filed on the Alabama Department of Corrections website (<http://www.doc.state.al.us/inmatesearch.asp>) reveals that approximately 25% of these individuals are currently incarcerated in the State of Alabama. This does not include at least two former Alabama Department of Corrections inmates who were also victims of Anderson's activities.

13. Anderson knows that her conduct is illegal.

14. Anderson did not file tax returns using the EFIN issued by the IRS during the 2009 tax filing season.

Harm to the public

15. Anderson's preparation of false and fraudulent tax returns caused the United States to issue to taxpayers substantial tax refunds to which they are not legally entitled. Furthermore, in many cases those refunds went directly to Anderson, because she did not remit to the taxpayers the refunds she fraudulently claimed on their behalf.

16. The United States is harmed because the IRS has issued a significant number of refund checks based on fraudulent returns filed by Anderson. The refund rate for these returns during 2008 was 99%, with the refunds ranging as high as \$5,705.00 for a return. In total, Anderson filed returns claiming refunds of over \$1.2 million. Even after the IRS's internal controls prevented the refunding of \$720,000 claimed on the tax returns filed by Anderson, \$480,000 was ultimately paid on the refunds claimed in these tax returns. Of this amount, \$290,929, consisting of 193 refund checks, was directly deposited in Anderson's bank accounts.

17. The United States is also harmed because the IRS is forced to devote substantial resources to identifying whether the taxpayers for whom Anderson filed returns were actually owed refunds and recovering any erroneous refunds that are issued. Each return discovered requires further effort by the IRS to communicate with taxpayers to determine their correct tax liability. Given the IRS's limited resources, identifying and recovering all revenues lost from Anderson's preparation of false and fraudulent returns may be impossible.

18. In addition to the harm caused by Anderson's preparation of tax returns that understate taxpayers' tax liabilities or falsely claim the earned income tax credit, Anderson's activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

19. Some of the taxpayers for whom Anderson filed returns are harmed because she fraudulently filed income tax returns on their behalf and then retained all or part of tax refunds wrongly issued to her by the IRS based upon those returns. For taxpayers for whom Anderson filed returns claiming incorrect deductions or credits, they could also be liable for erroneous refund claims under 26 U.S.C. § 7405.

Count I

Injunction under 26 U.S.C. § 7407 for violation of 26 U.S.C. §§ 6694 and 6695

20. The United States incorporates by reference the allegations in paragraphs 1 through 19.

21. 26 U.S.C. § 7407 authorizes a district court to enjoin an income tax preparer from:

- (a) engaging in conduct subject to penalty under 26 U.S.C. § 6694 (which penalizes a tax return preparer who prepares or submits a return that understates tax liability due to an unrealistic position);
- (b) engaging in conduct subject to penalty under 26 U.S.C. § 6695 (which includes penalties for a tax return preparer who fails to furnish a copy of the return to the taxpayer or who endorses or negotiates a taxpayer's refund checks); or
- (c) engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws;

if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a federal income tax return preparer.

22. Of the 451 returns Anderson electronically filed, the IRS estimates that a significant number included false or fraudulent credits and deductions. In claiming those false or fraudulent credits and deductions, Anderson understated the taxpayers' federal tax liabilities, within the meaning of 26 U.S.C. § 6694(e), and asserted positions, including the entitlement to the earned income tax credit, which she knew or reasonably should have known were unrealistic under 26 U.S.C. § 6694, especially where she prepared and filed these fraudulent returns based upon bogus numbers without these individuals' knowledge or consent.

23. Anderson failed to deliver copies of filed tax returns to taxpayers in violation of 26 U.S.C. § 6107(a). These failures subject her to penalty under 26 U.S.C. § 6695(a).

24. Anderson illegally listed her own bank accounts, or bank accounts she controls, as the bank account to deposit the tax refund checks generated by the returns she filed and then illegally deposited these refunds into her bank accounts. These actions subject her to penalty under 26 U.S.C. § 6695(f).

25. Anderson's actions, as described above, fall within 26 U.S.C. § 7407(b)(1)(A) and (D), and are, thus, subject to being enjoined under 26 U.S.C. § 7407.

26. Given Anderson's cavalier attitude to date towards the laws of the United States, a narrower injunction than the one sought is unlikely to be sufficient to prevent Anderson's further interference with the administration of the internal revenue laws.

Count II
Injunction under 26 U.S.C. § 7408 for violations of 26 U.S.C. § 6701

27. The United States incorporates by reference the allegations in paragraphs 1 through 26.

28. 26 U.S.C. § 7408 authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under 26 U.S.C. § 6701 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

29. 26 U.S.C. § 6701 imposes a penalty on any person who prepares or assists in the preparation of a return, affidavit, or other document that the person knows or has reason to believe will be used in connection with any material matter arising under the internal revenue laws, and that the person knows would (if so used) result in an understatement of tax liability.

30. Anderson prepared federal income tax returns that she filed for other taxpayers. She knew or had reason to believe that the returns she prepared and filed would be used in connection with material matters arising under the internal revenue laws.

31. Anderson knew that the returns and other documents she prepared included false credits or deductions that result in understatements of the taxpayers' tax liabilities.

32. Injunctive relief is appropriate to prevent the recurrence of Anderson's conduct since her conduct described above demonstrates a total disregard for the laws of the United States.

Count III

Injunction under 26 U.S.C. § 7402(a) for unlawful interference with the enforcement of the internal revenue laws

33. The United States incorporates by reference the allegations of paragraphs 1 through 32.

34. 26 U.S.C. § 7402 authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

35. Anderson, through her actions as described above, engaged in conduct that substantially interfered with the enforcement of the internal revenue laws.

36. Anderson, by filing tax returns on behalf of taxpayers, without their knowledge or consent, interfered with the enforcement of the internal revenue laws.

37. The federal income tax returns that Anderson prepared and filed for these individuals improperly and illegally understated their federal income tax liabilities. Because a substantial number of these persons were incarcerated with the Alabama Department of Corrections, they did not earn income in 2007, were not required to pay taxes and, therefore, were not entitled to a refund of taxes paid. Despite this, Anderson prepared and filed fraudulent returns on their behalf and even listed South Carolina addresses where they did not reside.

38. If Anderson is not enjoined from engaging in fraudulent and deceptive conduct, such as preparing false or fraudulent tax returns, the United States will suffer irreparable injury from the losses the defendant is causing the Federal Treasury.

39. While the United States will suffer irreparable injury if Anderson is not enjoined, defendant will not be harmed by being compelled to obey the law.

40. The public interest would be advanced by enjoining Anderson because an injunction, backed by the Court's contempt powers if needed, will stop her illegal conduct and the harm the conduct is causing to the United States Treasury.

41. If Anderson is not enjoined, she is likely to continue to interfere with the enforcement of the internal revenue laws.

WHEREFORE, the plaintiff, the United States of America, respectfully prays as follows:

A. That the Court find that Dorothy Lee Anderson d/b/a DL Anderson Tax Service has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695 and has continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court find that Dorothy Lee Anderson d/b/a DL Anderson Tax Service 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;

C. That the Court find that Dorothy Lee Anderson d/b/a DL Anderson Tax Service has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and 26 U.S.C. § 7402(a);

D. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Dorothy Lee Anderson d/b/a DL Anderson Tax Service, and all those in active concert or participation with her from:

- (1) Acting as a federal tax return preparer or requesting, assisting in or directing the preparation and/or filing of federal tax returns for any person or entity other than herself, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service;
- (2) Understating taxpayers' tax liabilities in a manner subject to penalty under 26 U.S.C. § 6694;
- (3) Engaging in activity subject to penalty under 26 U.S.C. § 6695, including, but not limited to, failing to furnish tax returns to taxpayers, and endorsing or

otherwise receiving tax refund checks either through direct deposit into her own personal account or any other account she controls or any other mechanism;

- (4) Engaging in activity subject to penalty under 26 U.S.C. § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that she knows would result in an understatement of another person's tax liability;
- (5) Engaging in any other conduct subject to any penalty under the Internal Revenue Code or that interferes with the administration and enforcement of the internal revenue laws; and
- (6) Obtaining, using, or retaining any other person's Social Security number or other federal tax identification number or federal tax return information in any way for any purpose without that person's express written consent.

E. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring the defendant, within 15 days at her own expense, to contact by United States Mail and, if an e-mail address is known, by e-mail, all persons for whom she or DL Anderson Tax Service prepared a federal tax return to inform these persons of the Court's findings concerning the falsity of the defendants' filings with the IRS, and to enclose a copy of the permanent injunction against her. The notice should also be required to include, for each person, a list of all tax returns and documents the defendant prepared and filed purportedly on behalf of that person and the date and amount and tax year of all tax refunds obtained, and must include copies of all documents submitted to the IRS purportedly on behalf of those persons. Anderson should be required within 20 days to submit, under oath, a certification that she has complied with the notification requirements.

F. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Dorothy Lee Anderson to produce to counsel for the United States within 15

days a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom she or DL Anderson Tax Service prepared federal tax returns, forms, or claims for refund since January 1, 2007, and also provide copies of all such forms or claims;

G. That the Court retain jurisdiction over Dorothy Lee Anderson, DL Anderson Service, or any other entity she establishes following the initiation of this action for the purpose of enforcing any permanent injunction entered against defendant;

H. That the United States be entitled to conduct discovery for the purpose of monitoring Anderson's compliance with the terms of any permanent injunction entered against her; and

I. That this Court grant the United States such other and further relief, including costs, as is just and equitable.

Dated: March 3, 2010

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