

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2010 MAR 24 AM 11:21

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ELISA VERONICA BARRON;)
LANCASTER TAX SERVICE, INC.;)
)
Defendants.)

Civil No.

6-10-CV-440-ORC-18GJK

COMPLAINT FOR PERMANENT INJUNCTION

The plaintiff, the United States of America, files this complaint for permanent injunction and alleges as follows:

1. This is a civil action brought by the United States of America pursuant to 26 U.S.C. §§ 7402(a) and 7407 to permanently enjoin the defendant Elisa Veronica Barron, individually and doing business under the name Lancaster Tax Service, Inc., from:
 - a. Preparing, filing or assisting in the preparation or filing of any federal tax return for any other person or entity;
 - b. Providing any tax advice or tax services for compensation, including preparing or filing returns, providing consultative services, or representing customers;
 - c. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695(g);
 - d. Engaging in conduct subject to penalty under 26 U.S.C. § 6701; and
 - e. 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.

JURISDICTION AND VENUE

2. This action has been authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of Treasury, and commenced at the direction of the Attorney General of the United States, pursuant to the provisions of 26 U.S.C. §§ 7401 and 7407.

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a) and 7407.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396 and 26 U.S.C. § 7407 because defendants reside in and have their principal place of business within this district.

DEFENDANTS

5. Defendant Elisa Veronica Barron resides in Orlando, Florida, 32829, which is within this district.

6. Defendant Lancaster Tax Service, Inc. is a corporation organized under the laws of the State of Florida. Lancaster Tax Service maintains its principal place of business at 705 W. Lancaster Road, Orlando, Florida 32809.

7. Defendant Barron, through Lancaster Tax Service, Inc., is a paid tax-return preparer who prepares or assists in the preparation of individual and corporate federal income tax returns for customers. She is neither a public accountant nor a lawyer and has no professional licenses or college degrees.

8. Defendant Lancaster Tax Service, Inc. was formed by Defendant Barron in 2002

to provide tax return preparation and other accounting services. At all relevant times, Defendant Barron has prepared tax returns through this business.

9. Defendant Barron was born in 1971 and has resided as a permanent resident in the United States for over 30 years. She earned her GED, i.e. high school diploma equivalency, in the early 1990s and had a variety of entry level jobs prior to participating in a two-week income tax preparation course in 1998 run by Humberto Collazo. After the course, she began working for Collazo as an income tax preparer in Orlando, Florida. In 2000, Collazo opened a second location for his business and asked Barron to manage that office. In April 2008, the United States filed a complaint seeking to enjoin Collazo from preparing, or otherwise assisting in the preparation of federal income tax returns. *See United States v. Collazo, et al.*, Case No. 6:08-cv-01207 (S.D. Fla.). In 2009, Collazo consented to entry of a permanent injunction against him.

10. In 2002, Barron purchased the business she managed for Collazo and renamed it Lancaster Tax Service, Inc. Barron prepares tax returns for customers residing in Florida, mainly in Orange County, Florida. The majority of her clients are Spanish speaking. Barron obtains most of her clients through word-of-mouth. Barron, however, has placed an advertisement for her services in a Spanish magazine called "La Prensa."

DEFENDANT'S FRAUDULENT TAX PREPARATION SCHEME

11. Barron claims that Lancaster Tax Services, Inc. has about 1800-2200 customers per tax season. The Internal Revenue Service ("IRS") records reflect that Barron and Lancaster Tax Service, Inc. prepared 3,781 federal income tax returns for the years 2006 and 2007.

12. Since at least 2005, Barron has repeatedly prepared returns that overstate deductions or credits and misrepresents her customers' filing status in order to reduce her customers' tax liabilities or increase their refunds. Many of these understatements are due to positions that Barron knew or should have known were unreasonable.

13. During an interview with an IRS revenue agent in March 2008, Barron claimed that her customers typically fill out a basic information sheet before meeting with her. The information sheet requests basic information such as name, address, occupation, filing status and dependent information. After the information sheet is completed, Barron will meet with the customer and prepare the tax return for which she is paid a fee that generally ranges between \$110 and \$130. The tax returns prepared by Barron, however, are often inconsistent with the information the customer provided to Barron.

14. The IRS has conducted audits of federal income tax returns prepared by Barron for the years 2006 and 2007. As more specifically set forth below, the audits reveal a pattern of fraudulent tax preparation. Of the 70 returns audited to date, 97 percent resulted in additional taxes owed to the IRS.

Fabrication or Inflation of Deductions

15. Barron routinely fabricates or inflates itemized deductions reported on her customers' Schedule A and/or Schedule C (Form 1040). More specifically, Barron advises clients to deduct personal cell phones, personal clothing expenses, unsubstantiated and inflated charitable deductions, medical expenses and real estate expenses. By fabricating or inflating deductions, Barron is able to reduce her customers' taxable income and their resulting tax liability. Some examples include:

a. Barron prepared the 2006 federal income tax returns for Jessica Carrion. Barron reported a depreciation expense of \$5,000 on Ms. Carrion's Schedule C for an automobile that Ms. Carrion did not use in a trade or business. Moreover, Barron reported car and truck expenses on this same vehicle that Ms. Carrion used for only personal uses. Ms. Carrion worked at home doing administrative work for her husband's business. In an interview with an IRS agent, Ms. Carrion stated that she never told Barron that the automobile was used for business purposes and did not understand why her automobile was depreciated or used to claim business expenses related to its use.

b. Barron prepared the 2006 and 2007 federal income tax return of Spiro and Slobodanka Dragicevic. Barron improperly reported personal clothing and commuting expenses as employee business expenses on the Dragicevic's Schedule A. As a result of the audit, the IRS corrected the Schedule A reducing Dragicevic's 2006 Schedule A expenses from \$3,497 to \$428 and their 2007 Schedule A expenses from \$3,611 to \$661. Barron also prepared a Schedule C for 2006 that inflated business expenses. Mrs. Dragicevic was a part-time real estate broker but Barron claimed car and truck expenses related to use of her vehicles for the entire year. Of the \$5,719 claimed, the evidence submitted to the IRS substantiated expenses of only \$1,468.

c. Barron prepared the 2006 federal income tax return for Mira and Slobodan Medakovic. Barron reported a \$2,989 charitable deduction for cash the Medakovics sent to family members in Croatia. Since the Medakovics had no receipts and the donation was not to a qualified organization, the IRS disallowed the deduction. Moreover, Barron improperly reported that the Medakovics had rental expenses of \$12,722 on their previous

home that was never available for rent. Barron failed to conduct due diligence to determine if this home qualified as rental property.

d. Barron prepared the 2006 and 2007 federal income tax returns for Mladenka and Zdravko Vukajlovic. Barron reported medical expenses for the Vukajlovics for 2006 in the amount of \$12,375 and for 2007 in the amount of \$10,120. The Vukajlovics did not know how Barron arrived at these figures. The taxpayers were only able to substantiate \$2,039 of medical expenses in 2006 and \$0 in 2007. The IRS adjusted the expenses accordingly.

e. Barron prepared the 2006 and 2007 federal income tax returns for Radmillo Bjelica. Barron reported regular, non-uniform clothing and personal cell phone usage as employee business expenses on Mr. Bjelica's Schedule A. According to Mr. Bjelica, Barron asked him if he had a cell phone but never asked if he used it for business purposes. The IRS disallowed \$3,417 for 2006 and \$3,328.00 for these claimed expenses.

Misrepresentation of Filing Status

16. On 24 out of the 70 returns audited by the IRS, Barron misrepresented the filing status of the taxpayer. For example:

a. Barron prepared the 2006 and 2007 federal income tax returns of Dolly and Jose Irizarry, a married couple who reside at the same address. Although both Dolly and Jose Irizarry filled out their information sheet claiming Married Filing Separately status, Barron prepared returns improperly reporting each as Head of Household. Ms.

Irizarry claims that she told Barron that she was married, and that Barron knew her and her husband socially.

b. Barron prepared the 2006 and 2007 federal income tax returns for Jose Cedillo and his wife, Ana Molina. Although they told Barron that they were married and living together, Barron advised them that they should file separate returns, each as Head of Household.

c. Barron prepared the 2006 federal income tax return for Jose Calvillo and his wife, Gladys Limon. Although they visited Barron together and Ms. Limon stated on her information sheet that her and Mr. Calvillo were married, Barron listed both their filing status as Single.

Misrepresentation of the Number of Dependents

17. Barron regularly misrepresents the number of taxpayers' dependents in order to claim additional dependency exemptions. For example:

a. Barron prepared the 2006 federal income tax return for Sara Torres. Barron reported that Ms. Torres had two dependents even though one of the dependents lived on her own and supported herself. Barron never asked Ms. Torres questions to determine whether Ms. Torres met the support test to claim a dependent.

b. Barron prepared the 2006 federal income tax return for Ricardo Polanco. Barron reported that Mr. Polanco had two dependents. However, during an interview with the IRS, Mr. Polanco indicated that one of the dependents resided in Puerto Rico with the dependent's mother. Although Mr. Polanco stated that he provided some financial support for the dependent, he could not produce evidence of any support.

Again, Barron failed to ask questions to determine with the customer met the support test to claim a dependent.

Failure to Conduct Due Diligence for Earned Income Tax Credit

18. Barron has repeatedly prepared returns for taxpayers in which she has failed to be diligent in determining the taxpayer's eligibility for the credit under 26 U.S.C. § 32, i.e. the Earned Income Tax Credit ("EIC"). Instead, Barron has repeatedly prepared returns that improperly claim the EIC.

19. Of the sample of 70 returns audited by the IRS, at least 48 returns prepared by Barron for the tax years 2006 and 2007 erroneously claimed the EIC. The IRS examined those returns and either adjusted the amount of the credit or disallowed it in its entirety. The total amount of disallowed earned income credit from those returns was approximately \$100,000.

20. Among other schemes, Barron commonly misrepresented her customers' filing status in order to maximize the EIC. In addition to the examples set forth above, Barron prepared the following returns with incorrect filing status.

a. Barron prepared the 2006 federal income tax return for Radmillo and Dijana Bjelica (noted above in paragraph 16(e)). Mr. Bjelica and his wife have been legally married and living together since 2000. Because the taxpayers wanted to file separately, Barron prepared separate returns for the Bjelicas and improperly reported each taxpayer as single. Barron, then, claimed the EIC on each of their returns. The IRS corrected the filing status of the taxpayers to married filing separately and disallowed the EIC.

b. Barron prepared the federal income tax returns for 2006 and 2007 for Sanja and Raja Culesker, a married couple who lived together for all of 2006 and 2007. Although Barron knew they were married and lived at the same address, she prepared both of their returns as if they were single and claimed EIC for each taxpayer. The IRS adjusted their filing status to Married filing Separately and disallowed the EIC.

HARM TO THE UNITED STATES

21. Baron's actions cause harm to the United States and to the public by unlawfully understating her customer's tax liabilities.

22. To date, the IRS has conducted audits of 70 returns prepared by Barron for 2006 and 2007. Of the audited returns, 97 percent resulted in deficiencies, with the average understatement of income tax liability being \$2,595.78 per return. Barron has prepared 3,781 income tax returns for 2006 and 2007, and the IRS is still examining more of these returns. But based on the average deficiency of the returns examined to date, the IRS projects that the total tax loss from the returns prepared by Barron could exceed \$1,000,000.

COUNT I: INJUNCTION UNDER 26 U.S.C. § 7407

23. 26 U.S.C. § 7407 authorizes a court to enjoin an income tax return preparer from engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695 if the court finds that injunctive relief is appropriate to prevent recurrence of such conduct.

24. Section 6694(a) penalizes a tax return preparer if the preparer prepares a return or claim for refund that includes an understatement of liability based on an unreasonable position which lacks substantial authority, and the preparer knew or should have known of the position.

25. Section 6694(b) penalizes a tax return preparer who prepares a return or claim with an understatement of liability in a willful attempt to understate the liability or with a reckless and intentional disregard of rules or regulations.

26. Section 6695(g) penalizes a tax return preparer who fails to comply with the due diligence requirements in determining eligibility for, or the amount of, the Earned Income Tax Credit.

27. Defendant Barron has regularly engaged in conduct subject to penalty under 26 U.S.C. § 6694(a) by preparing income tax returns that unlawfully reduced her customers' reported income by claiming unsubstantiated and fraudulent deductions and credits. Barron routinely misrepresents her customers' filing status and the number of their dependents to allow them to improperly claim the EIC. Moreover, Barron commonly reports unsubstantiated and fraudulent expenses, such as medical expenses, personal cell phone usage, and non-uniform clothing. Barron did so knowing or having reason to know that the positions she took on the returns were unreasonable and lack substantial authority. Barron has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694(a).

28. Barron prepares returns for customers with false entries in a willful attempt to understate the customer's liability or with a reckless and intentional disregard of rules and regulations. Barron has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694(b).

29. Barron knew, or had reason to know, that information she used in determining her customers' eligibility for, or the amount of, the EIC was incorrect. Barron failed to make reasonable inquiries regarding information that appeared to be incorrect, inconsistent and/or incomplete. In that regard, Barron failed to inquire whether her customers were meeting the

support test to claim dependents. Moreover, Barron repeatedly reported the filing status of married couples living together as “Single.” Both filing status and number of dependents effects the eligibility to claim EIC. Barron has thus engaged in conduct subject to penalty under 26 U.S.C. § 6695(g).

30. Barron has continually and repeatedly engaged in conduct that violates 26 U.S.C. §§ 6694 and 6695(g). An injunction merely prohibiting Barron from engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695(g) would not be sufficient to prevent her interference with the proper administration of the tax laws. Barron has employed a number of schemes over an extended period of time that has resulted in the understatement of income and income tax. It is unlikely that a narrow injunction could encompass all of those schemes. Moreover, it is likely that the IRS has not yet identified all of the schemes used by Barron to understate income. Failure to permanently enjoin Barron will require the IRS to spend additional resources to uncover all of Barron’s future schemes. Accordingly, only a permanent injunction is sufficient to prevent future harm. Barron should be permanently enjoined from acting as a tax return preparer.

COUNT II: INJUNCTION UNDER 26 U.S.C. § 7402

31. 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.

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

33. Barron’s conduct causes irreparable harm to the United States and her customers.

34. Barron is causing and will continue to cause substantial revenue losses to the

United States Treasury, much of which may be unrecoverable.

35. If Barron is not enjoined, she is likely to continue to engage in conduct that interferes with the enforcement of the internal revenue laws. The IRS will have to devote substantial time and resources auditing Barron's clients individually to detect future deficient returns. The detection and audit of erroneous EIC refunds claims filed by Barron's customers will place a significant burden on IRS resources.

36. The United States is entitled to injunctive relief under 26 U.S.C. § 7402.

WHEREFORE, the United States prays for the following relief:

A. That the Court find that defendant Elisa Veronica Barron continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695(g), and that, pursuant to 26 U.S.C. § 7407, an injunction prohibiting such conduct would not be sufficient to prevent Barron's interference with the proper administration of the tax laws and that Barron should be permanently enjoined from acting as a tax return preparer;

B. That the Court find that Barron 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;

C. That the Court enter a permanent injunction under 26 U.S.C. §§ 7402(a) and 7407 prohibiting Barron, individually and doing business under the name Lancaster Tax Service, Inc. 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:

1. Preparing, filing or assisting in the preparation or filing of any federal

tax return for any other person or entity;

2. Providing any tax advice or tax services for compensation, including preparing or filing returns, providing consultative services, or representing customers in connection with any matter before the Internal Revenue Service;
3. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 or 6695(g); 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;

E. That the Court, pursuant to 26 U.S.C. § 7402(a), require Barron, at her own expense, to send by certified mail, return receipt requested, a copy of the final injunction entered against her in this action to each person for whom she, or anyone at her direction or in her employ, prepared federal income tax returns or any other federal tax forms after January 1, 2005.

F. That the Court require Barron and anyone who prepared tax returns at the direction of or in the employ of Barron, to turn over to the United States copies of all returns or claims for refund that they prepared (or helped prepare) for customers after January 1, 2005;

G. That the Court require Barron and anyone who prepared tax returns at the direction of or in the employ of Barron, 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 each customer for whom they prepared returns or claims for refund after January 1, 2005;

H. That the Court require that Barron, within forty-five (45) days of entry of the final injunction in this action, to file a sworn statement with the Court evidencing her compliance with the foregoing directives; and

I. That the Court require Barron to keep records of her compliance with the foregoing directives, which may be produced to the Court, if requested, or to the United States pursuant to paragraph J, below;

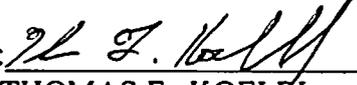
J. That the Court enter an order allowing the United States to monitor Barron's compliance with this injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

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

Dated: 3/23/2010

Respectfully submitted,

JOHN A. DICICCO
Acting Assistant Attorney General

By: 
THOMAS F. KOELBL


MARA A. STRIER

Florida Bar No. 644234
Trial Attorneys, Tax Division
U.S. Department of Justice
Post Office Box 14198
Ben Franklin Station
Washington, D.C. 20044
Telephone: Koelbl (202) 514-5891
Strier (202) 514-5886
Fax: (202) 514-9868
thomas.f.koelbl@usdoj.gov
mara.a.strier@usdoj.gov

Of Counsel:

A. BRIAN ALBRITTON
United States Attorney