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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

DICK JENKINS,

Defendant.

Case No. 2:09-cv-00960

**Order of Default
Judgment and Permanent
Injunction, and Other Relief
Against Dick Jenkins**

Upon motion by Plaintiff, United States of America, the Court makes the following findings of fact and conclusions of law and enters this permanent injunction.

Standards for Permanent Injunction

To obtain a permanent injunction prohibiting Dick Jenkins (“Jenkins”) from acting as a federal tax return preparer pursuant to 26 U.S.C. (Internal Revenue Code, I.R.C., or the “Code”) § 7407, the United States must show that (1) Jenkins engaged in conduct subject to penalty under Code §§ 6694 or 6695, or

engaged in fraudulent or deceptive conduct that substantially interfered with the proper administration of internal revenue laws; (2) injunctive relief is appropriate to prevent recurrence of such conduct; (3) Jenkins continually and repeatedly engaged in conduct described in (1) above, and (4) a more limited injunction of such conduct would not be sufficient to prevent interference with the proper administration of internal revenue laws.

To obtain a permanent injunction pursuant to Code § 7408, the United States must show that (1) Jenkins engaged in conduct subject to penalty under Code § 6701, and (2) injunctive relief is appropriate to prevent the recurrence of such conduct.

To obtain a permanent injunction pursuant to Code § 7402, the United States must show that an injunction is necessary or appropriate for the enforcement of the internal revenue laws.

Findings of Fact

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 under 26 U.S.C. §§ 7402, 7407, and 7408.
2. Dick Jenkins resides and does business in Heber City, Utah, in this judicial district. Venue is thus proper in this Court under 28 U.S.C. § 1391.
3. Dick Jenkins is a CPA and, thus, is knowledgeable about taxes and preparing tax-related documents.
4. Dick Jenkins prepares tax returns and other tax-related documents for others in exchange for compensation. Since 2006, Jenkins has prepared and/or filed at least 800 federal income tax returns (and amended returns).
5. In 2008 and 2009, Jenkins prepared and/or filed fraudulent federal income tax returns (IRS Form 1040) and amended federal income tax returns (IRS Form 1040X) spanning tax years 2004, 2005, 2006, 2007, and 2008, and

prepared and/or filed with the IRS other frivolous documents on behalf of others in exchange for compensation.

6. In a letter to the IRS dated May 19, 2009 (Government Exhibit A-7), Jenkins admitted preparing at least 19 of the fraudulent returns and tax-related documents described above in paragraph 5.
7. Jenkins promotes a tax-fraud scheme that involves filing fraudulent federal income tax returns and other frivolous documents with the IRS on behalf of his customers.
8. Jenkins fabricates federal income tax withholdings on tax returns he prepares. The fabricated tax withholding reported to the IRS on his customers' returns results in fraudulent refund claims by his customers.
9. In support of his fraudulent refund claims, Jenkins prepares and files with the IRS false Forms 1099-OID and Forms Schedule B.
10. The fraudulent Forms 1099-OID that Jenkins prepares and submits with returns he prepares falsely state that his customers are "payees" who receive OID income from their creditors.
11. The frivolous IRS Forms 1099-OID submitted with the returns that Jenkins prepares typically shows false OID income paid by a customer's creditor – usually a credit card company or a mortgage company – to the customer. The amount of false "original issue discount" reported appears to be an amount needed to satisfy an apparent debt (usually a mortgage, car loan, or credit card debt) owed by the taxpayer to a creditor.
12. The IRS Forms 1099-OID that Jenkins prepares and submits also falsely state that federal income taxes were withheld for some or the full amount of OID purportedly received by the customer.
13. Jenkins prepares bogus tax returns reporting false income which equals or approximates the total amount of the false "original issue discount," and claim false withholding on the customer's IRS Form 1040 (or 1040X). On

the returns, Jenkins claims huge false refunds, often exceeding one million dollars. One of the returns Jenkins prepared in 2008 included a fraudulent refund claim that exceeded \$210 million.

14. Consequently, Jenkins's customers fail to file correct federal income tax returns (and amended returns) and falsely claim tax refunds to which they are not entitled.
15. In some cases, Jenkins does not prepare IRS Forms 1099-OID and, instead, just prepares and submits a false Form Schedule B, reporting false interest income from creditors and false withholding on line 62 of the return.
16. The IRS Forms Schedule B that Jenkins prepares and files with his customers' federal tax returns typically show the customer as the "payee" of purported interest income paid to them by a creditor.
17. The IRS Forms 1096-A that Jenkins prepares and files with the IRS also falsely report federal income tax withheld.
18. The obvious purpose of Jenkins's frivolous IRS Forms 1040, 1040X, 1099-OID, and Schedules B is to request fraudulent income tax refunds. The scheme is based in part on Jenkins' apparent belief that secret accounts exist that can be accessed to pay these bogus refund claims.
19. In reality, regardless what forms are used or what they say, the Jenkins's scheme involves one central element. Jenkins fraudulently reports that income tax was withheld from his customers and then claim refunds based on those non-existent withholdings.
20. The IRS has identified at least 20 returns prepared and/or filed by the Jenkins in 2008 and 2009 that request refunds based on the Jenkins's fraudulent Forms 1099-OID and Schedules B. Many of the refund requests on these fraudulent returns exceed one million. The total amount of bogus refunds requested on those 20 returns is approximately \$393 million.

21. Jenkins's scheme is part of a growing trend among tax defiers to file frivolous tax returns and Forms 1099-OID with the IRS and courts in an attempt to escape their federal tax obligations and steal from the U.S. Treasury.
22. In reliance on the Jenkins's services, his customers have failed to file proper federal income tax returns, which has either deprived the customers of proper tax refunds to which they may have been entitled if they had filed proper (non-OID) returns, or deprived the United States of additional tax revenue owed by Jenkins's customers.
23. While the IRS is able to detect and stop most fraudulent refund claims, the Jenkins's fraudulent tax return preparation has caused the IRS to issue at least \$294,242 in erroneous payments to Jenkins' customers.
24. In addition to the lost revenue due to the issuance of erroneous refunds, the government also has incurred the expense of conducting the investigation of Jenkins's fraudulent return preparation, and responding to and processing the frivolous documents the Jenkins submitted to the IRS.

Conclusions of Law

1. Jurisdiction is conferred on this Court by 28 U.S.C. § 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.
3. Internal Revenue Code § 7407 authorizes the United States to seek an injunction against any tax return preparer who has engaged in any "fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws," or who has "engaged in any conduct subject to penalty under section 6694 or 6695."
4. If a return preparer's misconduct is continual or repeated, and the court finds that a narrower injunction (*i.e.* prohibiting specific enumerated conduct) would not be sufficient to prevent the preparer's interference with

the proper administration of federal tax laws, the court may enjoin the person from further acting as a return preparer.

5. Jenkins has continually and repeatedly prepared and filed with the IRS false and frivolous federal income tax returns and other tax-related documents on behalf of his customers.
6. As a result, Jenkins has repeatedly engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws.
7. Jenkins has repeatedly and continually prepared and filed federal tax returns that understate his customers' tax liabilities as a result of unreasonable and frivolous claims and has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694.
8. Jenkins has repeatedly and continually prepared and filed federal tax returns that understate his customers' tax liabilities as a result of Jenkins's willful attempts to understate his customers' tax liabilities, and/or reckless and/or intentional disregard of internal revenue laws and regulations.
9. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, Jenkins is likely to continue to prepare false federal income tax returns and engage in other misconduct of the type described in this complaint.
10. Given the sheer brazenness of Jenkins's conduct, he is essentially stealing (and attempting to steal) from the U.S. Treasury.
11. Jenkins has continually and repeatedly prepared returns that include fraudulent refund claims and a permanent injunction barring him from acting as a federal tax return preparer is necessary and appropriate to prevent him from interfering with the proper administration of the tax laws.

12. I.R.C. § 7408 authorizes a district court to enjoin any person from, *inter alia*, engaging in conduct subject to penalty under I.R.C. § 6700 or 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.
13. Section 6701 imposes a penalty on any person who aids or assists in, procures, or advises with respect to, the preparation of any portion of a return, affidavit, claim, or other document, 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 who know that such portion (if so used) would result in an understatement of the liability for tax of another person.
14. Jenkins prepared and aided or assisted in the preparation and filing of federal income tax returns and other tax-related documents that resulted in the understatement of his customers' tax liabilities, and knew it would.
15. As a result, Jenkins has engaged in conduct subject to penalty under 26 U.S.C. § 6701.
16. Injunctive relief is appropriate to prevent the recurrence of Jenkins's penalty conduct.
17. I.R.C. § 7402(a) authorizes a court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.
18. Jenkins substantially interferes with the enforcement of the internal revenue laws by promoting his "redemption" tax-fraud scheme and filing frivolous federal tax returns and other documents on behalf of his customers.
19. As a result of Jenkins's misconduct, his customers fail to file proper tax returns, and erroneous refunds for hundreds of thousands of dollars have been issued to his customers as a result of his fraudulent refund claims.

20. Jenkins's conduct results in irreparable harm to the United States and to the public for which there is no adequate remedy at law.
21. Jenkins's conduct interferes with the proper administration of the Internal Revenue Code because it results in hundreds of frivolous filings with the IRS, and hinders the IRS's ability to determine the correct tax liabilities of Jenkins's customers.
22. Unless enjoined by this Court, Jenkins will continue to promote and administer his tax-fraud scheme.
23. The United States is entitled to injunctive relief under I.R.C. § 7402(a) to prevent the recurrence of this misconduct.

Permanent Injunction

Based on the foregoing findings of fact and conclusions of law, the Court enters the following permanent injunction against Jenkins:

- A. Pursuant to 26 U.S.C. §§ 7402 and 7407, Jenkins is permanently barred from acting as a federal tax return preparer and from preparing or filing federal tax returns or forms for others, from representing others before the IRS, and from advising anyone concerning federal tax matters;
- B. Pursuant to 26 U.S.C. §§ 7402 and 7407, Jenkins and his representatives, agents, servants, employees, attorneys, independent contractors, anyone in active concert or participation with him, are permanently enjoined from directly or indirectly;
 - (1) Preparing or filing, or assisting in, or directing the preparation or filing of any federal income tax return, amended return, IRS Form 1099-OID, IRS Form Schedule B, or any other related documents or forms for any other person or entity;
 - (2) Engaging in activity subject to penalty under 26 U.S.C. §§ 6694 or 6695;

- (3) Engaging in any other activity subject to penalty under the Internal Revenue Code; and
 - (4) Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;
- c. Pursuant 26 U.S.C. §§ 7402 and 7408, Jenkins and his representatives, agents, servants, employees, and anyone in active concert or participation with him, are permanently enjoined from directly or indirectly:
- (1) Engaging in any activity subject to penalty under 26 U.S.C. § 6701; and,
 - (2) Directly or indirectly advising or encouraging taxpayers to attempt to violate internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities, including promoting or advocating the use of the “commercial redemption” theory and false Forms 1099-OID based on the false claims that:
 - i. Taxpayers can draw on the Treasury of the United States to pay their tax debt or other debt using Forms 1099-OID or tax returns;
 - ii. Taxpayers can issue false Forms 1099-OID on behalf of a creditor and report the amount on the false Form 1099 as federal income taxes withheld on their behalf; and
 - iii. Taxpayers have an account with the Treasury Department from which they can draw funds through a process that is often called “redemption” or “commercial redemption.”

D. Pursuant to 26 U.S.C. § 7402, Jenkins is permanently enjoined from preparing his own federal income tax returns claiming false income tax withholding and refunds, whether or not they are based on amounts shown in false Forms 1099-OID issued to his creditors and false Forms Schedule B;

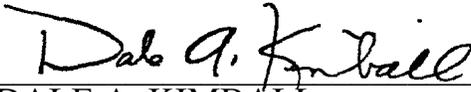
E. Pursuant to 26 U.S.C. § 7402, Jenkins is permanently enjoined from filing, providing forms for, or otherwise aiding and abetting the filing of frivolous Forms 1040, Forms 1040X, Forms 1099-OID, and Schedules B for himself or others;

F. Pursuant to 26 U.S.C. § 7402, Jenkins is ordered to contact by mail (and also by e-mail, if an address is known) within 20 days of the date of this order, all persons who have purchased any products, services or advice associated with the false or fraudulent tax scheme described in this complaint, enclosing a copy of this order against Jenkins, and Jenkins must file with the Court a sworn certificate stating that he has complied with this requirement within 30 days of the date of this order;

G. Pursuant to 26 U.S.C. § 7402, Jenkins is ordered to provide to counsel for the United States within 20 days of the date of this order, a list of all persons for whom Jenkins has prepared federal tax returns, and who have purchased any products, services or advice from Jenkins in the past three years; and,

H. The government shall be entitled to full post-judgment discovery to monitor Jenkins's compliance with the injunction.

DATED: April 19, 2010



DALE A. KIMBALL
UNITED STATES DISTRICT JUDGE