

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CIVIL ACTION NO. _____

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MILAGROS ESPINAL,)
)
Defendant.)

COMPLAINT FOR PERMANENT INJUNCTION

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 under Sections 7402(a), 7407 and 7408 of the Internal Revenue Code (26 U.S.C.).
2. The United States brings this complaint to permanently enjoin Milagros Espinal and any persons in active concert or participation with her from direction or indirectly:
 - a. Preparing, filing or assisting in the preparation or filing of any federal income tax return for any other person or entity;
 - b. Providing any tax advice or 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, 6695 or 6701, including preparing or filing a return or claim for refund that includes an unreasonable position, preparing or filing a return or claim and failing to sign it or furnish an identifying number, or preparing or filing a return or claim for refund that willfully or recklessly understates a tax liability;

- d. 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; or
- e. Engaging in any other conduct subject to any penalty under the Internal Revenue Code.

3. An injunction is warranted based on defendant Milagros Espinal's continual and repeated violation of the internal revenue laws, including engaging in conduct subject to penalty under 26 U.S.C. §§ 6701, 6694 and 6695.

AUTHORIZATION

4. This action has been authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of the Attorney General of the United States, pursuant to the provisions of 26 U.S.C. §§ 7402, 7407 and 7408.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402.

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396, and 26 U.S.C. § 7407 because defendant resides in and has her principle place of business within this district.

DEFENDANT

7. Defendant Milagros Espinal resides in Hialeah, Florida, which is within this district.

8. Espinal is a paid tax return preparer who prepares tax returns for customers residing in Miami-Dade County, Florida. Espinal operates her business out of her home and relies on word-of-mouth to attract clients. Most of her clients reside in Hialeah, Florida, are primarily Spanish speaking, and do not speak English fluently. Espinal's clients are typically wage-earners earning \$25,000 to \$75,000 per year. She typically charges a cash fee between about \$20 and 40 per return.

9. Espinal was born in the Dominican Republic, and she earned a degree in accounting from St. Thomas University in Miami in or around 1990. Espinal advised a Revenue Agent from the IRS that she learned to prepare income tax returns from a Volunteer Income Tax Assistance (VITA) course in 2000. She began preparing returns for family and friends shortly thereafter.

10. Espinal prepared approximately 2000 tax returns between 2000 and 2007. On October 5, 2007, the IRS commenced an investigation of returns prepared by Espinal. Initially, eighty-two returns prepared by Espinal were examined. Of that group, eighty returns, or 97% of the examined returns, resulted in deficiencies.

11. The returns examined by the IRS show that Espinal routinely fabricates itemized deductions reported on her clients' Schedules A (Form 1040), employing several different schemes. By fabricating itemized deductions on a client's Schedule A, Espinal is able to reduce a client's taxable income, which results in a reduced liability. Because these clients often had taxes withheld from their paychecks, their reduced liability often results in a higher refund.

FABRICATION OR INFLATION OF DEDUCTIONS

12. Since at least 2004, Espinal has engaged in a fraudulent tax preparation scheme by overstating and fabricating deductions on her clients' tax returns in order to reduce her clients' tax liabilities or increase their refunds.

13. Espinal prepares her clients' returns with the goal of generating the largest possible refund, through fabricated or overstated deductions reported on her customers' Schedules A (Form 1040) and improper and/or false credits reported on their tax returns.

14. During the investigation of returns Espinal prepared, her clients told the Revenue Agent conducting the exam that Espinal intentionally understated their liabilities and failed to review the documentation or records necessary to substantiate deductions or claimed credits. In fact, it appears that Espinal initiated the abusive returns, as clients represented that Espinal either told them what "expenses" to put on their interview sheets or had them sign blank interview sheets. And while Espinal instigated the abuse by inventing phony deductions, she failed to sign the returns she prepared or include her tax identification number, as required, in order to shield her fraudulent practices.

15. A review of 82 tax returns prepared by defendant for the 2005, 2006 and 2007 tax years reveal a pattern of claiming false or overstated deductions, that includes:

- a. false or overstated deductions for medical expenses;
- b. false or overstated deductions for charitable contributions;
- c. false or overstated deductions for employee business expenses; and
- d. improperly claiming tax credits for ineligible taxpayers.

Though the amounts of these deductions varied from return to return, the majority of the returns examined claimed the same fabricated deductions.

16. Upon information and belief, the majority of Espinal's clients are unaware of the misrepresentations and material fabrications made on their respective tax returns by Espinal. For example

- a. Espinal prepared the 2005 and 2006 tax returns for Gil and Magaly Betancourt, a couple living in Miami, Florida. Rather than taking the standard deduction, Espinal prepared a "Schedule A" for itemized deductions. Medical expenses, charitable gifts, unreimbursed employee expenses and job expenses for "uniform" and "tools" were reported. No supporting documents were attached. At an interview with the IRS, Mr. Betancourt testified that they did not incur medical expenses, did not make charitable contributions, and did not incur employee business expenses. He further submitted a letter from his employer stating that his employer has a reimbursement policy. In total, itemized deductions of \$46,066 were erroneously claimed for 2005 and \$49,272 in itemized deductions were erroneously claimed for 2006. The erroneously claimed deductions reduced the couple's taxable income and resulted in higher tax refunds than allowable. In total, the couple received refunds totaling \$13,274 as a result of the improper deductions Espinal claimed on their 2005 and 2006 returns. The couple testified that they paid Espinal in cash to prepare their returns and relied on Espinal to fill them out properly. Espinal never asked them for supporting documentation for the itemized deductions and did not explain the returns to them.
- b. Likewise, Espinal prepared the 2005 and 2006 tax returns for Sergio Rojas, of Miami, Florida. Rather than taking the standard deduction, Espinal prepared a "Schedule A" for itemized deductions. Medical expenses, charitable gifts, unreimbursed employee expenses and job expenses for "uniform" and "tools" were reported. No supporting documents were attached. At an interview with the IRS, Rojas testified that he did not incur medical expenses, did not make charitable contributions, and that his employer pays all his job expenses and supplies all tools and necessary gear for the job. In total, false itemized deductions of \$30,137 were claimed for 2005 and \$26,026 were claimed for 2006. These false deductions reduced Rojas' stated overall taxable income and resulted in tax underpayments totaling \$6,598 for 2005 and 2006.

- c. Similarly, Espinal prepared the 2005 tax return for Angie C. Lewis, a woman living in Coral Gables, Florida. Lewis found out about Espinal from a friend, and paid her \$40 to prepare the return. As in the other cases, rather than taking the standard deduction, Espinal prepared a “Schedule A” for itemized deductions. Charitable gifts, unreimbursed employee expenses and job expenses for “uniform” and “tools” were reported. No supporting documents were attached. At an interview with the IRS, Lewis testified that she did not incur unreimbursed employee expenses, and her employer reimbursed her for all employee expenses. She also failed to substantiate the claimed charitable contributions. Lewis stated that Espinal told her that “they give you the #'s to enter” on the tax return and assured that the return was done properly. In total, she claimed fabricated deductions of \$36,320 in 2005, resulting in a tax refund of \$6,366. In reality, she only overpaid her 2005 taxes by \$99. Based on the misrepresentations made by Espinal on Schedule A of the tax return, the IRS erroneously refunded \$6,267 to Lewis.
- d. Espinal also prepared the 2005 and 2006 tax returns for Aracely Velez, of Miami, Florida. Velez was referred to Espinal from someone else, and also paid Espinal \$40 for tax return preparation. Though Velez is single, her filing status was listed as “head of household” and she took the “head of household” standard deduction of \$7,500, rather than the “single” standard deduction of \$5,000. Espinal also listed both Velez’s children as dependents and claimed an Earned Income Credit and child tax credit, even though Velez lives with the children’s father, who pays for all household expenses and claimed the children as dependents.

FAILURE TO DISCLOSE NAME AND IDENTIFYING NUMBER

17. Espinal also failed to accurately disclose her name and social security number or preparer’s identification number on many of the returns that she prepared. As an income tax return preparer, Espinal is required to put her name and social security number (or alternatively a unique preparer identification number, called a “PTIN”) on each return so as to accurately identify her as the preparer of the return. For example: while Espinal included her name on the Betancourts’ 2005 return, she did not include her preparer identification number or social security number, and did not include her name or identifying number on their 2006 return.

Espinal did not sign either return. Likewise, Ms. Lewis' 2005 federal income tax return was stamped with Espinal's name and telephone number, but Espinal did not sign the return or provide her identification number. Espinal's failures in this regard are subject to penalty under 26 U.S.C. § 6695(b) and (c).

18. Espinal told the Revenue Agent investigating the returns she prepared that she did not sign the returns or provide her identification number, because she saw herself not as a paid preparer but as "helping" her clients, who paid her \$20 to \$40 to prepare the returns.

MISREPRESENTATION OF EXPERIENCE OR EDUCATION

19. Upon information and belief, Espinal misrepresented her experience as an income tax return preparer to her clients. For example, Gil Betancourt testified that Espinal represented to him that she had worked for the IRS for years. Espinal, however, admitted during her audit that her experience was gleaned from her work in the VITA program.

FAILURE TO MAINTAIN AND/OR TURN OVER CLIENT LISTS

20. Pursuant to 26 U.S.C. 6107(b), a tax return preparer is required to keep copies of her client lists (or alternatively copies of all the returns that she prepares), and she is further required to provide this information to the IRS upon request. 26 U.S.C. 6695(d) imposes a penalty for each failure to comply with this requirement unless it is shown that the failure was due to reasonable cause and not due to willful neglect. Although it was requested, Espinal failed to provide this information to the IRS during the investigation of returns she prepared. The only information Espinal provided to the IRS was some client interview sheets, most of which relate to the 2005 tax year.

DEFENDANT'S KNOWLEDGE OF THE ILLEGALITY OF HER SCHEME

21. Espinal know or should know that her conduct is illegal.

22. Espinal has sufficient educational and/or work experience to know of the illegality of her tax preparation scheme. She received an accounting degree and was a Certified Public Accountant when she resided in Santo Domingo, Dominican Republic. Upon moving to the United States, Espinal received an accounting degree from St. Thomas University around 1990. She learned how to prepare tax returns through the Volunteer Income Tax Assistance Program, commonly known as "VITA," in 2000. Additionally, Espinal has been actively preparing tax returns since approximately 2000.

23. Despite knowledge of the illegality of her scheme, Espinal continues to engage in a pattern of falsifying filing status and fabricating deductions and other information on tax returns that she has prepared for clients.

HARM TO THE UNITED STATES

24. The variety of schemes used by Espinal harm the United States by unlawfully understating her clients' reported tax liabilities.

25. The magnitude of lost tax revenue caused by Espinal's schemes is enormous. The Internal Revenue Service reviewed 82 returns prepared by Espinal for the 2005, 2006 and 2007 tax years. Though these returns were not formally audited, they were reviewed for proposed adjustments, as would be done in a formal audit. The proposed adjustments for these returns were based upon interviews with taxpayers, third party information and questionable items observed on the face of the returns. Of the 82 returns reviewed, 80 claimed improper deductions or credits, including 1) improper standard deduction due to false filing status, 2) inflated medical

expenses, 3) inflated charitable contributions, 4) improper deductions for business expenses, and 5) errors in claiming the Earned Income Credit. The average understatement was \$4,518 per return.

26. It is estimated that Espinal cumulatively prepared at least 2,000 returns for the 2004 through 2007 tax years. If a comparable percentage of other returns prepared by Espinal for the 2004 through 2007 tax years reflect similar deficiencies to those that were reviewed, the tax loss caused by Espinal's fraudulent practices could equal or exceed \$10 million.

27. Aside from the immense financial loss to the Government from Espinal's schemes, the IRS is also specifically harmed by her improper conduct because the IRS must continue to devote scarce resources to detect and examine inaccurate returns prepared by Espinal on behalf of her clients. The IRS must also expend valuable resources in an attempt to assess and collect the unpaid taxes from defendant's clients.

28. In light of the large number of returns prepared by Espinal and high percentage (97%) of audited returns that understated her clients' tax liabilities, it is necessary to permanently enjoin defendant from continuing to prepare tax returns.

COUNT I: INJUNCTION UNDER § 7407

29. The United States incorporates by reference the allegations in paragraphs 1 through 29.

30. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin an income tax return preparer from, among other things:

- a. engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a return preparer if the preparer prepares a return or claim for

- refund that includes an understatement of tax liability (a) due to an unreasonable position which the return preparer knew or should have known was unreasonable, or (b) in a willful attempt to understate the liability or with a reckless or intentional disregard of rules and regulations;
- b. engaging in conduct subject to penalty under 26 U.S.C. § 6695(b), which penalizes a return preparer who fails to sign a return;
 - c. engaging in conduct subject to penalty under 26 U.S.C. § 6695(c), which penalizes a return preparer who fails to put her social security number or other identifying number on a return;
 - d. engaging in conduct subject to penalty under 26 U.S.C. § 6695(d), which penalizes a return preparer who fails to maintain copies of client lists or alternatively of copies of the returns that she prepares;
 - e. misrepresenting the tax return preparer's experience or education as a tax return preparer; and
 - f. engaging in any other conduct that substantially interferes with the proper administration of the internal revenue laws.

31. In order for a court to issue such an injunction, the Court must find (1) that the tax return preparer engaged in the prohibited conduct, and (2) that injunctive relief is appropriate to prevent the recurrence of such conduct.

32. If the Court finds that the return preparer has continually and repeatedly engaged in conduct prohibited by statute, and that a narrower injunction (i.e. against only the conduct) would not be sufficient to prevent the person's interference with the proper administration of the

federal tax laws, the Court may permanently enjoin the person from acting as a tax return preparer.

33. Espinal has repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 (a) and (b) by preparing income tax returns claiming unsubstantiated and fraudulent deductions. Espinal did so knowing the positions she took on the returns she prepared were unreasonable and lacked substantial authority. Moreover, Espinal fabricated or claimed erroneous deductions in a willful attempt to understate tax liabilities on returns that she prepared.

34. Espinal has repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695(b) and (c) by failing to put her name and social security or other identifying number on returns that she prepared and failing to sign the returns.

35. Espinal also engaged in conduct subject to penalty under 26 U.S.C. § 6695(d) by failing to maintain copies of the returns that she prepared (or alternatively client lists) and/or failing to provide this information to the IRS when requested.

36. Espinal further engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, including misrepresenting to clients that she used to work for the IRS.

37. A narrow injunction only against Espinal's conduct – as opposed to enjoining her acting as a tax return preparer–would be insufficient to prevent her interference with the proper administration of the federal tax laws. Espinal has employed a number of schemes over an extended period of time that result in understatement of income and income tax. It is unlikely that a narrow injunction could encompass all of those schemes. Indeed, it is likely that the IRS has not yet identified all of the schemes used by Espinal to understate income. Moreover, failure

to permanently enjoin Espinal will require the IRS spend additional resources to ferret out additional schemes she devises in the future. Therefore, only a permanent injunction is sufficient to prevent future harm.

38. Espinal has repeatedly and continually engaged in conduct that violates sections 6694 and 6695, and is subject to injunction under 26 U.S.C. § 7407.

39. Moreover, because Espinal has repeatedly and continually engaged in activities subject to injunction under 26 U.S.C. § 7407(b)(1), and because a narrower injunction would not be sufficient to prevent Espinal's interference with the proper administration of the federal tax laws, she should be permanently enjoined from acting as an income tax return preparer.

COUNT II: INJUNCTION UNDER IRC § 7408

40. The United States incorporates by reference the allegations in paragraphs 1 through 38.

41. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from, among other things, engaging in conduct subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of the conduct.

42. 26 U.S.C. § 6701 penalizes a person for aiding or assisting in the preparation of a return or other document which the person knows will result in an understatement of tax liability.

43. Espinal has engaged in conduct subject to penalty under 26 U.S.C. § 6701 by preparing income tax returns claiming unsubstantiated and fraudulent deductions and credits. Espinal knows that these deductions do not have a realistic possibility of being sustained on the merits if questioned by the IRS.

44. Espinal's actions described above fall within IRC § 7408(c)(1), and injunctive relief is appropriate to prevent recurrence of this conduct.

45. Accordingly, Espinal should be permanently enjoined to prevent such conduct or other conduct which substantially interferes with the enforcement and administration of the internal revenue laws, pursuant to 26 U.S.C. § 7408(b).

COUNT III: INJUNCTION UNDER IRC § 7402

46. The United States incorporates by reference the allegations in paragraphs 1 through 44.

47. Section 7402(a) of the Internal Revenue Code authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

48. Espinal, through the conduct described above, has repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

49. If Espinal continues to engage in such conduct, her conduct will result in irreparable harm to the United States, and the United States has no adequate remedy at law.

50. Espinal's conduct has caused and will continue to cause substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable. Unless Espinal is enjoined, the IRS will have to devote substantial time and resources auditing her clients individually to detect future returns prepared by defendant and understating the clients' income.

51. The detection and audit of erroneous refund claims filed by Espinal's customers will place a serious burden on IRS resources.

52. If Espinal is not enjoined, she will continue to engage in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that otherwise substantially interferes with the enforcement and administration of the internal revenue laws.

53. The United States is entitled to injunctive relief under IRC § 7402(a) to prevent such conduct.

WHEREFORE, plaintiff United States of America prays for the following relief:

A. That the Court find that defendant Milagros Espinal continually and repeatedly engaged in conduct subject to penalty under IRC §§ 6694, 6695 and 6701, or otherwise engaged in conduct that interfered with the enforcement of the internal revenue laws.

B. That the Court find that injunctive relief against Espinal is appropriate pursuant to IRC §§ 7402(a), 7407 and 7408 to prevent recurrence of that conduct;

C. That the Court enter a permanent injunction prohibiting Espinal from directly or indirectly:

1. Preparing, filing or assisting in the preparation or filing of any federal income tax return for any other person or entity;
2. Causing or assisting other persons and entities to understate their federal tax liabilities and avoid paying federal taxes;
3. Providing any tax advice or services for compensation, including preparing or filing returns, providing consultative services, or representing customers;
4. Engaging in any other activity subject to penalty under IRC §§ 6694, 6695 or 6701; or

5. 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;

D. That the Court order Espinal to turn over to counsel for the United States a list of the names, addresses, e-mail addresses, phone numbers and Social Security numbers of all customers for whom she has created, prepared or filed federal tax returns or whom she has advised, counseled or otherwise assisted regarding the preparation of federal tax returns or advised regarding their tax liability;

E. That the Court order Espinal to contact all persons or entities for whom she has prepared, helped to prepare or file any federal tax returns or any other federal tax-related document, and provide those persons or entities with a copy of the permanent injunction against her by sending a letter and a copy of the permanent injunction by United States Mail, first-class postage prepaid, to all clients who Espinal is able to contact;

F. That the Court order Espinal to publish once a week for four (4) consecutive weeks in both the Miami Herald and el Nuevo Herald a copy of the permanent injunction in order to inform all persons or entities for whom she has prepared, helped to prepare or file any federal tax returns or any other federal tax-related document for whom Espinal neglected to retain mailing addresses and therefore is unable to contact by United States mail;

G. That the Court order Espinal to complete the requirements listed in paragraphs D and E within 20 days of the permanent injunction, and to complete the requirements listed in paragraph F within 50 days, and order Espinal to file with the Court a certificate of compliance with those requirements, signed under penalties of perjury, along with evidence of compliance, within 52 days of the Court's permanent injunction;

H. That the Court allow the United States full post-judgment discovery to monitor compliance with the injunction;

I. That the Court retain jurisdiction over this action for purposes of implementing and enforcing the final judgment and any additional orders necessary and appropriate to the public interest; and

J. That the Court grant the United States such other and further relief, including costs, as the Court deems appropriate.

Respectfully submitted,

JOHN A. DICICCO
Acting Assistant Attorney General

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United States Attorney

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff
(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CIVIL ACTION NO. _____

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MILAGROS ESPINAL,)
)
Defendant.)

**[PROPOSED] CONSENT JUDGMENT OF PERMANENT INJUNCTION
AGAINST MILAGROS ESPINAL**

Plaintiff, the United States of America, has filed a complaint seeking a permanent injunction against defendant Milagros Espinal, who admits that the Court has jurisdiction but does not admit or deny any of the other allegations in the complaint. Espinal consents to the entry of this permanent injunction under 26 U.S.C. §§ 7402(a), 7407 and 7408. Espinal further waives any right she may have to appeal from this permanent injunction. The parties agree that entry of this permanent injunction neither precludes the Internal Revenue Service from assessing penalties against Espinal for asserted violations of the Internal Revenue Code nor precludes Espinal from contesting any such penalties.

Accordingly, it is ORDERED, ADJUDGED, and DECREED that:

1. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1340, 1345 and 26 U.S.C. §§ 7402(a), 7407 and 7408.
2. Espinal, or any other person working in concert or participation with her directly or indirectly, is enjoined under 26 U.S.C. §§ 7402(a), 7407 and 7408 from:

- A. preparing or assisting in the preparation of any other person's federal income tax returns and other related documents and forms for others;
- B. preparing or assisting in the preparation of federal tax returns that she knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
- C. Providing any tax advice or services for compensation, including preparing or filing returns, providing consultative services, or representing customers;
- D. Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695 or 6701; or
- E. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws.

3. Espinal is ordered, at her own expense, to send by US mail a copy of the final injunction entered against her in this action to each person for whom she, or anyone at her direction and employ, prepared federal income tax returns or any other federal tax forms after January 1, 2005, and for whom she has a mailing address. Espinal is further ordered, at her own expense, to publish a copy of the final injunction entered against her in this action in the Miami Herald and el Nuevo Herald for four (4) consecutive weeks. Espinal shall provide to the United States a certificate of compliance, signed under penalty of perjury, within fifty-two (52) days of entry of this order.

4. Espinal, and anyone who has prepared returns at her direction or in her employ, is ordered to turn over to the United States within fifty-two (52) days from the entry of this order

any returns or claims for refund that she prepared for customers after January 1, 2005 that she has not provided to the Internal Revenue Service.

5. Espinal, and anyone who has prepared returns at her direction or in her employ, is ordered to turn over to the United States within fifty-two (52) days from the entry of this order any identifying information – including, but not limited to, name, address, telephone number, e-mail address, social security number or other taxpayer identification number – of customers for whom she prepared returns after January 1, 2005 that she has not provided to the Internal Revenue Service.

6. Espinal is ordered to provide the United States with a sworn statement evidencing her compliance with the foregoing directives within fifty-two (52) days of entry of this order.

7. Espinal is ordered 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 8, below.

8. The United States is authorized to monitor Espinal's compliance with this injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure.

9. All notices to the United States shall be delivered by US Mail to Rachael Amy Kamons at the address listed below.

DONE AND ORDERED in Miami, Florida on _____.

UNITED STATES DISTRICT JUDGE

Agreed:

For plaintiff United States of America:

JEFFREY H. SLOMAN
United States Attorney



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