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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

United States of America,)
)
Plaintiff,)
)
v.)
)
Friday James, dba Frika Tax Services,)
)
Defendant.)

Civil No. **11 0913**

Complaint for Permanent Injunction

The plaintiff, United States of America, alleges against defendant Friday James, dba Frika Tax Services, as follows:

1. This suit is brought under Sections 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) to restrain and enjoin James from preparing federal tax returns for others, engaging in any activity subject to penalty under 26 U.S.C. § 6694 or 6701, and engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

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 §§ 7402, 7407 and 7408 of the Internal Revenue Code.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and 26

A TRUE COPY CERTIFIED FROM THE RECORD
DATED: 2/7/11
ATTEST: [Signature]
DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

U.S.C. §§ 7402(a), 7407 and 7408.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because James resides or conducts business in this district and because a substantial part of the actions giving rise to this suit took place in this district.

Defendant

5. James resides in Lansdowne, Pennsylvania, within this judicial district.

6. James conducts business through Frika Tax Services in Philadelphia, Pennsylvania within this judicial district.

7. James has a Bachelor of Science Degree in Electrical Engineering.

8. After emigrating from Liberia in 2000, James worked as a mathematics teacher at various high schools in the Philadelphia area, including Chester High School in Chester, Pennsylvania.

9. In addition to his background in electrical engineering and mathematics, James worked for H & R Block from 2003 and 2005 and Liberty Tax Service from 2006 to 2007, where he received training in the preparation of federal tax returns.

10. James also completes refresher training online with the IRS, which he most recently completed in January of 2010.

11. Along with training he has received in the preparation of federal tax returns, James provides return-preparation training to his staff at Frika Tax Services.

Defendant's Activities

12. James prepares federal tax returns for compensation and is thus a tax return

preparer as defined under 26 U.S.C. § 7701(a)(36).

13. While his employees assist him with data entry and other ministerial duties, James is the only person at Frika Tax Services who prepares and signs federal tax returns.

14. James is paid from \$150 to \$360 to prepare federal tax returns.

15. The IRS's investigation of James's return-preparation reveals that many of James's customers are Liberian or other West African immigrants with little or no knowledge of the complexities of the Internal Revenue Code or of the deductions and credits falsely claimed by James on their returns.

**James's Continued and Repeated Preparation of
Returns Falsely Claiming the First-Time Homebuyer Credit**

16. During 2009, James prepared 717 federal income tax returns for tax year 2008.

17. Of these returns, 157 returns claimed the First-Time Homebuyer Credit ("the credit").

18. The total credit claimed by James on these returns was at least \$1.2 million.

19. The IRS audited 26 of the 157 returns and determined that only one of James's customers was entitled to the credit.

20. As a means to strengthen the real estate market and help the economy, Congress enacted the First-Time Homebuyer Credit in July 2008.

21. Under this law, first-time home buyers are granted a tax credit of up to \$7,500 for home purchases completed in 2008, later amended to provide an \$8,000 tax credit for homes purchased on or after April 9, 2008 and before May 1, 2010.

22. The credit, which is codified at 26 U.S.C. § 36, is claimed by completing and attaching to the income tax return an IRS Form 5405.

23. Form 5405 clearly sets forth the requirements for credit eligibility. Form 5405 requires the preparer to list the purchased home's address and acquisition date.

24. To be eligible for the credit (as in effect for tax year 2008) a person must not have owned a home in the previous three years and must have actually purchased a home during 2008.

25. James made no attempt to determine whether his customers were qualified to claim the credit and repeatedly filed false federal income tax returns and IRS Forms 5405 on his customers' behalf.

26. As an example, James prepared the 2008 federal income tax return for Robert Quiyea, claiming a \$8,000 credit, even though James knew that while Quiyea was interested in purchasing a home, he had not in fact purchased a home.

27. On Quiyea's IRS Form 5405, James falsely stated that Quiyea had purchased a home on February 4, 2009 and fabricated the address of the home purportedly purchased by Quiyea.

28. In another instance, James prepared the 2008 federal income tax return of Korto Kollie, a Liberian immigrant from Bensalem, Pennsylvania, claiming an \$8,000 credit, even though James had called Kollie's realtor and knew that Kollie had not qualified for a mortgage to purchase a home.

29. On Kollie's IRS Form 5405, James falsely stated that Kollie had purchased a

home on May 4, 2009 and fabricated the address of the home purportedly purchased by Kollie.

30. As another example, James prepared the 2008 federal income tax return of Elnora Ben, a Liberian immigrant who currently resides in Philadelphia, claiming a credit of \$7,500.

31. On Ben's IRS Form 5405, James falsely stated that Ben had purchased her house on March 25, 2009 and fabricated the address of the home purportedly purchased by Ben.

32. James filed this form even though he knew that Ben had previously purchased a home in 2006 and thus was not entitled to the credit.

33. James also claimed an \$8,000 credit on his own 2008 federal income tax return, even though public records reveal that he does not own any real property.

34. James continually and repeatedly falsely claimed the credit on returns he prepared with knowledge that the customers had not purchased a home during the applicable time period.

35. The 2011 return-filing season (for returns for the 2010 tax year) began in January of 2011, when W-2s are issued to employees.

36. While the credit is currently scheduled to expire as a matter of law, the credit remains available for first-time home buyers who purchased a principal residence on or after April 9, 2008, and before May 1, 2010, as well as for customers who elect to amend previously-filed returns.

37. Accordingly, the credit can be claimed for qualifying taxpayers on their 2010 federal income tax returns, which returns are due (absent extension) on or before April 15, 2011 or for customers who elect to amend previously-filed returns.

**James's Preparation of Amended Returns
Falsely Claiming the First-Time Homebuyer Credit**

38. In addition to falsely claiming the credit on customers' returns, James has also continually and repeatedly falsely claimed the credit on his customers' amended returns.

39. For the 2008 tax year (returns due on or before April 15, 2009), James filed 33 amended returns claiming the credit.

40. The total amount James claimed on these amended returns was \$263,000.

41. The IRS audited all 33 of these amended returns and determined that only one of James's customers was entitled to the credit claimed on the amended return.

42. Unless he is enjoined, James is likely to continue to claim false credits for his customers on their 2010 federal income tax returns or on their amended returns.

**James's Continued and Repeated Preparation of
Returns Claiming False Schedule C Deductions**

43. James has also continually and repeatedly filed federal income tax returns claiming false Schedule C expenses.

44. As an example, James prepared the 2008 federal income tax return of Fatu Saibu, a Liberian immigrant, falsely stating that Saibu was entitled to a \$7,500 first-time homebuyer credit and falsely claiming numerous expenses on Saibu's IRS Form Schedule C.

45. James also prepared the 2009 federal income tax return of Saibu, falsely claiming that Saibu had car and truck expenses on her IRS Form Schedule C.

46. After an audit where the IRS disallowed the \$7,500 first-time homebuyer credit and numerous expenses claimed by James on Saibu's IRS Forms Schedule C, Saibu agreed, on November 30, 2010, to pay an additional \$6,659 in tax and interest for the 2008 tax year and \$2,759 in tax and interest for the 2009 tax year

47. Because Saibu does not have the means to pay the tax debt in full, she has agreed to pay the IRS \$300 a month until her tax debt is paid.

48. In another instance, James prepared the 2008 federal income tax return of Salome Saah, falsely claiming that she was entitled to a \$7,500 first-time homebuyer credit and numerous Schedule C expenses for a purported home-health care business.

49. James also falsely claimed on the return that Saah was entitled to claim as a dependent a person known as "John Tata Johnson."

50. During an interview with the IRS, Saah stated that she did not have a business, that she did not give James any receipts that would indicate she had a business, that James entered the Schedule C deductions on her tax return without asking her whether she had a business or any business expenses, and that James did not go over the return with her before it was filed.

51. At this same interview, Saah stated that James told her she could claim the \$7,500 first-time homebuyer credit if she was looking for a house and thus that Saah was entitled to the credit.

52. Regarding the dependent claimed by James on her return, Saah stated that she does not know the person and that the dependent was entered on her return by James.

53. After an audit, the IRS determined that Saah owes \$15,803 in tax, penalties, and interest for the false \$7,500 first-time homebuyer credit, false Schedule C expenses, and false dependent claimed by James on Saah's federal tax return.

54. Unless permanently enjoined from preparing federal tax returns, James is likely to continue to claim false first-time homebuyer credits, false Schedule C deductions, or other items on his customers' behalf.

COUNT I – Injunction under Code § 7407

55. Code § 7407 authorizes a court to enjoin a tax return preparer if, *inter alia*, the court finds that the return preparer has engaged in conduct subject to penalty under 26 U.S.C. § 6694 and that injunctive relief is appropriate to prevent the recurrence of the conduct.

56. 26 U.S.C. § 6694(b) imposes penalties on a tax return preparer who willfully attempts to understate the tax liability of another person or whose reckless or intentional disregard of rules and regulations results in the understatement of tax liability.

57. James continually and repeatedly engaged in conduct subject to penalty under Section 6694(b) by preparing returns that he knew contain false claims for the First Time Homebuyer Credit and false Schedule C items.

58. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, James is likely to continue preparing and filing false federal income tax

returns.

59. James should be permanently enjoined under 26 U.S.C. § 7407 from preparing or filing federal tax returns.

COUNT II – Injunction under Code § 7408

60. 26 U.S.C. § 7408 authorizes courts to enjoin any person from engaging in conduct that is subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

61. 26 U.S.C. § 6701(a) penalizes any person who aids or assists in the preparation of any portion of a federal tax return or other document knowing that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it would result in an understatement of another person's tax liability.

62. James has prepared federal tax returns and IRS Forms 5405 for others knowing that the returns and documents improperly claim the First-Time Homebuyer Credit and Schedule C deductions and thereby understate the customers' correct federal tax liability. His conduct is subject to penalty under 26 U.S.C. § 6701.

63. Unless enjoined by the Court, James is likely to continue to prepare tax returns that he knows will result in the understatement of tax liability.

64. Accordingly, James should be enjoined under 26 U.S.C. § 7408 from engaging in conduct subject to penalty under 26 U.S.C. § 6701 and from preparing federal tax returns.

COUNT III – Injunction under Code § 7402

65. 26 U.S.C. § 7402 authorizes courts to issue injunctions “as may be necessary or appropriate for the enforcement of the internal revenue laws.” The remedies available to the United States under that statute “are in addition to and not exclusive of any and all other penalties.” 26 U.S.C. § 7402(a).

66. James, through the actions described above, has engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws, and is likely to continue to engage in such conduct unless enjoined.

67. James’s conduct is causing irreparable injury to the United States and an injunction under 26 U.S.C. § 7402(a) is necessary and appropriate. If James is not enjoined from preparing tax returns, the United States will suffer irreparable injury by erroneously providing tax refunds to persons not entitled to receive them and by taxpayers not reporting and paying the correct amount of taxes.

68. Unless James is enjoined from preparing federal tax returns, the IRS will have to devote substantial time and resources to identify and locate their customers, and then examine those customers’ tax returns and property records. Pursuing all individual customers may be impossible given the IRS’s limited resources.

69. Enjoining James is in the public interest because an injunction will stop his illegal conduct and the harm it causes the United States.

70. The Court should therefore order injunctive relief under 26 U.S.C. § 7402(a).

WHEREFORE, the United States of America requests the following relief:

A. That the Court find that James has engaged in repeated and continual conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to permanently enjoin James from preparing federal tax returns;

B. That the Court, under 26 U.S.C. §§ 7407, 7408 and 7402(a), enter a permanent injunction prohibiting James from preparing or assisting in the preparation or filing of federal tax returns or other related documents and forms for others;

C. That the Court find that James has have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against him and anyone acting in concert with him 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), enter an injunction requiring James to contact by United States mail (or by e-mail, if a postal address is unknown) all persons for whom he prepared a federal tax return since January 1, 2009 and to inform them of the Court's findings in this matter and enclose a copy of the injunction entered against him, and to file with the Court within fifteen days of the date the permanent injunction is entered, a certification signed under penalty of perjury by James, that he has done so;

E. That the Court authorize the United States to engage in post-judgment discovery pursuant to the Federal Rules of Civil Procedure in order to monitor compliance with the Court's injunction; and

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

Dated: February 7, 2011.

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