

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 11-cv-1296
)	
RITA J. AUGUSTUS, individually)	
and doing business as WINDY CITY)	
INSURANCE AGENCY, INC. and)	
WINDY CITY TAX SERVICE,)	
)	
Defendant.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Plaintiff, the United States of America, alleges against Defendant, Rita J. Augustus, doing business as Windy City Insurance Agency, Inc. and Windy City Tax Service, as follows:

1. This is a civil action brought by the United States under sections 7402(a), 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (“I.R.C.”) to enjoin Defendant Rita Augustus and anyone in active concert or participation with her, from:

- (a) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than herself;
- (b) preparing or assisting in preparing federal tax returns that she knows or reasonably should have known would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (c) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6701, or any other penalty provision in the I.R.C.; and
- (d) engaging in any 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 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, pursuant to the provisions of I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28, United States Code, and I.R.C. § 7402(a).

4. Venue is proper in this Court under 28 U.S.C. § 1391 because Rita Augustus resides in Dolton, Illinois, and a substantial part of the actions giving rise to this suit took place in this district.

Defendant's Activities

5. Augustus is a commercial tax return preparer doing business under the names "Windy City Insurance Agency, Inc." and "Windy City Tax Service." Windy City Insurance Agency, Inc. and Windy City Tax Service do business at 352 East 87th Street, Chicago, Illinois 60619.

6. Augustus is the sole owner of Windy City Insurance Agency, Inc. and Windy City Tax Service. Windy City Insurance Agency, Inc. was started by Augustus' father in 1965 to provide tax return preparation and insurance services to customers. Augustus worked for Windy City Insurance Agency, Inc. from 1972 through 1988, and then from 1992 through the present. Augustus assumed control of the business upon her father's death in 2002. Windy City Insurance Agency, Inc. was incorporated in Illinois until 2002 when its corporate status was dissolved.

7. Augustus is also the sole owner of Windy City Tax Service. Augustus began doing business under the name Windy City Tax Service in 2009.

8. Augustus is the sole tax return preparer who does business under the names Windy City Insurance Agency, Inc. and Windy City Tax Service. Augustus has a high school diploma and she took an H&R tax preparation course in 1970.

9. Augustus, based on tax returns reporting her social security number, Windy City Insurance Agency, Inc.'s employer identification number, and/or Windy City Tax Service's purported employer identification number as the paid preparer, prepared at least 4,283 federal tax returns for customers for tax years 2005, 2006, 2007, 2008, and 2009, with an unusually high refund rate of over 94 percent for the 4,283 returns.¹

10. The IRS has examined a sample of 117 returns that Augustus prepared for tax years 2005, 2006, 2007, 2008, and 2009. Of these 117 examined returns, 109 were found to have false claims, an error rate of over 93 percent. This included a 100 percent error rate for the 38 returns examined from tax year 2006. The average tax deficiency for these 109 returns was \$5,479.

11. The IRS estimates, based on the average tax deficiency of \$5,479 on examined Augustus-prepared returns found to have errors and the 94 percent of the 4,283 known Augustus-prepared returns that claim a refund, that Augustus' tax return preparation for tax years 2005 through 2009 could have resulted in as much as \$20,000,000 or more in lost revenues to the Government.

Charitable Contribution and Employee Business Expense Fraud

12. Augustus often prepares tax returns for customers on which she fraudulently inflates the amount of a customer's charitable contribution and makes false claims for purported business expenses that do not qualify under the Internal Revenue Code.

13. Section 170 of the Internal Revenue Code (the "Code") governs charitable contributions. Section 170(a) provides that qualifying charitable contributions, as defined by I.R.C. § 170(c), are allowable only if verified. Augustus prepares returns for clients that report a

¹ This number does not include business tax returns that Augustus prepared over this period.

fraudulently inflated amount of contributions. Of the sample of 117 Augustus-prepared returns that the IRS examined, at least 78 had improper deductions for charitable contributions.

14. Section 162 of the Code governs trade or business expenses. Augustus frequently prepares returns for customers that claim deductions for fraudulently inflated or non-qualifying business expenses. IRS Publication 529 provides examples of qualifying business expenses, including “Union dues and expenses” and “Work clothes and uniforms if required and not suitable for everyday use.” *See* IRS Publication 529 (2009) (available online at: <http://www.irs.gov/publications/p529/ar02.html>). Publication 529 also provides examples of expenses that do not qualify as business expenses, including “Commuting expenses,” “Lunches with co-workers,” “Meals while working late,” and “Personal, living, or family expenses.” Of the sample of 117 Augustus-prepared returns that the IRS examined, at least 69 had improper Schedule A deductions for employee business expenses.

15. For example, on the 2007 tax return of customers Larry and Neletta Dowdy, an electrician and a homemaker, Augustus included a bogus charitable deduction in the amount of \$8,425 on the Schedule A attached to the return. The Dowdys made no such contributions and Augustus claimed this inflated amount without the Dowdys’ knowledge. In fact, such a contribution would have required Dowdy to contribute precisely 10% of the wages he received in 2007 as an electrician, a substantial amount in relation to Dowdy’s adjusted gross income.

16. Similarly, on the 2007 tax return of customer Kenyatta Stansberry, a high school principal, Augustus falsely claimed that Stansberry made \$9,850 in charitable contributions, when in fact Stansberry did not provide this amount to Augustus and made no such contributions in 2007. Augustus did not discuss Stansberry’s charitable contributions with Stansberry prior to

preparing the return.

17. On the 2007 and 2008 tax returns of customer Denise Hunter, a sales manager, Augustus falsely claimed that Hunter made charitable contributions in the amounts of \$8,200 and \$7,675, respectively. Although Hunter contributed to her church, Augustus did not inquire as to how much Hunter contributed, and Hunter did not inform Augustus that she made charitable contributions in these amounts. Augustus thus fabricated these deductions on Hunter's returns for 2007 and 2008. Hunter relied on and trusted Augustus and therefore did not review the returns for accuracy prior to filing them.

18. Augustus claimed bogus charitable contributions on the 2006 and 2007 tax returns of customer Fred Hunt, a supervisor at a steel mill, in the amounts of \$9,750 and \$9,375, respectively. Hunt did not make any such contributions and did not inform Augustus that he made any charitable contributions in 2006 and 2007. Augustus thus fabricated these amounts.

19. Augustus also claimed bogus business expenses on Hunt's 2006 and 2007 returns. Augustus falsely claimed on the Schedules C attached to the returns that Hunt operated a barber shop, which Augustus reported was called "Head Hunters," when Hunt did not operate any business and has never cut hair for money. Augustus falsely claimed that Hunt had business losses in the amounts of \$8,225 and \$12,020 in 2006 and 2007, respectively, related to the non-existent barber shop business. In addition, Augustus reported the address of Hunt's purported barber shop as 352 East 87th St., Chicago, Illinois 60619, which is actually the location of Augustus' businesses, Windy City Insurance Agency, Inc. and Windy City Tax Service.

20. Augustus further falsely claimed on Hunt's 2006 and 2007 returns that Hunt had unreimbursed employee business expenses in the amounts of \$2,455 and \$3,065, respectively,

related to his job at a steel mill. In actuality, Hunt had no such expenses, and any expenses related to his job were reimbursed by his employer. Hunt did not provide any of this expense information to Augustus. Augustus prepared the return and informed Hunt what the amount of his refund would be, but Hunt did not review the copy of the return that Augustus provided before it was filed. When the IRS contacted Hunt as part of its examination of Hunt's returns, Hunt contacted Augustus for assistance, and Augustus advised Hunt not to cooperate with the IRS in order to delay the examination.

21. On the 2007 and 2008 income tax returns of customers Roberto and Manuela Lopez, Augustus falsely claimed that Roberto Lopez had unreimbursed employee business expenses in the amounts of \$7,875 and \$10,663 in 2007 and 2008, respectively, purportedly for truck expenses including gas and repairs. Roberto Lopez is employed at a Sherwin Williams paint factory and his job duties are confined to factory work, and the only time he drives is when commuting to and from work. Therefore, the claimed expenses would not be eligible to be deducted. Lopez did not provide Augustus with any documentation supporting the claimed business expenses, and Augustus thus fabricated the bogus and non-eligible expenses.

Fraudulent Claims for Rental Expenses

22. Augustus also prepares tax returns for customers on which she fraudulently inflates rental expenses on the Schedules E attached to her customers' returns in order to improperly reduce her customers' taxable income. Pursuant to I.R.C. § 469, rental losses from rental real estate may be claimed by a taxpayer up to a maximum of \$25,000 when certain criteria are met. Augustus prepares returns that claim inflated rental expenses and bogus losses from rental real estate that exceed the allowable amount.

23. For example, Augustus prepared a 2007 tax return for customer Linda Reid, a government employee, on which Augustus reported that Reid had a loss in the amount of \$74,693 related to purported rental properties. However, Reid did not rent any properties in 2007 and was not entitled to deduct rental expenses. In fact, of the two purported rental properties, one was vacant and the other was occupied by Reid's family, and Reid did not receive any rent. Augustus thus falsely claimed that Reid had eligible rental expenses. Moreover, pursuant to I.R.C. § 469, even if Reid actually had rental income and losses, she could only have claimed a maximum of \$25,000 in rental real estate losses. Therefore, Augustus' fabricated claim of \$74,693 in rental losses would not have been allowed even if the deduction was legitimate and not fabricated by Augustus. Although Reid received a larger refund than she expected, she is unfamiliar with the tax laws and relied on Augustus to accurately prepare her tax return.

24. Similarly, on the 2007 and 2008 tax returns of customer Samuel Nolan, a firefighter, Augustus falsely claimed on the Schedules E attached to Nolan's returns that Nolan had \$21,600 and \$10,500, respectively, as expenses for "loss of rent" based on the vacancy of two of three units in the rental property owned by Nolan. Although Nolan provided Augustus with worksheets showing the income and expenses related to his rental real estate, Nolan did not provide any loss of rent amounts to Augustus, who fabricated these amounts. Moreover, Augustus falsely reported on Nolan's return that Nolan had rental losses of \$36,407 and \$50,427 in 2007 and 2008, which would exceed the \$25,000 maximum allowable deduction even if the bogus rental-real-estate losses were correct. Augustus did not inform Nolan of the limitation on rental-real-estate losses and Nolan relied on Augustus to properly prepare his tax return.

Other Bogus Deductions

25. Augustus' bogus claims are not limited to charitable contributions and business expenses. Augustus has also prepared customers' tax returns claiming other false deductions, including for educational expenses, medical expenses, and bogus dependents, designed to fraudulently reduce the customers' taxable income.

26. For example, on the 2007 tax return of customers Larry and Neletta Dowdy, Augustus claimed bogus education expenses in the amount of \$1,500, purportedly for Neletta Dowdy. However, Neletta Dowdy did not attend school, did not have any education expenses, and did not inform Augustus that she had any such expenses.

27. On the 2009 tax return of customer Mary Vinson, Augustus falsely claimed that Vinson had education expenses in the amount of \$5,000, even though Vinson did not attend school in 2009 and spent most of her time that year caring for her sick mother.

Harm Caused by Augustus

28. Augustus' customers have been harmed because they paid Augustus fees to prepare proper tax returns, but Augustus prepared returns that substantially understated their correct tax liabilities. Many customers now face large income tax deficiencies and may be liable for sizeable penalties and interest.

29. Augustus' conduct harms the United States because her customers are under-reporting and under-paying their correct tax liabilities. The IRS has identified 109 fraudulent federal income tax returns (of 117 that were examined) that Augustus prepared for customers for tax years 2005 through 2009, with a total of \$597,166 in lost revenue (an average of over \$5,479 per return) based on false claims and deductions. The IRS estimates that Augustus' tax return

preparation could have resulted in as much as \$20,000,000 or more in lost revenue to the United States.

30. In addition to the direct harm caused by preparing tax returns that understate customers' tax liabilities, Augustus' activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

31. Augustus further harms the United States because the Internal Revenue Service must devote its limited resources to identifying Augustus' customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting any additional taxes and penalties.

Count I
Injunction under I.R.C. § 7407

32. The United States incorporates by reference the allegations in paragraphs 1 through 31.

33. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under I.R.C. § 6694 or engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, if the court finds that the preparer has engaged in such conduct and that injunctive relief is appropriate to prevent the recurrence of the conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e., prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a federal tax preparer.

34. Augustus has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal income tax returns that understate her customers' liabilities based on unrealistic, frivolous, and reckless positions.

35. Augustus' continual and repeated violations of I.R.C. § 6694 fall within I.R.C. § 7407(b)(1)(A) and (D), and thus are subject to an injunction under I.R.C. § 7407.

36. If she is not enjoined, Augustus is likely to continue to prepare and file false and fraudulent tax returns.

37. Augustus' continual and repeated conduct subject to an injunction under I.R.C. § 7407, including her continual and repeated bogus claims of expenses and deductions, demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Augustus' interference with the proper administration of the internal revenue laws. Thus, she should be permanently barred from acting as a tax return preparer.

Count II
Injunction under I.R.C. § 7408

38. The United States incorporates by reference the allegations in paragraphs 1 through 37.

39. Section 7408 of the I.R.C. authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

40. Section 6701(a) of the I.R.C. penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) 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 will

result in an understatement of another person's tax liability.

41. Augustus prepares federal tax returns for customers that she knows will understate their correct tax liabilities, because Augustus knowingly prepares returns claiming improper expenses and deductions. Augustus' conduct is thus subject to a penalty under I.R.C. § 6701.

42. If the Court does not enjoin Augustus, she is likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Augustus' preparation of returns claiming improper expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

43. The United States hereby incorporates by reference the allegations in paragraphs 1 through 42.

44. Section 7402 of the I.R.C. authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

45. Augustus, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

46. Unless enjoined, Augustus is likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Augustus is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them.

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

48. Enjoining Augustus is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Augustus' illegal conduct and the harm it causes the United States.

49. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

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

A. That the Court find that Rita Augustus has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694, and has continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Rita Augustus from acting as a federal tax return preparer;

C. That the Court find that Rita Augustus has engaged in conduct subject to a penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Rita Augustus has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Rita Augustus, and all those in active concert or participation with her, from:

- (1) acting as a federal tax return preparer, or assisting in or directing the preparation or filing of federal tax returns, amended returns, or other

related documents or forms for any person or entity other than herself, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination by the Internal Revenue Service;

- (2) understating customers' liabilities as prohibited by I.R.C. § 6694;
- (3) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6701, or any other penalty provision in the I.R.C.; and
- (4) engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws and from promoting any false tax scheme.

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Rita Augustus to contact, within fifteen days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom she prepared federal tax returns or claims for a refund for tax years 2005 through 2009 to inform them of the permanent injunction entered against her;

G. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Rita Augustus, Windy City Insurance Agency, Inc., and Windy City Tax Service to produce to counsel for the United States, within fifteen days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom she prepared federal tax returns or claims for a refund for tax years 2005 through 2009;

H. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Rita Augustus to post, within fifteen days of the Court's order, a complete copy of the Court's order in a conspicuous place visible to customers and potential customers at the offices of Windy City Insurance Agency, Inc. and Windy City Tax Service, located at 352 East 87th

Street, Chicago, Illinois 60619, for a period of one year from the date the order is entered;

I. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Rita Augustus to provide a copy of the Court's order to all of Augustus' principals, officers, managers, employees, and independent contractors within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person whom Augustus provided a copy of the Court's order;

J. That the Court retain jurisdiction over Rita Augustus and over this action to enforce any permanent injunction entered against her;

K. That the United States be entitled to conduct discovery to monitor Rita Augustus' compliance with the terms of any permanent injunction entered against her; and

L. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

DATED: February 24, 2011

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United States Attorney

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