

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case Number: _____

UNITED STATES OF AMERICA,

Plaintiff,

v.

RONALD JEROME SCRIVEN;
DANESA L. WEBB; and TAMIJAH
INTERNATIONAL LLC, d/b/a T.I. TAX SERVICE,

Defendants.

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The plaintiff, United States of America, alleges against defendants Ronald Jerome Scriven, Danesa L. Webb, and Tamijah International LLC d/b/a T.I. Tax Service, as follows:

1. The United States brings this complaint to enjoin the defendants, and any entity through which they conduct business and all persons and entities in active concert or participation with them, from:

- (a) Preparing or filing, or assisting in the preparation or filing of, any federal tax return for any other person or entity;
- (b) Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695 or 6701; and
- (c) Engaging in other 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, 26 U.S.C. (the

“Code”).

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and Code §§ 7402(a), 7407 and 7408.

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

Defendants

5. Ronald Jerome Scriven resides and conducts business in Broward County, Florida.

6. Danesa L. Webb resides and conducts business in Broward County, Florida.

7. Tamijah International LLC (“T.I.”) is located and conducts business in Broward County, Florida. It was formed and registered by Scriven and Webb as a limited liability company with the State of Florida in August 2007. According to its Articles of Organization, Scriven and Webb are its managing members/managers. Scriven and Webb told IRS agents in a November 19, 2009, interview that Webb owns T.I. and Scriven operates it as manager.

8. T.I. sometimes conducts business as T.I. Tax Service.

Defendants’ Activities

9. Scriven is a tax return preparer as defined by Code § 7701(a)(36). He prepares other people’s federal tax returns for compensation.

10. Webb is a tax return preparer as defined by Code § 7701(a)(36). She prepares other people’s federal tax returns for compensation.

11. T.I. is a tax return preparer as defined by Code § 7701(a)(36). It prepares other people’s federal tax returns for compensation.

12. Scriven is an experienced tax return preparer who has prepared returns since at least

2007.

13. Webb is an experienced tax return preparer who has prepared returns since at least 2008. She got into the tax return preparation business through her friend Scriven.

14. Scriven and Webb conduct their tax return preparation business using T.I.

15. According to Scriven and Webb, the defendants' fees range from \$30 to \$400 for preparing an individual's federal income tax return. However, according to customers, the defendants often charged thousands of dollars to prepare a simple tax return for a customer.

16. The defendants targeted and victimized unsuspecting distressed individuals with the promise of quick and easy cash. Many of the defendants' customers were homeless and had no income. The defendants, or their agents, falsely told individuals that the individuals were eligible for special credits or funds offered by the federal government. In order to receive the funds, the defendants stated that the individuals must provide them with the individual's name and social security number. The defendants would then prepare a federal income tax return for the individual that reported income, expense and credit information that the defendants would wholly fabricate. This led to IRS tax refunds issued to the individuals with the defendants taking a sizable portion of the refund as their fee.

17. The defendants would oftentimes procure a person's identification information and prepare and file a federal income tax return without that person's knowledge or authorization.

18. The defendants prepared and filed federal income tax returns that they knew contained false claims for the First-Time Homebuyer Credit, false income and expense items, including Schedule C information that the defendants fabricated, false education credits, and false claims for the Recovery Rebate Credit.

*False Claims for the First-Time Homebuyer Credit
& Exorbitant Preparation Fee Demands*

19. As a means to strengthen the real estate market and help the economy, Congress enacted the First-Time Homebuyer Credit (“the Credit”) in July 2008. The Credit allowed first-time homebuyers a credit against their federal income tax of the lesser of ten percent of the home’s purchase price or \$8,000.

20. The Credit, which is codified at Code § 36, is claimed by completing and attaching to the income tax return an IRS Form 5405. Form 5405 sets forth the requirements for Credit eligibility. Form 5405 requires the preparer to list the purchased home’s address and acquisition date.

21. 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 after April 8, 2008.

22. The Internal Revenue Service has identified 300 returns prepared by the defendants for tax year 2008 that claimed the Credit. The IRS has reviewed over 100 of those returns and determined that none of the taxpayers was entitled to claim the Credit.

23. Scriven is identified as the preparer on 158 of the 300 returns that claimed the Credit, and Webb is identified as the preparer on 66 of the returns. The remaining 76 returns contain an incorrect preparer identification number so it is unknown whether Scriven, Webb or another T.I. worker prepared those returns.

24. The defendants made no attempt to determine whether their customers were qualified to claim the Credit. The defendants simply claimed the Credit on customers’ returns without making any inquiries as to whether a home had been purchased, the purchase price or purchase date. The defendants claimed the Credit on returns they prepared without any basis that the

customers had purchased a home during the applicable time period or were otherwise eligible for the Credit.

25. The defendants participated in a program known as the Federal Refund Transfer Program offered by Santa Barbara Tax Products Group, LLC (“Santa Barbara”), a division of Pacific Capital Bank, N.A. When a return preparer participates in this program, the tax refunds associated with the returns are sent by the IRS to a bank account at Santa Barbara. Santa Barbara would deduct its fees (around \$200) and transfer the preparer’s fee (typically around \$200) to the preparer’s separate account. The program then allowed the preparer to print out the customer’s net refund check, which was drawn on a Santa Barbara account and not the U.S. Treasury. The preparer was responsible for delivering the refund check to the customer.

26. The Santa Barbara program thus enabled the defendants to have a portion of their fees deducted automatically from the customers’ refund checks and gave the defendants control over the distribution of the customers’ tax refund checks.

27. Because the refund checks would be sent to the preparer’s address, and not to the customer’s, the address shown on the tax return did not have to be accurate. Participation in Santa Barbara’s program enabled the defendants to fabricate taxpayer addresses and home purchase addresses for the purpose of claiming the First-Time Homebuyer Credit, and it allowed the defendants to gain possession of the refund checks.

28. Moreover, when the defendants delivered the refund checks to customers, the defendants would demand that their customers give them a further significant portion—oftentimes more than half—of the funds as a further fee. And because the customers were frequently unaware that the defendants had prepared and filed a return on their behalf, and because the refund check was not a U.S. Treasury check, the customers had no knowledge that the check

represented a tax refund.

False Schedule C Preparation

29. In addition to preparing returns that falsely claimed the First-Time Homebuyer Credit, the defendants prepared returns that included a fictitious Schedule C. A Schedule C is a tax form meant for individuals to report income and expenses from their self-proprietorships. The profit or loss shown on the Schedule C is reported on an individual's Form 1040.

30. Armed only with a customer's name and social security number, the defendants created false Schedule C forms to understate the customer's federal tax liability. Without any input whatsoever from their customers, the defendants would list false businesses on the customers' returns, and report fabricated and fictitious income and expense items on the returns.

Other Misconduct by the Defendants

31. The defendants also prepared and filed federal tax returns that contained other abuses. For example, the defendants prepared and filed returns that falsely claimed the Recovery Rebate Credit.

32. The Recovery Rebate Credit was a one-time refundable credit related to the 2008 economic stimulus payments made to taxpayers. It was meant for those persons who did not receive the full economic stimulus payment in 2008 and whose circumstances had changed thus later making them eligible for some or all of the unpaid portion.

33. In order to determine eligibility for the Recovery Rebate Credit and to compute its correct amount, the amount of the 2008 economic stimulus payment received by the taxpayer must be known. The defendants would claim the Recovery Rebate Credit (\$600 for individuals and \$1,200 for couples filing jointly) on returns they prepared without making any inquiries into how much of the stimulus payment had been received by the taxpayer.

34. The defendants would sometimes falsely claim the Recovery Rebate Credit in the exact amount of taxes owed (as reported on Line 61 of the Form 1040). The Recovery Rebate Credit would therefore offset any taxes reported as owed and would allow the falsely claimed First-Time Homebuyer Credit to be the amount of the taxpayer's refund.

35. The defendants also knowingly claimed false education credits on returns they prepared. An education credit (such as the American Opportunity Credit or the Hope Credit) may be taken by individuals with a certain income level who incurred tuition or other post-secondary education fees. The defendants claimed an education credit (up to \$2,500) on returns they prepared without making any inquiries of their customers or without any basis. None of the customers for whom the defendants claimed an education credit was entitled to the credit, and none of the customers provided the defendants with information that would support an education credit. The defendants also failed to attach to the returns they prepared that claimed the credit a Form 8863, the form used to support an education credit.

36. The defendants usually would not provide customers with a copy of the return the defendants prepared on the customers' behalf. The customers were often unaware that the defendants had prepared their tax returns.

37. The defendants prepared and filed federal tax returns that did not contain the correct preparer identification number ("PIN"). The PIN shown on the return did not match the person who was listed on the return as the preparer.

38. In addition, an incorrect employer identification number (EIN) for T.I. was used on the vast majority of the returns the defendants prepared and filed.

39. Out of the 124 returns prepared by the defendants that the IRS has examined, on at least 41 occasions the defendants prepared and filed returns on behalf of customers who were

employed and received Form W-2 wages. Employers had withheld taxes on these persons' wages. On each of those occasions, the defendants failed to report either the W-2 wages or the withheld taxes on the customer's return. Instead, the defendants prepared returns that contained false income and expense items on phoney Schedule C's and erroneously claimed the First-Time Homebuyer Credit.

40. In other words, since 2007 the defendants have been preparing and filing federal tax returns that have had no basis in reality.

Examples of Defendants' Misconduct

41. The defendants fabricated an income tax return for Hollywood, Florida, resident Cruz Palacios. Palacios is disabled and unemployed. According to Palacios, she met Webb in early 2009 when Webb was soliciting customers in Palacios's housing complex. Webb told Palacios that she was from T.I. Tax Service and was offering to help people qualify for a loan or apply for a credit offered by the Obama administration. Webb gave Palacios some papers to fill out with personal identification information. Webb made no reference to a tax return.

42. A couple of months later, Webb called Palacios and stated that she had a \$7,800 check for Palacios. When Palacios met with Webb to get the check, which was drawn on Santa Barbara Bank, Webb told Palacios that her fee was half of the check and that she would go with Palacios to cash it. Webb was accompanied by two men at the time. According to Palacios, she felt intimidated by the situation, so she cashed the check and gave \$4,000 to Webb.

43. Without Palacios's permission or knowledge, Webb had prepared a 2008 federal income tax return for Palacios. Except for Palacios's identifying information, everything on the return was incorrect and fabricated by Webb. The return erroneously claimed an \$8,000 First-Time Homebuyer's Credit, a \$348 Recovery Rebate Credit, and a completely false Schedule C

that listed Palacios's business as "Red Barn Catering SE" and falsely reported income of \$12,417 from that purported business. The return prepared by Webb and filed by T.I. Tax Service fraudulently claimed a refund due of \$8,000 (which is now owed by Palacios to the IRS). Webb and the defendants did not provide Palacios with a copy of the return.

44. Robert Stewart and Donna Ondrusko are single individuals who rent a home in Dania, Florida. Neither has purchased a home in the past five years. Stewart and Ondrusko stated in an interview that in early 2009 a man known as "Grady" told them that if they provided their names and social security numbers they could receive an \$8,000 tax refund. Stewart and Ondrusko provided this information but have not heard from "Grady" since. In June 2009 the IRS received 2008 income tax returns for both Stewart and Ondrusko. The returns list Scriven and T.I. Tax Service as the preparer. The returns falsely claimed an \$8,000 First-Time Homebuyer Credit on both returns. The returns claimed that the separate taxpayers (Stewart and Ondrusko) had each purchased the same property. According to the Form 5405 attached to each return, Stewart purchased the property on April 6, 2009, and Ondrusko purchased the property on March 6, 2009.

45. In addition, both Stewart's return and Ondrusko's return contained a Schedule C that claimed completely fabricated income and expense items related to a purported business. Neither Stewart nor Ondrusko owned or operated a business in 2008. Both returns claimed a refund of \$8,000. According to Stewart and Ondrusko, neither person had ever heard of Scriven, Webb, Tamijah International or T.I. Tax Service. Stewart and Ondrusko had not authorized any person or entity to prepare a tax return on their behalf and were unaware that the defendants had done so. Defendants did not provide either Stewart or Ondrusko with a copy of his or her return.

Harm Caused by Defendants' Misconduct

46. The 124 false or fraudulent returns prepared by defendants that have been reviewed by the IRS erroneously claim refunds that total over \$845,000. The IRS has determined tax deficiencies totaling more than \$1 million in its review of those returns. The IRS has yet to identify a return prepared by the defendants that was proper and did not need adjustments.

47. The government has incurred the expense of conducting the investigation of defendants' fraudulent return preparation. The defendants' activities harm the United States because the IRS must devote its limited resources to identifying their customers, ascertaining the customers' correct tax liabilities, recovering any refunds erroneously issued, and collecting any additional taxes and penalties.

48. In reliance on the defendants' services, their 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, or deprived the United States of additional tax revenue owed by the customers.

49. The defendants' fraudulent activities do their customers no favors. The defendants' customers have suffered harm because they paid the defendants exorbitant fees to prepare tax returns that are completely false. Moreover, the false tax returns prepared and submitted by defendants result in the assessment of taxes, interest and penalties against the customers. The customers face large liabilities as a result of the defendants' conduct.

50. In addition to the direct monetary harm caused by preparing false or fraudulent returns, the defendants' activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

COUNT I – Injunction under Code § 7407

51. 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 Code §§ 6694 or 6695, and that injunctive relief is appropriate to prevent the recurrence of the conduct.

52. Code § 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 the tax liability.

53. The defendants continually and repeatedly engaged in conduct subject to penalty under Code § 6694(b) by preparing returns that they know understate the liabilities of their customers. The defendants' misconduct includes preparing returns that they know contain erroneous claims for the First Time Homebuyer Credit and Recovery Rebate Credit, false Schedule C information, and false income and expense items.

54. Code § 6109(a) requires a tax return preparer to include his proper identification number on the returns he prepares. Code § 6695(c) imposes penalties on preparers who fail to furnish the preparer's correct identification number on a return.

55. The defendants engaged in conduct subject to penalty under Code § 6695(c) by failing to include the correct preparer identification number on returns they prepared and filed.

56. Code § 6107(a) requires a preparer to provide a completed copy of the return to each customer. Code § 6695(a) imposes penalties on preparers who fail to provide a copy of a completed return to customers.

57. The defendants engaged in conduct subject to penalty under Code 6695(a) by failing to provide to customers a completed copy of the return they prepared.

58. Injunctive relief is appropriate to prevent this misconduct because, absent an

injunction, the defendants are likely to continue preparing and filing false or fraudulent federal income tax returns of the type described in this complaint, listing improper identification numbers on returns they prepare, and failing to provide customers with a copy of their return.

59. The defendants should be permanently enjoined under Code § 7407 from acting as tax return preparers. Their repeated and continual conduct subject to injunction under Code § 7407 demonstrates that a narrower injunction prohibiting specific misconduct would be insufficient to prevent their interference with the proper administration of the internal revenue laws.

60. The abuses shown on the returns prepared by the defendants are numerous and wide spread. A broad injunction is necessary to ensure that the defendants do not simply change schemes and operate outside the scope of a limited injunction. Indeed, legitimate return preparation has been a nonexistent part of their business.

COUNT II – Injunction under Code § 7408

61. Code § 7408 authorizes courts to enjoin any person from engaging in conduct that is subject to penalty under Code § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

62. Code § 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.

63. The defendants have prepared federal tax returns and related documents for others knowing that the returns and documents improperly claim the First-Time Homebuyer Credit and Recovery Rebate Credit, and contain false income and expense items thus understating the

customers' correct federal tax liability. Their conduct is subject to penalty under Code § 6701.

64. Unless enjoined by the Court, the defendants are likely to continue to prepare tax returns that they know will result in the understatement of tax liability.

65. Accordingly, the defendants should be enjoined under Code § 7408 from engaging in conduct subject to penalty under Code § 6701.

COUNT III – Injunction under Code § 7402

66. Code § 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.” Code § 7402(a).

67. The defendants, through the actions described above, have engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws, and are likely to continue to engage in such conduct unless enjoined.

68. The defendants' conduct is causing irreparable injury to the United States and an injunction under Code § 7402(a) is necessary and appropriate. If the defendants are 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.

69. Unless the defendants are enjoined, 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.

70. In addition to the harm caused by the defendants' preparation of false income tax

returns, the defendants' activities undermine confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

71. Enjoining the defendants is in the public interest because an injunction will stop their illegal conduct and the harm it causes both the United States and their customers.

72. The Court should therefore order injunctive relief under Code § 7402(a).

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

A. The Court find that the defendants have continually and repeatedly engaged in conduct subject to penalty under Code §§ 6694, 6695 and 6701, that injunctive relief is appropriate under Code §§ 7407 and 7408 to prevent recurrence of that conduct, and that injunctive relief limited to prohibiting such conduct would not be sufficient to prevent the defendants' interference with the proper administration of the Internal Revenue Code;

B. The Court find that the defendants have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against them and anyone acting in concert with them is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and Code § 7402(a);

C. The Court enter a permanent injunction prohibiting the defendants, and any entity through which they conduct business and all persons and entities in active concert or participation with them, from directly or indirectly:

- (1) Preparing or filing, or assisting in the preparation or filing of, any federal tax return or other related document and form for any other person or entity;
- (2) Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695 or 6701; and
- (3) Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

D. 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. The Court grant the United States such other and further relief as the Court deems appropriate.

Dated: May 23, 2011.

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