

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

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
TRACY B. BONDS, individually and)	
d/b/a TRACY’S TAX SERVICE)	
)	
Defendant.)	

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, the United States of America, brings this complaint against Tracy B. Bonds, individually and doing business as Tracy’s Tax Service, and states as follows:

Jurisdiction and Venue

1. This suit is brought under 26 U.S.C. §§ 7402, 7407, and 7408 to enjoin Tracy B. Bonds, individually and doing business as Tracy’s Tax Service and anyone in active concert or participation with her, from:

- (a) Engaging in any activity subject to penalty under 26 U.S.C. §§ 6694, 6695, and/or 6701;
- (b) Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws; and
- (c) Engaging in any other activity subject to penalty under the Internal Revenue Code.

2. This action has been requested by the Chief Counsel of the IRS, 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 26 U.S.C. §§ 7401, 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a).
4. Venue is appropriate in this Court under 28 U.S.C. § 1391 because the Defendant resides in Tickfaw, Louisiana, which is within this district. Also, Defendant operates Tracy's Tax Service as a sole proprietorship within this judicial district.

Bonds's Background

5. Tracy B. Bonds prepares federal tax returns as an unenrolled agent. She has registered her preparer tax identification number ("PTIN") as required by IRS regulations.
6. Bonds has been preparing tax returns and has maintained an electronic filing identification number ("EFIN") with the IRS since December 20, 2005.
7. Bonds has received some education regarding the preparation of tax returns. She initially learned to prepare tax returns through on-the-job training with H&R Block and later attended several classes provided by H&R Block. Bonds has also attended an IRS tax forum and has taken several accounting classes offered by Remington College which focused on income tax law.
8. After working for H&R Block from 2003 through 2005, Bonds began operating her own federal tax return-preparation business, Tracy's Tax Service, a sole proprietorship, in either 2006 or 2007. At first Bonds operated Tracy's Tax Service out of her home, but has since relocated her business into office space located at 12528 Highway 422 W, Tickfaw, Louisiana.
9. Bonds is usually the only person who prepares returns for Tracy's Tax Service. However, for three weeks during the 2010 filing season, Bonds hired two employees to aid in the

preparation of returns. Bonds reviewed the returns prepared by those employees before the returns were filed with the IRS.

10. On December 12, 2009, the IRS selected Bonds for an examination as part of the earned income tax credit (“EITC”) Due Diligence Program in order to verify her compliance with the due diligence requirements imposed by the Secretary through regulations with respect to determining eligibility for, or the amount of, the EITC, as required by 26 U.S.C. § 6695(g).
11. The IRS conducted a review of Bond’s customer files as part of the due diligence examination of Bonds on January 11 and 12, 2010.
12. During this review, the IRS found 480 returns for tax year 2008 that were filed by Bonds in 2009, where Bonds failed to comply with the EITC due diligence requirements. Specifically, with respect to these 480 returns, Bonds failed to make and document reasonable inquiries of her customers when the information they provided to her appeared to be incorrect, inconsistent, or incomplete as required by 26 C.F.R. § 1.6695-2(b)(3)(i).
13. Due to Bonds failure to comply with the EITC due diligence requirements, the IRS assessed a \$48,000 penalty against Bonds. On January 13, 2010, Bonds consented to this penalty assessment. She paid the full amount of this penalty on May 24, 2010.
14. Approximately one year later, on January 5, 2011, the IRS conducted a follow-up compliance exam of Bonds.
15. During this follow-up examination, the IRS reviewed Bond’s files for ten (10) customers for whom she prepared a 2009 tax return. Bonds prepared these customers’ returns after

Bonds had been examined and penalized for failure to comply with the EITC due diligence requirements.

16. Despite the prior penalty, all ten (10) returns reviewed for compliance continued to show that Bonds failed to fulfill the due diligence requirements and that she was preparing federal tax returns without making and documenting reasonable inquiries of her customers to ensure that the information furnished to her by her customers was correct, consistent, and complete in order to ensure that her customers were properly entitled to claim the EITC.
17. On July 22, 2011, the United States reviewed Bond's files for thirty (30) customers for whom she had prepared a return for tax year 2010. Bonds prepared these returns between January and April of 2011, more than one year after she had been examined and penalized for failure to comply with the EITC due diligence requirements.
18. This July 22, 2011 review of Bonds' customer files revealed that Bonds remained non-compliant with the due diligence requirements imposed by 26 U.S.C. § 6695(g) because Bonds failed to adequately document that her customers were in fact eligible for the EITC.
19. As a direct result of Bonds's improper return preparation, she has filed returns on behalf of her customers that understate her customers' federal income tax liabilities and/or claim large income tax refunds to which her customers were not entitled.

Overview of the Scheme

20. Bonds continually and repeatedly prepares federal income tax returns for individual taxpayers that claim the EITC without making and documenting reasonable inquiries of her customers in order to verify that her customers are in fact eligible to claim the EITC.
21. The EITC is a refundable tax credit authorized by statute in order to assist certain low-income individuals. Claiming this credit can reduce a taxpayer's federal tax liability below zero, entitling the taxpayer to a refund from the United States Treasury. The requirements for claiming the EITC are such that it is only available to taxpayers who earn income within a designated range. See 26 U.S.C. § 32.
22. The amount of the EITC allowed to a taxpayer depends upon the combination of a taxpayer's earned income, filing status, and number of "qualifying children" for whom the taxpayer is responsible. Because of these variables, there is a certain combination of earned income, filing status, and number of dependents that corresponds to the maximum amount of credit allowed. Thus, there is a clear potential for abuse in claiming the EITC by preparing returns that falsely report that combination of variables which maximizes the allowed credit.
23. In an effort to deter and prevent abusive practices by return preparers who claim the EITC on behalf of their customers, the Secretary of the Treasury has promulgated regulations that require a tax preparer to perform certain due diligence in order to determine whether customers are eligible to claim the EITC. One of these requirements states that:

The tax return preparer must not know, or have reason to know, that any information used by the tax return preparer in determining the taxpayer's eligibility for, or the amount of, the EIC is incorrect. The tax return preparer may not ignore the implications of

information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete. A tax return preparer must make reasonable inquiries if a reasonable and well-informed tax return preparer knowledgeable in the law would conclude that the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete. The tax return preparer must also contemporaneously document in the files the reasonable inquiries made and the responses to these inquiries.

26 C.F.R. § 1.6695-2(b)(3)(i).

24. Because the more “qualifying children” a taxpayer claims (up to three), the larger the EITC available for a particular income range, Bonds’ compliance with the due diligence requirements is paramount. However, Bonds consistently reports multiple “qualifying children” for taxpayers without making and documenting reasonable inquiries of her customers to ensure that the information furnished by her customers is correct, consistent, and complete thus verifying that her customers are properly entitled to claim the EITC.
25. Approximately 20% of the returns prepared by Bonds in 2010 (222 returns) reported a customers’ “qualifying child” as disabled. However, upon review of a sampling of Bonds’ customer files, it was clear that Bonds failed to properly make and document inquires regarding any claimed disability in order to ensure that the relative is in fact an eligible “qualifying child” such that “he or she cannot engage in any substantial gainful activity because of a physical or mental conditions” AND “a doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death”. 26 U.S.C. § 32(c)(3)(A) (which defines a qualifying child as defined in 26 U.S.C. § 152(c), which defines a permanently and totally disabled person pursuant to 26 U.S.C. § 22(e)(3)); I.R.S. Pub. No. 596, Earned Income Credit at p. 14 (2009).

26. In addition, Bonds failed to properly make and document inquiries verifying the relationship of the “qualifying child” to the customer, whether the “qualifying child” was a full time student, and regarding the length of time that “qualifying child” had the same principal place of abode as the customer.
27. Bonds continually and repeatedly prepares customers’ federal income tax returns which claim the EITC without fulfilling the due diligence requirements provided by 26 U.S.C. § 6695(g) and 26 C.F.R. § 1.6695-2.

Examples of Returns Prepared by Bonds for which She Failed to Conduct Due Diligence

Customer A

28. Bonds prepared a federal income tax return for tax year 2010 for Customer A that reported that Customer A had two qualifying children with respect to the EITC: a son and a brother.
29. Bonds did not retain a copy of any identification for either the son or the brother.
30. Because the brother was over 18 years old, in order for him to be a “qualifying child” he must either be a student or be permanently and totally disabled such that he “cannot engage in any substantial gainful activity because of a physical or mental conditions” AND that “a doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death”. 26 U.S.C. § 32(c)(3)(A); I.R.S. Pub. No. 596, Earned Income Credit at p. 14 (2010).
31. Bonds documented that the brother was permanently disabled due to a missing a limb, but Bonds did not inquire further nor document what effect this missing limb had on the brother in order to ensure that he could not engage in any substantial gainful activity.

32. Because Bonds did not confirm that Customer A's brother was in fact disabled within the meaning of 26 U.S.C. § 32(c)(3)(A) and therefore a "qualifying child," Bonds did not perform the due diligence required by 26 U.S.C. § 6695, and thus improperly claimed the EITC.

Customer B

33. Bonds prepared a federal income tax return for tax year 2010 for Customer B that reported that Customer B had three grandchildren that were "qualifying children" without performing the due diligence required to ensure that the grandchildren were in fact qualifying children.
- a. Bonds did not retain copies of any identification for the grandchildren.
 - b. Bonds did not document any inquiries regarding the principal place of abode of the grandchildren.
 - c. Bonds did not document any inquiries regarding the purported disabilities of the two grandchildren (who were both over age 18 and not students during 2010) in order to ensure that they were in fact permanently and totally disabled. See 26 U.S.C. § 32(c)(3)(A) and I.R.S. Pub. No. 596, Earned Income Credit at p. 14 (2010).
34. Because Bonds did not document her inquiries regarding whether Customer B's grandchildren were eligible "qualifying children," Bonds did not perform the due diligence required by 26 U.S.C. § 6695, and thus improperly claimed the EITC.

Customer C

35. Bonds prepared a federal income tax return for tax year 2010 for Customer C that reported that Customer C's two sons were "qualifying children" for purposes of claiming the EITC.
36. Because the sons were both over 18 years old at the end of 2010, in order for them to be "qualifying children," they would both need to have been in school or permanently and totally disabled. See 26 U.S.C. § 32(c)(3)(A) and I.R.S. Pub. No. 596, Earned Income Credit at p. 14 (2009).
37. Bonds reported that both of the sons were in school without making and documenting any inquiries in order to confirm that the sons were in fact full-time students for some part of five months during 2010 as required by the statute. See 26 U.S.C. § 32(c)(3)(A) and I.R.S. Pub. No. 596, Earned Income Credit at p. 14 (2010).
38. Because Bonds did not confirm that Customer C's two sons were in fact full-time students and therefore "qualifying children," Bonds did not perform the due diligence required by 26 U.S.C. § 6695, and thus improperly claimed the EITC.

Customer D

39. Bonds prepared a federal income tax return for tax year 2010 for Customer D that reported that Customer D had one qualifying child for purposes of claiming the EITC: a brother.
40. The brother was over 18 years old by the end of 2010. Therefore, in order for him to be a "qualifying child" he must either have been a full time student or have been permanently and totally disabled. See 26 U.S.C. § 32(c)(3)(A) and I.R.S. Pub. No. 596, Earned Income Credit at p. 14 (2010).

41. Bonds reported that the brother was permanently disabled, but Bonds did not make or document any inquiries regarding the nature of this disability, nor whether this alleged disability rendered him unable to engage in any substantial gainful activity.
42. Because Bonds did not confirm that Customer D's brother was in fact disabled within the meaning of 26 U.S.C. § 32(c)(3)(A) and thus a "qualifying child," Bonds did not perform the due diligence required by 26 U.S.C. § 6695, and thus improperly claimed the EITC.

IRS's Investigation

43. Bonds prepared and filed at least 4,168 federal income tax returns during the 2007 through 2010 tax filing seasons.
44. Of those 4,168 returns, Bonds requested a refund on behalf of her customers on 4,130 returns, which is 99% of the returns Bonds filed.
45. From 2007 through 2010, 3,710 federal income tax returns filed and prepared by Bonds, or 89% of the total amount of returns Bonds prepared, claimed the EITC. The following table illustrates the breakdown of federal income tax returns prepared and filed by Bonds:

Filing Season	Type of Federal Tax Return	Number of Returns Filed	Number of Returns Requesting a Refund	Number of Returns Claiming the EITC	Percentage of Returns Requesting a refund	Percentage of Returns Claiming the EITC
2007	1040	530	529	501	99	94
2008	1040	1023	1009	939	98	91
2009	1040	1507	1498	1376	99	91
2010	1040	1108	1094	894	98	80
Total		4168	4130	3710		

46. Of the 1,108 returns prepared and filed by Bonds during the 2010 filing season, 244, or 22%, claimed a disabled person as a “qualifying child” for purposes of the EITC.
47. According to the IRS, the average return preparer, who prepares more than 20 returns that claim the EITC, only lists a disabled person as a “qualifying child” on 2% of the returns filed.
48. The IRS has conducted an audit of 434 of the federal income tax returns prepared by Bonds. The IRS denied or reduced the EITC claimed in 417 of those audits. These EITC adjustments revealed improperly claimed credits totaling \$1,719,616.
49. Importantly, of those 434 returns audited, 29 of them were prepared and filed after Bonds was penalized for failure to conduct the required due diligence. Of those 29 returns, the IRS denied or reduced the EITC claimed on 24 of those returns, revealing improperly claim credits totaling \$82,765.
50. At this time, the IRS is currently conducting an additional 20 audits on returns that were prepared and filed by Bonds during this tax season for tax year 2010.
51. Despite being penalized by the IRS on January 13, 2010, Bonds continues to prepare federal income tax returns that claim relatives as “qualifying children” for purposes of the EITC on behalf of her clients without conducting the required due diligence to ensure that the EITC is claimed properly.
52. Bonds has repeatedly and continually prepared federal income tax returns that understate her customers’ tax liabilities as a result of her reckless and/or intentional disregard of internal revenue rules and regulations.

Count I:

Injunction Under 26 U.S.C. §§ 7407 and 7408

53. The United States incorporates by reference the allegations in paragraphs 1 through 55.
54. Under 26 U.S.C. § 7407, the United States is authorized to seek an injunction against any tax return preparer who has engaged in any “fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws,” or who has “engaged in any conduct subject to penalty under section 6694 or 6695.”
55. 26 U.S.C. § 6694 provides that a tax return preparer is subject to penalty if he or she prepares a return or claim for refund understating the taxpayer’s liability due to a position for which there is no substantial authority. A return preparer is subject to a larger penalty if the understatement of liability is due to the preparer’s willful attempt to understate the liability or is the result of the reckless or intentional disregard of rules or regulations.
56. 26 U.S.C. § 6695(g) penalizes any tax return preparer who fails to comply with due diligence requirements with respect to determining a taxpayer’s eligibility for, or the amount of, the EITC.
57. Under 26 U.S.C. § 7408, the Court is authorized to enjoin any person from further engaging in conduct subject to penalty under I.R.C. § 6701, if the injunctive relief is appropriate to prevent recurrence of that conduct.
58. 26 U.S.C. § 6701 penalizes any person who prepares, or assists in the preparation of, any federal tax return, refund claim, or other document, knowing or having a reason to believe that it will be used in connection with any material matter arising under the internal

revenue laws, and knowing that if so used it would result in an understatement of another person's tax liability.

59. Bonds has continually and repeatedly prepared tax returns that understate the tax liabilities of her customers because Bonds has improperly claimed the EITC on behalf of her customers.
60. Bonds has understated her customers' correct tax liabilities through her failure to conduct the required due diligence and, therefore, improperly claimed the EITC on behalf of her customers, and engaged in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695(g), and 6701.
61. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, Bonds is likely to continue to prepare false federal income tax returns and engage in the misconduct described in this complaint. Bonds continued to engage in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695(g) and continued to disregard internal revenue rules and regulations even after she was assessed penalties for not conducting the proper "due diligence" and for claiming false earned income tax credits under 26 U.S.C. § 6695(g).
62. Bonds should be permanently enjoined under 26 U.S.C. § 7407 from preparing federal tax returns that claim the EITC for which she has not conducted the required due diligence. She should also be enjoined under 26 U.S.C. § 7408 from further engaging in conduct subject to penalty under 26 U.S.C. § 6701.

Count II:

**Injunction under 26 U.S.C. § 7402 for Unlawful Interference
with the Enforcement of the Internal Revenue Laws**

63. The United States incorporates by reference paragraphs 1 through 65.
64. 26 U.S.C. § 7402(a) authorizes the court to issue an injunction “as may be necessary or appropriate for the enforcement of the internal revenue laws.” The remedies available to the United States under this statute “are in addition to and not exclusive of any and all other remedies.” 26 U.S.C. § 7402(a).
65. Through the actions described above, Bonds has engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws, and she is likely to continue to engage in such conduct unless enjoined.
66. Bonds’s conduct causes irreparable injury to the United States and an injunction under 26 U.S.C. § 7402(a) is necessary and appropriate.
67. Unless Bonds is enjoined, the IRS will have to devote substantial time and resources to examining her customers’ tax returns and liabilities.
68. Unless Bonds is enjoined, the customers relying on Bonds’s federal tax return preparation services may be subject to additional tax liabilities along with interest and penalties as a result of Bonds’s fraudulent tax return preparation.

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

- A. That the Court find that Tracy Bonds has repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695(g), and 6701 and that injunctive relief is appropriate under 26 U.S.C. §§ 7407 and 7408 to bar Bonds from preparing federal tax returns that claim the EITC for which she has not

conducted the required due diligence and from engaging in conduct subject to penalty under 26 U.S.C. § 6701;

- B. That the Court find that Bonds has engaged in conduct that interferes with the enforcement of the internal revenue laws and substantially interferes with the proper administration of the internal revenue laws, and that injunctive relief against her is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. §§ 7407 and 7402(a);
- C. That the Court, under 26 U.S.C. §§ 7402 and 7407, enter a permanent injunction prohibiting Bonds and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her, from directly or indirectly;
- (1) engaging in conduct subject to penalty under 26 U.S.C. § 6694, including preparing federal income tax returns that assert or contain unreasonable positions or positions that willfully or recklessly understate a customer's liability;
 - (2) preparing and filing federal tax returns based on information known or suspected to be fraudulent, such as claiming false dependents, using suspicious or fraudulent W-2s, or reporting income or deductions or losses from sham businesses;
 - (3) preparing or filing, or assisting in the preparation or filing of any federal tax return, or amended return, for any other person or entity that claims the

EITC for which the due diligence required by 26 U.S.C. § 6695 (and the accompanying Treasury regulations) has not been conducted, specifically:

(a) Bonds and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her, must make and document inquiries that ensure that any person reported as a qualifying child is the taxpayer's son, daughter, stepchild, foster child, or a descendant of any of them (for example the taxpayer's grandchild), or is the taxpayer's brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them (for example, the taxpayer's niece or nephew); and

(b) Bonds and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her, must make and document inquiries that ensure that any person reported as a qualifying child is:

1) under 19 years old at the end of the tax year for which the return is being prepared by obtaining a copy of that child's birth certificate or other document which verifies the child's birth date; or

2) younger than the taxpayer and is under 24 years old at the end of the tax year for which the return is being prepared by obtaining a copy of that child's birth certificate

or other document which verifies the child's birth date and was a full-time student for five months during the tax year for which the return is being prepared by obtaining a letter from the school in which the child was enrolled or other documents, such as report cards, from the school which verify that the child was enrolled, or

3) permanently and totally disabled, such that he or she cannot engage in any substantial gainful activity because of a physical or mental condition and a doctor has determined that the condition has lasted or can be expected to last continuously for at least a year or can lead to death, by obtaining documentation from a doctor that verifies the child's disability; and

(c) Bonds and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her, must make and document inquiries that ensure that any person reported as a qualifying child lived with the taxpayer for more than six months during the year for which the return is being prepared; and

(d) Bonds and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her, must make and document inquiries that

ensure that any person reported as a qualifying child cannot file a joint return for the year for which the return is being prepared.

- (4) engaging in any other conduct subject to penalty under 26 U.S.C. §§ 6695 and/or 6701, including preparing any part of a return or claim for refund that includes an understatement due to an unreasonable position or a willful understatement of tax;
- (5) engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws; and
- (6) engaging in any other activity subject to penalty under the Internal Revenue Code.

- D. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring Bonds to display this Court's order for permanent injunction prominently in her place of business such that all current and future customers are aware of the due diligence requirements imposed upon Bonds and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her;
- E. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring Bonds to complete 6 hours of education regarding tax preparation by attending, either in person or on-line, an IRS Tax Forum or a Tax Practitioner Institute class, or some other similar program before December 31, 2011. Bonds must mail to counsel for the United States a sworn statement that she has complied with this requirement and provide the name(s) of the course(s) she attended by January 15, 2012;

- F. That the Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and
- G. That this Court grant the United States such other relief, including costs, as is just and equitable.

Dated: October 5, 2011

Respectfully submitted,

JIM LETTEN
United States Attorney

s/Natalie Sexsmith
NATALIE T. SEXSMITH
NJ Bar#: 037132006
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-2251
Fax: (202) 514-6770
E-mail: Natalie.T.Sexsmith@usdoj.gov