

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs.-

Case no. 2:11-cv-14783

CARLOS BROWN, individually and
doing business as EXPRESS FINANCE
AND PROCESSING SERVICES,

Defendant.

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Plaintiff, United States of America, for its complaint against Carlos Brown, individually and doing business as Express Finance and Processing Services, states as follows:

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.
2. This suit is brought under 26 U.S.C. §§ 7402, 7407, and 7408 to enjoin Carlos Brown, individually and doing business as Express Finance and Processing Services, from the following activities:
 - (a) Preparing or filing, or assisting in, or directing the preparation or filing of any federal tax return, amended return or other federal tax documents or forms for any other person or entity;
 - (b) Engaging in conduct subject to penalty under 26 U.S.C. § 6694;

- (c) Engaging in conduct subject to penalty under 26 U.S.C. § 6701, including preparing and filing tax returns and other documents that understate the tax liabilities of others;
- (d) Preparing his own federal income tax returns with fabricated income-tax withholding and refunds based on amounts shown in Forms 1099-OID issued to his creditors;
- (e) Filing, providing forms for, or otherwise aiding or abetting the filing of frivolous Forms 1040, 1099, and other IRS forms for himself or others, including the notarization or signing of certificates of service or similar documents in connection with the frivolous tax returns;
- (f) Representing anyone other than himself before the Internal Revenue Service;
- (g) Engaging in any other conduct that is subject to penalty under the Internal Revenue Code or that interferes with the proper administration and enforcement of the internal revenue laws.

3. Pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, 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.

Defendant

4. Carlos Brown (“Brown”) resides in Detroit, Michigan, and does business as Express Finance and Processing Services, which has a business address of 28820 Southfield Road, Lathrup Village, Michigan. Venue is thus proper in this Court under 28 U.S.C. § 1391

because Brown resides in this judicial district and the events giving rise to this action occurred in this judicial district.

5. Brown has a masters degrees in accounting and public administration from Western Michigan University. Brown annually completes training courses offered by the Volunteer Income Tax Assistance program and has attended H&R Block training.

6. In 2008 and 2009, Brown, individually and doing business as Express Finance and Processing Services, received compensation in exchange for preparing and filing frivolous documents and fraudulent federal tax returns covering the tax years 2005, 2006, and 2007.

7. Brown identifies himself and/or Express Finance and Processing Services as the “paid preparer” of federal income tax returns by signing the returns and/or using a unique Preparer Tax Identification Number issued to him by the IRS.

Defendant’s Tax-Fraud Scheme

8. Brown prepares federal tax returns for customers on which he grossly overstates his customers’ income and tax withholding and to which he appends frivolous documents in order to fraudulently obtain grossly inflated tax refund checks for his customers.

9. Under the federal tax withholding system, employers must withhold taxes from a taxpayer’s wages. Additionally, a taxpayer may have tax withheld from other sources, such as gambling winnings. Later, when a taxpayer files his or her year-end tax return, the IRS refunds the amount, if any, of withholding in excess of the taxpayer’s tax liability.

10. Brown exploits the tax withholding system by overstating income and withholding amounts by hundreds of thousands of dollars to improperly obtain tax refunds worth hundreds of thousands of dollars for his customers. Brown has also falsely claimed that many of

his customers made hundreds of thousands of dollars in estimated tax payments based on false refunds claimed on previous-year tax returns.

11. The bogus claims that Brown makes on his customers' tax returns are based on a frivolous tax-defier theory called "redemption" or "commercial redemption." Promoters of this theory claim that the United States government maintains for each taxpayer a secret treasury account worth millions of dollars. By sending government officials and banks unsolicited documents and various IRS forms, promoters claim customers can use this nonexistent secret treasury account to satisfy their debts and liabilities, including tax liabilities.

12. In support of the fraudulent refund claims, Brown reports bogus income from Forms 1099-OID on the Schedules B attached to tax returns that he prepares for customers.

13. Original issue discount (OID) income refers to the difference between the price for which a debt instrument is issued and its stated redemption price at maturity. OID income is generally included in a taxpayer's income as it accrues over the term of a debt instrument, regardless if the taxpayer receives payments from the issuer of the debt instrument. OID income is treated like a payment of interest and a party issuing a financial instrument generating OID income must issue a Form 1099-OID.

14. The frivolous federal income tax returns that Brown prepares falsely state that his customer either issued a debt instrument that generated OID income or purchased a debt instrument that generated OID income.

15. The frivolous federal income tax returns that Brown prepares also falsely state that federal income taxes were withheld for the full amount of OID income purportedly received by his customer.

16. The frivolous federal income tax returns that Brown prepares list OID income purportedly received by his customer to or from a creditor of the customer. The federal income tax returns that Brown prepares also report tax withholding for the full amount or near the full amount of the debt. The result of this is a return showing an inflated tax liability for the customer but, because of the purported tax withholdings, a return that also claims a huge false refund.

17. Consequently, Brown's customers fail to file proper federal income tax returns and falsely claim tax refunds to which they are not entitled.

18. The ostensible purpose of Brown's frivolous tax returns is to request fraudulent refunds by accessing a supposed Treasury account.

19. In reality, Brown fraudulently reports that tax was withheld from his customers and then claims refunds based on that false withholding.

20. The returns that Brown submits on behalf of his customers falsely claim that each customer had taxes withheld in an amount nearly as large as the total amount of income reported on fraudulent Forms 1099-OID attached to the tax return and/or the total amount reported on the Schedule B attached to the return from fraudulent Forms 1099-OID. The income amounts listed on the Forms 1099-OID are based on the total amount of debt the customer owes to his/her creditor.

21. Brown's redemption theory is complete fiction and has been rejected by numerous courts. In promoting this fraudulent scheme, Brown has injured his customers, and the United States, by claiming millions of dollars in false withholdings and erroneous refunds.

22. The IRS has identified at least 45 tax returns prepared by Brown for customers in 2008 and 2009 reflecting the bogus “redemption” theory, which fraudulently claim a total of \$13,306,212 in withholdings and \$13,910,399 in refunds. Additionally, these returns falsely claim that Brown’s customers paid a total of \$4,646,941 in estimated tax payments to the IRS. These identified tax returns include Form 1040 federal income tax returns and/or Form 1040X amended federal income tax returns for tax years 2005, 2006, and 2007.

23. For example, Brown prepared a 2007 Form 1040X amended federal tax return for customer Dean Deshon of Wales, Michigan, which fraudulently claimed on the Schedule B attached to the return that Deshon received \$2,662,157 in interest income reported on bogus Forms 1099-OID. Among the false income listed on the Schedule B was \$1,541,509 from Bank of America and \$1,080,252 from First Franklin Financial Corp. The return falsely claimed that, from that purported \$2,662,157 in interest income, all \$2,662,157 was withheld in federal income tax. As a result of the fraudulent tax withholding claims on the Forms 1099-OID and Schedule B, the Brown-prepared return falsely claimed a tax refund for Deshon in the amount of \$1,756,016.

24. Brown also prepared amended tax returns for Dean Deshon and his wife Diane for tax years 2005 and 2006. The Deshons’ amended returns fraudulently claimed on the Schedule B and Forms 1099-OID that \$628,024 and \$136,171 in interest income was received in 2005 and 2006, respectively, and that \$627,720 and \$135,876 of federal income tax was withheld those years. The Deshons’ 2005 and 2006 Brown-prepared tax returns thus falsely claimed tax refunds in the amounts of \$426,125 and \$112,233, respectively. The Deshons’ 2005 and 2006 and Dean Deshon’s 2007 amended tax returns were all prepared on December 4, 2008.

25. Brown also prepared Form 1040 tax returns for customer Debora Blundo, of Roseville, Michigan, for tax years 2005, 2006, and 2007. On Blundo's 2005 tax return, Brown claimed \$80,614.60 in interest income on the Schedule B. This included purported interest income from The Computer Merchant Ltd. in three separately reported amounts of \$104, \$6.45, and \$1.51. Internal Revenue Service records show that in 2005, Blundo received \$104 in wages, not interest or dividends, from Computer Merchant Ltd., and the Form W-2 issued to Blundo from Computer Merchant Ltd. shows that \$6 in Social Security tax and \$1 in Medicaid tax was withheld and paid to the IRS. Similarly, wages, Social Security tax paid, and Medicare tax paid and reported on Forms W-2 issued to Blundo by International Business Machines, Gonzalez Contract Services, Inc., Softad Group LLC, and Custom Business Solutions, Inc. are all improperly claimed as taxable interest income on the Schedule B attached to the Brown-prepared 2005 return. Brown falsely claimed that of the \$80,615 in purported Form 1099-OID income, \$63,533 in federal income tax was withheld, and falsely requested an overpayment of tax in the amount of \$63,533 to be applied to Blundo's 2006 estimated tax.

26. Blundo's 2006 and 2007 tax returns, also prepared by Brown, contain similar false claims of Form 1099-OID income on the Schedule B attached to the returns, including reporting wages, Social Security tax paid, and Medicare tax paid as taxable interest income, false interest income, false federal tax withholdings, and bogus claims for refund. For example, Blundo's 2006 tax return reports \$54,560.23 in bogus interest income and falsely claims that \$54,560 in federal income tax was withheld. The 2006 return also reports the bogus \$63,533 overpayment from the 2005 tax return, and thus falsely reports an overpayment of tax in the amount of \$107,892 to be applied to Blundo's 2007 estimated tax. Blundo's 2007 tax return falsely reports

\$116,666.79 in bogus interest income and falsely claims that \$116,667 in federal income tax was withheld. Blundo's 2007 return reports the bogus \$107,892 overpayment from the 2006 tax return, and thus falsely claims an overpayment of tax in the amount of \$197,781 to be applied to Blundo's 2008 estimated tax. Brown prepared Blundo's 2005, 2006, and 2007 tax returns on December 9, 2008.

27. Brown also prepared a 2005 Form 1040 federal tax return and 2006 and 2007 Forms 1040X amended federal tax returns for customer Milford Angbrandt of Smiths Creek, Michigan, whose occupation is listed as "retired." Brown prepared all three returns on December 24, 2008. On Angbrandt's 2005 tax return, Brown falsely claimed that Angbrandt received \$112,878.34 in taxable interest income. Brown falsely reported that \$112,878 in federal income tax was withheld, and claimed a bogus overpayment of tax in the amount of \$89,412, which Brown requested be applied to Angbrandt's 2006 estimated tax.

28. Angbrandt's 2006 and 2007 amended returns state that they are being amended due to the addition of income from Forms 1099-OID. The Brown-prepared 2006 and 2007 amended returns report false Form 1099-OID income of \$169,429 and \$99,849, respectively, and falsely claim tax withholdings in the amounts of \$463,301 and \$99,849, respectively. On Angbrandt's 2006 return, Brown falsely reported that Angbrandt's adjusted gross income was \$237,739, yet he claimed that Angbrandt had \$463,301 withheld in federal taxes in 2006, more than she even purportedly earned as income. Angbrandt's 2006 return requests a bogus refund in the amount of \$192,507, a figure that has no apparent connection to the bogus withholdings reported, which would have resulted in a larger refund amount, further illustrating that the amounts reported on the return have no basis in fact.

Harm Caused by Brown's Misconduct and Tax-Fraud Scheme

29. Brown prepared and filed at least 45 individual tax returns that fraudulently overstate withholding and claim unwarranted refunds. All but 6 of the refund requests on these fraudulent returns exceed \$100,000, and one return requests a refund exceeding \$1.7 million. The total amount of refunds requested on these 45 returns is over \$13.9 million.

30. The scheme employed by Brown is part of a growing trend among tax defiers nationwide to file frivolous tax returns and other forms with the IRS and courts in an attempt to escape their federal tax obligations and steal from the U.S. Treasury.

31. In reliance on Brown's services, his customers have failed to file proper federal income tax returns, which has either deprived his 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.

32. The government has incurred the expense of conducting the investigation of Brown's fraudulent return preparation and responding to and processing the frivolous documents Brown submitted to the IRS. Fortunately, it appears that the government thus far has been able to prevent the issuance of any erroneous refunds based on Brown's false claims; however, the IRS is not always able to detect and stop fraudulent refund claims.

Count I: Injunction Under 26 U.S.C. § 7407

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

34. Under 26 U.S.C. § 7407, the United States may 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.”

35. If a return preparer’s misconduct is continual or repeated and the court finds that a narrower injunction (i.e. prohibiting specific enumerated conduct) would not be sufficient to prevent the preparer’s interference with the proper administration of federal tax laws, the court may enjoin the person from further acting as a return preparer.

36. Brown, individually and doing business as Express Finance and Processing Services, has continually and repeatedly prepared and filed with the IRS false and frivolous federal income tax returns on behalf of his customers.

37. As a result, Brown has continually and repeatedly engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws.

38. Brown has continually and repeatedly prepared and filed federal tax returns that understate his customers’ tax liabilities as a result of unreasonable and frivolous claims and has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694.

39. Brown has continually and repeatedly prepared and filed federal tax returns that understate customers’ tax liabilities as a result of Brown’s willful attempt to understate his customers’ tax liabilities and his reckless or intentional disregard of internal revenue laws and regulations.

40. Additionally, Brown has continually and repeatedly prepared returns that include fraudulent refund claims.

41. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, Brown is likely to prepare more false and fraudulent federal income tax returns and engage in other misconduct as described in this complaint.

42. Brown should be permanently enjoined under 26 U.S.C. § 7407 from acting as a federal tax return preparer because a more limited injunction would be insufficient to stop him from interfering with the proper administration of the tax laws.

Count II: Injunction Under 26 U.S.C. § 7408

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

44. Under 26 U.S.C. § 7408, a district court may enjoin any person from, inter alia, engaging in conduct subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

45. Section 6701 imposes a penalty on any person who aids or assists in, procures, or advises with respect to, the preparation of any portion of a return, affidavit, claim, or other document, who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and who knows that such portion (if so used) would result in an understatement of the liability for tax of another person.

46. Brown prepared and aided or assisted in the preparation and filing of federal income tax returns and other documents that resulted in the understatement of his customers' tax liabilities.

47. As a result Brown has engaged in conduct subject to penalty under 26 U.S.C. § 6701.

48. Injunctive relief is appropriate to prevent recurrence of Brown's misconduct.

Count III: Injunction Under 26 U.S.C. § 7402

49. The United States incorporates by reference the allegations contained in paragraphs 1 through 48.

50. Under 26 U.S.C. § 7402(a), a court may issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

51. Brown substantially interferes with the enforcement of the internal revenue laws by promoting his "redemption" or "commercial redemption" tax-fraud scheme and filing fraudulent and frivolous federal tax returns and other documents on behalf of his customers.

52. As a result of Brown's misconduct and his fraudulent refund claims, his customers fail to file proper tax returns, and, consequently, may be penalized under 26 U.S.C. § 6676 for up to 20 percent of the excessive and fraudulent refund claim. Additionally, IRS employees have spent taxpayer money investigating Brown's conduct and halting the issuance of erroneous refunds. Moreover, with every fraudulent return filed by Brown's customers claiming a bogus refund, there is a risk that the IRS will erroneously issue a refund.

53. Brown's conduct results in irreparable harm to the United States and to the public for which there is no adequate remedy at law.

54. Brown's conduct interferes with the proper administration of the Internal Revenue Code because it results in frivolous filings with the IRS that hinder the IRS's ability to determine the correct tax liabilities of Brown's customers.

55. Unless enjoined by this Court, Brown will continue to prepare fraudulent tax returns for himself and customers and administer his tax-fraud scheme.

56. The United States is entitled to injunctive relief under 26 U.S.C. § 7402(a) to prevent the recurrence of this misconduct.

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

A. That the Court find that Carlos Brown has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701 and that injunctive relief is appropriate under 26 U.S.C. § 7402, 7407, and 7408 to bar Brown from acting as a tax return preparer and from engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701;

B. That the Court find that Carlos Brown has engaged in conduct that substantially interferes with the enforcement and administration of the internal revenue laws, and that injunctive relief against him is appropriate to prevent the recurrence of that misconduct 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 permanently barring Carlos Brown from acting as federal tax return preparer and from preparing or filing federal tax returns or forms for others, from representing others before the IRS, and from advising anyone concerning federal tax matters;

D. That the Court, under 26 U.S.C. §§ 7402, 7407, and 7408, enter a permanent injunction prohibiting Carlos Brown and his representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with them, from directly or indirectly:

- (1) Preparing or filing, or assisting in, or directing the preparation or filing of any federal tax return or amended return or other related documents or forms for any other person or entity;
- (2) Engaging in activity subject to penalty under 26 U.S.C. § 6694;
- (3) Engaging in conduct subject to penalty under 26 U.S.C. § 6701, including preparing and filing or advising with respect to tax returns and other documents that understate the tax liabilities of others;
- (4) Engaging in any other activity subject to penalty under the Internal Revenue Code;
- (5) Representing anyone other than himself before the Internal Revenue Service; and
- (6) Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;

E. That this Court under 26 U.S.C. § 7402, enter a permanent injunction prohibiting Carlos Brown from preparing his own federal income tax returns that claim fabricated income-tax withholding and refunds based on the “redemption” theory and amounts shown in Forms 1099-OID issued to his creditors;

F. That this Court under 26 U.S.C. § 7402, enter a permanent injunction prohibiting Carlos Brown from filing, providing forms for, or otherwise aiding and abetting the filing of frivolous Forms 1040, Forms 1040X, Forms 1099 or other IRS forms for himself or others;

G. That this Court, under 26 U.S.C. § 7402, enter an injunction requiring Carlos Brown to contact by mail and email all persons for whom he has prepared federal tax returns since 2008 and inform those persons of the Court’s findings concerning the falsity of Brown’s prior representations and provide a copy of the permanent injunction against Brown;

- H. That this Court, under 26 U.S.C. § 7402, order Carlos Brown to provide to the United States a list of all persons for whom he has prepared federal tax returns since 2008;
- I. That this Court allow the government full post-judgment discovery to monitor Carlos Brown's compliance with the injunction; and
- J. That this Court grant the United States such additional relief as the Court deems just and appropriate.

Date: October 31, 2011

Respectfully submitted,

BARBARA L. MCQUADE
United States Attorney

s/ Daniel A. Applegate
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