

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2:11-CV-02764-RRA
)	
LAKEISHA PEARSON)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Before the court is the United States of America's Motion for Entry of Default Judgment and Permanent Injunction against defendant Lakeisha Pearson. Pearson has failed to plead or otherwise defend this action, whereupon the Clerk of Court entered a default against her on September 23, 2011. As a result of her default, the Court deems Pearson to have admitted the well-pleaded allegations in the United States' Complaint and Amended Complaint. Further, an evidentiary hearing was held before Magistrate Judge Robert R. Armstrong, Jr. on December 7, 2011.

At that hearing, the government presented the statement of Richard G. Brown, declared under penalty of perjury, and a witness took the stand and testified on behalf of the government. The government's attorney stated that the government seeks only injunctive relief, not a monetary judgment. The court notes that a transcript of the hearing has been entered into and is a part of the record.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The court finds from the undisputed evidence as follows:

1. This court has jurisdiction over the parties and subject matter of this case.
2. Since 2008, Pearson has operated a sole proprietorship whose principal business is preparing federal income tax returns and has herself prepared federal income tax returns for others.
3. Since 2008, Pearson has repeatedly and continually improperly claimed a credit under 26 U.S.C. § 32, *i.e.*, the Earned Income Tax Credit (“EITC”), on her customers’ returns to generate large and erroneous refunds for her customers.
4. Pearson has used several schemes to fraudulently increase her customers’ EITC claims, including falsely inflating income reported by her customers or improperly claiming an individual as a “qualifying child” on her customers’ returns.
5. Pearson has continually and repeatedly prepared returns for her customers with EITC claims that she knows or should have known were false or inflated.
6. Pearson has continually and repeatedly assisted in the preparation of returns for her customers with EITC claims that she knows or should have known were false or inflated.
7. Pearson has failed to comply with the due diligence requirements imposed by 26 U.S.C. § 6695(g) and Treas. Reg. § 1.6695-2(b)(3) for determining eligibility for, or the amount of, the EITC.

8. Despite the Internal Revenue Service assessing over \$11,000 in penalties against Pearson for failing to comply with the due diligence requirements, Pearson has continued to fail to comply with the due diligence requirements under 26 U.S.C. § 6695(g).

9. Pearson has regularly engaged in conduct subject to penalty under both § 6694(a) and (b).

10. Pearson has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

11. Pearson's actions cause irreparable harm to the United States and to the public by unlawfully understating her customers' tax liabilities and by falsifying or inflating her customers' EITC claims. For the 2007-2010 tax years, Pearson's false returns have cost the United States up to \$8.3 million in erroneous refunds. In addition, the United States has had to expend scarce resources to investigate Pearson.

12. Pearson has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, which is conduct described in § 7407(b)(1)(A), and continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws.

13. Pearson should each be enjoined from acting as a tax return preparer under I.R.C. § 7407. A narrower injunction prohibiting only specific misconduct would be insufficient to prevent Pearson's continued interference with the proper administration of the internal revenue laws.

14. Pearson has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6701, which is conduct described in § 7408©.

15. Pearson will continue to engage in conduct subject to penalty under I.R.C. § 6701 unless enjoined; thus, an injunction under I.R.C. § 7408 is warranted.

16. Pearson will continue to violate the Internal Revenue Code unless she is enjoined from preparing income tax returns for others.

17. Pearson's actions will continue to cause irreparable harm to the United States and to the public by unlawfully understating the tax liabilities of her customers and by preparing returns with false or inflated EITC claims.

18. Monetary penalties are insufficient to prevent Pearson from violating the internal revenue laws when preparing tax returns for others.

19. Monetary penalties are insufficient to compensate the United States for the lost revenue resulting from Pearson's preparation of returns with false or inflated EITC claims.

20. In addition to the injunctive relief available under 26 U.S.C. § 7407, the court is authorized to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws under 26 U.S.C. § 7402.

RECOMMENDATION

It is hereby RECOMMENDED that the following injunctive relief be ordered:

A. That, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her be permanently enjoined from directly or indirectly acting as a federal tax return preparer or otherwise directly or indirectly preparing or filing federal tax returns, amended returns, or other tax forms, including electronically-submitted

tax forms, for others, from representing others before the IRS, and from advising anyone concerning federal tax matters;

B. That, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her be permanently enjoined from directly or indirectly assisting in the preparation of federal tax returns or other tax forms, including electronically-submitted tax forms;

C. That, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408 Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her be enjoined from directly or indirectly engaging in activity subject to penalty under 26 U.S.C. §§ 6694 and 6701, including preparing, advising, or assisting in the preparation of any return or claim for refund, or any part of a return or claim for refund that she knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;

D. That, pursuant to 26 U.S.C. §§ 7402 and 7407, Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her be enjoined from directly or indirectly engaging in activity subject to penalty under 26 U.S.C. § 6695, including failing to supply a list of clients or provide copies of clients' tax returns to the Service on request;

E. That, pursuant to 26 U.S.C. § 7402, Pearson and her representatives, agents, servants, employees, attorneys, independent contractors, and anyone in active concert or participation with her be enjoined from directly or indirectly engaging in conduct that

substantially interferes with the proper administration and enforcement of the internal revenue laws;

F. That, pursuant to 26 U.S.C. § 7402, Pearson, at her own expense, present a copy of this Judgment and Permanent Injunction Order to each person for whom she, or anyone at her direction or employ, prepared federal income tax returns from January 1, 2008, to the present, by sending a copy to each person by US mail or email;

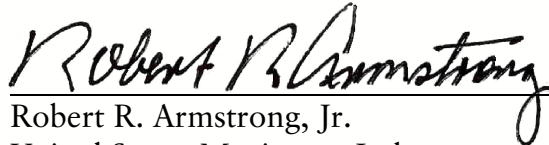
G. That, pursuant to 26 U.S.C. § 7402, Pearson produce to counsel for the United States within 30 days of this Judgment and Permanent Injunction Order (1) a sworn statement evidencing her compliance with the foregoing directives; (2) a list that identifies by name, social security number, address, e-mail address, home telephone number and cellular telephone number and tax period(s) all persons for whom he has prepared federal tax returns or claims for refund since January 1, 2008; and (3) copies of all returns or claims for refund that she prepared, or directed the preparation of, for customers after January 1, 2008; and

H. That, pursuant to 26 U.S.C. § 7402, the United States may monitor Pearson's compliance with this injunction, and may engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure. That the court retain jurisdiction over this matter to implement and enforce this Order and any additional orders necessary and appropriate to the public interest.

Specific written objections to this report and recommendation may be filed by the active parties in this case within fourteen (14) days from the date the report is filed in the office of the Clerk. Failure to file written objections to the proposed findings and recommendations contained in this report and recommendation within fourteen (14) days

from the date it is filed shall bar an aggrieved party from attacking the factual findings on appeal. Written objections shall specifically identify the portions of the proposed findings and recommendation to which objection is made and the specific basis for objection. A copy of the objections must be served upon all other parties to the action.

DONE this 5th day of January, 2012.

A handwritten signature in black ink, reading "Robert R. Armstrong, Jr.", written over a horizontal line.

Robert R. Armstrong, Jr.
United States Magistrate Judge