

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
TONYA L. HUBBARD and)	
UNIVERSAL TAX SERVICE, LLC,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America alleges against Defendants, Tonya L. Hubbard and her tax return preparation business, Universal Tax Service, LLC, as follows:

Authorization

1. The United States brings this suit under sections 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) (“the Code”) to enjoin Defendants, Tonya L. Hubbard (formerly known as Tonya Binion), individually and doing business through any entity, and her tax return preparation business, Universal Tax Service, LLC (“UTS LLC”), or anyone in active concert with Hubbard or UTS LLC from preparing federal tax returns for others, engaging in any activity subject to penalty under 26 U.S.C. §§ 6694, 6695, or 6701, or engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

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 26 U.S.C. §§ 7402, 7407 and 7408.

Jurisdiction and Venue

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 proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this suit occurred in, and are currently taking place in, this judicial district.
5. Defendants are paid tax return preparers in Prince George's County, Maryland, located near Washington, D.C. Tonya Hubbard, resides in Washington, D.C., but owns and operates Universal Tax Service, LLC, in Lanham, Maryland.

Defendants' Fraudulent Return Preparation Activities

Universal Tax Service (Takoma Park, MD)

6. In 2007, Tonya Hubbard began working as a tax return preparer at Universal Tax Service ("UTS"), located on the ground floor of an apartment building at 7333 New Hampshire Avenue in Takoma Park, Maryland.
7. UTS was owned by Hubbard's ex-husband, Marvin Binion, Sr. ("Binion, Sr.").
8. Binion, Sr.'s sons, Marvin II and Marco, also worked at UTS as return preparers.
9. Binion, Sr., has been in the tax return preparation business for over 20 years. Prior to starting UTS, Binion, Sr., owned People's Tax Service in Washington, D.C.
10. Binion Sr., has a long history of preparing and/or directing the preparation of fraudulent tax returns claiming inflated and/or bogus deductions for customers, and hiding his role in the tax

preparation process by not signing the returns as the paid preparer and by not affixing a preparer's tax identification number (PTIN) to the returns he prepares.

11. In August 2007, Binion, Sr., pled guilty in this Court to preparing 13 false federal income tax returns and was sentenced to 38 months in prison.¹ *United States v. Marvin Binion*, Criminal No. PJM-03-0523.
12. Hubbard married Binion, Sr., in December 2007, shortly before he entered prison in February 2008.
13. From February 2008 until April 2009, Hubbard managed the day-to-day operations at UTS where she engaged in and oversaw the wide-scale preparation of fraudulent tax returns during the 2008 and 2009 filing seasons (2007 and 2008 tax years).
14. Since at least 2007, Hubbard has prepared and/or directed the preparation of fraudulent federal income tax returns that claim inflated and/or bogus deductions for charitable contributions (both cash and non-cash), unreimbursed employee business expenses, and other miscellaneous expenses.
15. Hubbard inflates and/or fabricates unreimbursed employee business expense deductions on customers' returns for items like vehicle expenses, transportation expenses, parking, union and professional dues, uniforms and protective clothing, communications, professional subscriptions, and job search costs.

¹Binion, Sr., received an additional sentence of 21 months, to be served consecutively, after being convicted in July 2009 for making false declarations to a federal court. *United States v. Marvin Binion*, Criminal No. DKC-09-160.

16. Hubbard also fabricates miscellaneous expense deductions for items like “attorney and accounting fees” and “investment and advisory fees.”
17. Hubbard’s fraudulent return preparation results in customers understating their true tax liabilities and often receiving unwarranted and/or inflated tax refunds.
18. Hubbard also attempts to hide from the IRS her role in preparing fraudulent tax returns by not signing returns as the paid preparer and by not including her preparer’s tax identification number (PTIN) on returns she prepares.
19. In early 2009, while working at UTS, Hubbard prepared a 2008 federal income tax return for Elise Mico of Alexandria, Virginia. Hubbard did not sign the return as the paid preparer and reported the following bogus deductions: cash charitable contributions of \$3,980, non-cash charitable contributions of \$12,801, miscellaneous unreimbursed employee business expenses of \$10,141, and “investment counsel and advisory fees” of \$4,520. Hubbard did not tell Mico that she reported the charitable contributions, the unreimbursed employee business expenses, or the “investment counsel and advisory fees” on her return. During an audit the IRS disallowed these deductions which resulted in Mico owing \$4,527 in tax, penalties, and interest for 2008.
20. Also while working at UTS, Hubbard prepared 2007 and 2008 federal income tax returns for Santiago and Teresa Torres of Hyattsville, Maryland. The Torreses spoke very little English and relied on Hubbard to prepare accurate tax returns. Hubbard did not sign either return as the paid preparer and fabricated cash charitable contributions of \$4,520 for 2007 and \$4,450 for 2008, non-cash charitable contributions of \$11,673 for 2007 and \$12,066 for 2008. Hubbard also falsified deductions of \$4,550 for “attorney and accounting fees” in 2007 and \$7,000 for

“investment counsel and advisory fees” in 2008. The Torreses did not report these items to Hubbard and did not realize Hubbard had included these items on their returns. After the IRS disallowed these items, the Torreses owed over \$5,000 in tax, penalties, and interest for 2007 and 2008.

21. Also while working at UTS, Hubbard prepared 2007 and 2008 tax returns for Kyeasa Washington of Upper Marlboro, Maryland. Hubbard fabricated unreimbursed employee business expenses for Washington, who worked at a bank and had no business expenses. On Washington’s 2007 return, Hubbard reported bogus deductions of \$835 for union and professional dues, \$678 for subscriptions, \$1,880 for job search costs, \$785 for communications, and \$6,200 for investment counsel and advisory fees. Hubbard also fabricated charitable contributions (cash and non-cash) totaling over \$20,000 for 2007 and over \$13,000 for 2008 (for Washington who reportedly earned \$38,095 in 2007 and \$35,802 in 2008). Washington paid Hubbard \$300 to prepare each return and was required to pay in cash before picking up her completed returns. After the IRS disallowed these deductions, Washington owed over \$10,000 in tax, penalties, and interest for 2007 and 2008.
22. These are just three examples of customers for whom Hubbard prepared fraudulent returns while working at UTS in Takoma Park, Maryland. It is difficult to say how many returns Hubbard prepared while working at UTS because she improperly did not sign the returns she prepared as the paid preparer. Because UTS prepared as many as 100 returns per day during tax season, the number of returns Hubbard herself prepared or directed others to prepare while managing UTS in 2008 and 2009 is substantial.

Universal Tax Service, LLC (Lanham, MD)

23. In May 2009, Hubbard became estranged from Binion, Sr., and his sons. Hubbard closed UTS and opened her own tax return preparation business using the name Universal Tax Service, LLC (“UTS LLC”). UTS LLC operates from the first floor of a small office building on Annapolis Road in Lanham, Maryland.
24. In August 2009, Hubbard sent a letter to UTS customers falsely telling them that the tax preparation business (Binion, Sr.’s business) had merely changed locations. Hubbard did not tell customers that Marvin Binion, Sr., and his sons did not work at UTS LLC. Hubbard divorced Binion, Sr., in early 2010.
25. Hubbard advertises her tax preparation service at UTS LLC mostly through word of mouth. During tax season, Hubbard hires canvassers to hand out flyers at local malls and also advertises through direct mailers, Yellow Page ads, and radio commercials.
26. Hubbard has operated under the name Universal Tax Service, LLC, for the past three years and has employed as many as six return preparers and support staff.
27. Hubbard and a few of her employees speak fluent Spanish, which attracts many customers who speak little English and have little or no knowledge of the complexities of the Internal Revenue Code or of the deductions falsely claimed by Hubbard and her employees on their returns. These customers rely on Hubbard and her employees to prepare accurate tax returns.
28. The typical return preparation process at UTS LLC proceeds as follows: Customers provide the receptionist with their W-2s and other tax forms sent to them by third parties (such as Forms 1099). Some customers provide receipts for charitable contributions or other deductible

expenses, but in most cases the receipts provided do not come close to approximating the amounts that Hubbard and UTS LLC report on the customers' returns.

29. Hubbard or one of her associates reviews the customer's information and prepares a tax return using TurboTax computer software. In many cases, whoever at UTS LLC actually prepares the return does not speak to the customer.
30. Hubbard or one of her preparers then prints the return and leaves the return at the front desk for the customer to retrieve. Customers do not receive the return until they pay the return preparation fee, which for most customers is \$300.
31. Whoever actually prepares the returns at UTS LLC improperly fails to sign the return as the paid preparer or affix his or her preparer identification number (PTIN) to the return.
32. Finally, the return is placed in a postage paid and pre-addressed envelope and customers are instructed to mail the return to the IRS on their own.
33. The entire return preparation process at UTS LLC often lasts less than 15 minutes.
34. UTS LLC generally charges customers \$300 to prepare a tax return. Customers are advised to pay in cash and most do.
35. During tax season (January-April) customers often wait in lines that extend out the door. UTS LLC provides "express service" to customers who pay an additional \$50 to have their returns prepared immediately.
36. Hubbard's compensation is tied directly to the number of returns her firm prepares. Hubbard's motive for preparing and/or encouraging the preparation of fraudulent returns that claim bogus

deductions is her hope that customers who receive large (and in most cases unwarranted) refunds will refer other customers to her business.

37. Because Hubbard and her employees do not sign the returns they prepare as the paid preparers or affix their PTINs to the returns they prepare, the actual number of returns UTS LLC prepares each year is unknown.
38. Hubbard bragged in divorce proceedings about her efforts to grow the business and claimed that UTS LLC prepares between 2,500 and 3,000 returns each year.
39. Since opening UTS LLC in 2009, Hubbard has continued to engage in and oversee the wide-scale preparation of fraudulent tax returns containing inflated and/or bogus deductions for charitable contributions (cash and non-cash), unreimbursed employee business expenses, and other miscellaneous expenses.
40. For example, Tyrone Little of Dumfries, Virginia, paid Hubbard \$400 to prepare his 2009 federal income tax return. Little stopped at UTS LLC on his way home from work (Little worked in Rockville, Maryland, at the time). Little provided a receptionist with only a W-2 and his prior year's tax return (not prepared by Hubbard or UTS LLC). Without even talking to Little, Hubbard prepared Little's 2009 return reporting fabricated unreimbursed employee expenses of \$23,100, attorney and accounting fees of \$4,500, cash charitable contributions of \$11,576, and non-cash charitable contributions of \$475. Hubbard did not sign the return as the paid preparer or affix her PTIN to the return. Little was instructed to sign the return and mail it to the IRS in the stamped and pre-addressed envelope he was provided. Little waited while Hubbard prepared his return and the entire process took less than 20 minutes.

41. Kenneth and Blanca Johnson of Remington, Virginia, had their 2008 and 2009 federal income tax returns prepared at UTS LLC. Hubbard falsified cash charitable contributions of \$4,500 for 2008 and \$6,790 for 2009 and non-cash charitable contributions of \$13,225 for 2008 and \$3,250 for 2009. The Johnsons did not provide charitable contribution information to Hubbard and according to them she fabricated the amounts. After agreeing to the IRS examination results, the Johnsons owed more than \$5,000 in tax, penalties, and interest for 2008 and 2009.
42. Yenis Gutierrez of Alexandria, Virginia, paid \$300 each year to have her 2009 and 2010 federal income tax returns prepared at UTS LLC. Gutierrez was not asked about any charitable contributions she made during those years but Hubbard still reported cash contributions of \$2,915 for 2009 and \$4,150 for 2010. Gutierrez later contacted UTS LLC when she received an audit notice and was told by UTS LLC's office manager, Jose Armando Hernandez, not to worry because the IRS would not actually audit her because her income level was low. The IRS, in fact, did audit Gutierrez, disallowed the bogus deductions, and assessed over \$4,000 in tax, penalties, and interest for 2009 and 2010.
43. The pattern of inflating and/or fabricating deductions for charitable contributions, unreimbursed employee business expenses, and other miscellaneous expenses is widespread throughout returns the IRS has reviewed that are linked to UTS LLC.

Harm Caused

44. Because the IRS does not know exactly how many returns Hubbard and UTS LLC have *actually* prepared in recent years due to their failure to sign each return as the paid preparer and to affix a

PTIN to the returns, it is difficult to estimate the extent of the loss to the government attributable to their conduct.

45. Hubbard has admitted that UTS LLC prepares between 2,500 and 3,000 returns each year.
46. The IRS has determined that returns prepared by Hubbard and/or prepared under her direct supervision have resulted in an average tax deficiency of \$2,900 per return.
47. Assuming that Hubbard prepares and/or supervises the preparation of an average of 2,750 returns each filing season (based on her own estimate that firm prepares between 2,500 and 3,000 returns each year), Defendants' conduct could cause as much as \$8,000,000 in annual losses to the public fisc.
48. Many customers have been harmed by Hubbard and UTS LLC because they pay preparation fees of \$300 for returns that substantially understate their correct tax liabilities, and as a result, many of these customers may now face large tax deficiencies, including sizeable penalties and interest.

Count I - Injunction under 26 U.S.C. § 7407

49. The United States incorporates by reference paragraphs 1 through 48 above.
50. Section 7407 of the Code authorizes a court to enjoin tax return preparers who have engaged in conduct subject to penalty under I.R.C. §§ 6694 or 6695 or who have engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws and injunctive relief is appropriate to prevent the recurrence of the conduct.
51. Treasury Regulations define a return preparer as "any person who prepares for compensation or who employs one or more persons to prepare for compensation, all or a substantial portion of

any return of tax or claim for refund.” Treas. Reg. §301.7701-15. Hubbard and UTS LLC both qualify as return preparers under this definition.

52. Section 6694(b) of the Code 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 tax liability.
53. By preparing tax returns containing false information and/or claiming bogus deductions, Defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694(b) by willfully attempting to understate their customers’ tax liabilities. Defendants have also displayed a reckless and/or intentional disregard of rules and regulations thereby causing their customers to understate their tax liabilities.
54. Defendants, through the activities described above, have also engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws.
55. Section 6695(b) of the Code imposes penalties on a tax return preparer who fails to sign a return or claim for refund.
56. Section 6109(a)(4) of the Code also requires that returns prepared by a tax return preparer bear the return preparer’s tax identification number (PTIN).
57. Section 6695(c) penalizes a return preparer who fails to include his or her preparer tax identification number (PTIN) on returns he or she prepares.

58. Defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6695(b) and 6695(c) by failing to sign the tax returns that they prepare and by failing to include their PTIN on the returns they prepare.
59. Pursuant to 26 U.S.C. § 7407, the Court should permanently enjoin Defendants from preparing federal tax returns for others.
60. Injunctive relief is appropriate because absent an injunction, Defendants will likely continue to violate I.R.C. §§ 6694 and 6695 and to engage in fraudulent or deceptive conduct that interferes with the administration of the internal revenue laws.

Count II - Injunction under 26 U.S.C. § 7408

61. The United States incorporates by reference paragraphs 1 through 60 above.
62. Section 7408 of the Code authorizes courts to enjoin any person from engaging in conduct that is subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.
63. Section 6701(a) of the Code 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.
64. Hubbard and UTS LLC have prepared federal tax returns for others knowing that the returns and documents they prepare improperly claim deductions and thereby understate their customers' correct federal tax liabilities. Their conduct is subject to penalty under 26 U.S.C. § 6701, but penalties alone will not deter their conduct.

65. Unless enjoined by the Court, Defendants are likely to continue preparing tax returns that they know will result in the understatement of tax liabilities.
66. Accordingly, Defendants should be enjoined permanently under 26 U.S.C. § 7408 from engaging in conduct subject to penalty under 26 U.S.C. § 6701 and from preparing federal tax returns for others.

Count III - Injunction under 26 U.S.C. § 7402

67. The United States incorporates by reference paragraphs 1 through 66 above.
68. Section 7402 of the Code 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.” 26 U.S.C. § 7402(a).
69. Hubbard and UTS LLC, through the actions described above, have engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws. Defendants will likely continue to engage in such conduct unless enjoined.
70. Hubbard and UTS LLC are causing irreparable injury to the United States and an injunction under 26 U.S.C. § 7402(a) is necessary and appropriate. If Defendants are not enjoined from preparing tax returns for others, 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.

71. Many customers have been harmed by paying Defendants substantial return preparation fees to prepare tax returns that substantially understate their customers' true tax liabilities. Many customers may now face large income tax deficiencies, including sizeable penalties and interest.
72. Unless Hubbard and UTS LLC are enjoined from preparing federal tax returns, the IRS will have to devote substantial time and resources to identify and locate their customers, and then examine those customers' tax returns. Pursuing all individual customers may be impossible given the IRS's limited resources.
73. Enjoining Hubbard and UTS LLC from preparing tax returns for others is in the public interest because an injunction will stop their illegal conduct and the harm it causes the United States and its citizenry.
74. The Court should therefore order injunctive relief under 26 U.S.C. § 7402(a).

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

- A. That the Court find that Defendants, Tonya L. Hubbard and Universal Tax Service, LLC, have engaged in repeated and continual conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701;
- B. That Defendants have engaged in fraudulent and deceptive conduct that substantially interferes with the administration of internal revenue laws;
- C. That injunctive relief is appropriate under 26 U.S.C. §§ 7407 and 7408 to permanently enjoin Defendants from preparing federal tax returns for others;

- D. That the Court, under 26 U.S.C. §§ 7407, 7408 and 7402(a), enter a permanent injunction prohibiting Defendants from preparing or assisting in the preparation or filing of federal tax returns or other related documents and forms for others;
- E. That the Court find that 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 26 U.S.C. § 7402(a);
- F. That the Court, pursuant to 26 U.S.C. § 7402(a), enter an order requiring Defendants to contact by United States mail (or by e-mail, if a postal address is unknown) all persons for whom they have prepared a federal income tax return since January 1, 2009, to inform them of the Court's findings in this matter and to provide – at their own expense – a copy of any injunction order entered by this Court, and to file with the Court within fifteen days of the date the permanent injunction is entered a certification signed under penalty of perjury that they have done so;
- G. That 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
- H. That the Court grant the United States such other and further relief as the Court deems appropriate.

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Dated: January 31, 2013

Respectfully submitted,

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