

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
NATAKI DAVIS (formerly known as	)	
NATAKI BARNES),	)	
	)	
CLARENCE BARNES, JR., and	)	
	)	
NKB TAX SERVICES, INC.	)	
(a/k/a NKB TAX SERVICES, ETC. and	)	
READY TRANS)	)	
	)	
Defendants.	)	

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**COMPLAINT FOR PERMANENT INJUNCTION**

This is a civil action brought by the United States for a permanent injunction to enjoin defendants Nataki Davis (formerly known as Nataki Barnes), and NKB Tax Services, Inc. (a/k/a NKB Tax Services, Etc. and Ready Trans) from preparing or filing federal income tax returns, amended federal income tax returns and other related documents and forms for others; representing customers before the IRS, advising, assisting, counseling, or instructing anyone about the preparation of a federal tax return; and from interfering with the internal revenue laws. With respect to defendant Clarence Barnes, Jr., the governments seeks a permanent injunction to bar Mr. Barnes from applying for an electronic filing identification number (“EFIN”) or assisting any other individual or entity in the application for or procurement or use of an EFIN to file a federal income tax return.

### **Jurisdiction**

1. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to 26 U.S.C. § 7401.

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.

3. Defendant Nataki Davis (formerly known as Nataki Barnes) resides in Southfield, Michigan within the jurisdiction of this Court.

4. Defendant Clarence Barnes resides in Detroit, Michigan within the jurisdiction of this Court.

5. NKB Tax Services, Inc. (a/k/a NKB Tax Services, Etc. and Ready Trans) [hereinafter “NKB Tax Services”] provides income tax return preparation services from a location in Southfield, Michigan within the jurisdiction of this Court.

### **Facts**

6. Ms. Davis prepares or assists in the preparation of federal income tax returns for other people for compensation.

7. Ms. Davis operates NKB Tax Services which provides income tax return-preparation services. She is the only individual employed by NKB Tax Services who prepares federal income tax returns.

8. As of November 14, 2012, the Internal Revenue Service (“IRS”) has determined that Ms. Davis prepared approximately 1,597 tax returns for processing years 2010 through 2012 which includes tax years 2009 through 2011.

9. As of November 14, 2012, the IRS has closed examinations on 52 of those 1,597 tax returns prepared by Ms. Davis and 48, or 92%, of those returns that were examined resulted in additional tax assessments.

10. Many of the returns that Ms. Davis prepared for customers contained false deductions and credits, including inflation of itemized deductions reported on Schedule A such as charitable contributions, mortgage interest and/or real estate and personal property taxes paid; false education credits, Residential Energy Credits, and deductions for penalties on early withdrawal of savings; and manipulation of taxpayer data for the purposes of claiming the Earned Income Tax Credit (“EITC”) for which the taxpayers would otherwise be ineligible.

11. Despite being advised in 2009 that she was under investigation by the Criminal Investigation Division (“CID”) of the IRS, Ms. Davis continued to prepare income tax returns claiming false deductions and false credits.

12. The IRS conducted site visits to NKB Tax Services during 2009 and 2010 to verify Ms. Davis’s due diligence with respect to determining a taxpayer’s eligibility for the EITC as provided by 26 U.S.C. § 6695(g).

13. During the 2009 site visit, the IRS sampled 26 tax returns which claimed the EITC for the 2008 tax year. At the conclusion of the site visit, the ITS determined that 16 of those 26 tax returns prepared by Ms. Davis failed the due diligence requirements prescribed by 26 U.S.C. § 6695(g) and assessed penalties totaling \$1,600.

14. During the 2010 site visit, the IRS reviewed 77 tax returns prepared by Ms. Davis and found 72 violations of the due diligence requirements provide by 26 U.S.C. § 6695(g) and assessed penalties totaling \$7,200.

15. Although Ms. Davis agreed to the IRS's finding and assessments of penalties, to date she has failed to fully pay the assessed penalties.

16. On December 7, 2006, the IRS assigned Ms. Davis an EFIN which enabled her to electronically file her customers' returns with the IRS.

17. This EFIN ending in 3889 was suspended by the IRS on May 28, 2009, as a result of civil penalties that were assessed by the IRS against Ms. Davis due to irregularities found by the IRS during examinations of her personal tax returns for the 2006 and 2007 tax years.

18. In addition, Ms. Davis was interviewed by an IRS employee in 2012 where she admitted that she understated the amount of her 2010 receipts from her tax preparation business on her 2010 Form 1040.

19. On June 17, 2009, the IRS received Ms. Davis' appeal from its decision to revoke her EFIN but her appeal was denied after a final review by the IRS on March 9, 2010.

20. On July 15, 2009, Ms. Davis's brother, defendant Clarence L. Barnes, applied for and was issued an EFIN ending in 2040 by the IRS.

21. Ms. Davis has since used that EFIN to electronically file income tax returns that she prepares for customers.

22. The IRS suspended this EFIN on April 23, 2012, because Ms Davis was using Mr. Barnes' EFIN to process returns electronically while she was currently suspended from the E-File program.

23. The Defendants' actions cause harm to the United States and to the public.

24. The IRS has issued erroneous refunds based on fraudulent returns prepared by Ms. Davis and has then had to audit Ms. Davis' customers and take collection action to attempt to recoup the money.

25. The IRS has spent considerable time and resources auditing returns prepared by Ms. Davis and collecting the taxes owed and erroneous refunds paid. The IRS has incurred a current tax harm in excess of \$206,000 on the 52 income tax returns referenced in paragraph 9 of this Complaint and has spent approximately 884 hours examining those returns. This does not include the time the IRS has spent collecting the taxes owed from Ms. Davis' customers, some amounts which may be uncollectible.

26. Ms. Davis has also harmed her customers because they pay her to prepare these returns, and, after the fraud is detected, are responsible for paying all taxes, interest, and penalties.

27. Mr. Barnes has also harmed the government and Ms. Davis' customers by procuring an EFIN which allowed Ms. Davis' to continue to electronically file her customers' tax returns after her electronic filing privileges were suspended by the IRS.

28. Mr. Barnes has violated the internal revenue laws by failing to adequately monitor the usage of his assigned EFIN and allowing a suspended e-filer to use that EFIN to electronically file federal income tax returns.

**Count I:**  
**Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701**

29. The United States incorporates by reference the allegations in paragraphs 1 through 28.

30. A court is authorized to issue an injunction if an income tax preparer engages in conduct subject to penalty under 26 U.S.C. § 6701, pursuant to 26 U.S.C. § 7408.

31. Section 6701 penalizes any person (1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; (2) 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 (3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person.

32. Ms. Davis and NKB Tax Services prepare or assist in the preparation of federal income tax returns for their customers.

33. Ms. Davis knows or has reason to believe that these income tax returns will be filed with the IRS and thus will be used in connection with a material matter arising under the internal revenue laws.

34. Ms. Davis knows that the federal tax returns she prepares will result in understatements of other persons' tax liabilities.

35. If Ms. Davis is not enjoined, she is likely to continue to engage in conduct which violates § 6701.

**Count II:**

**Injunction under 26 U.S.C. § 7407 for Violation of 26 U.S.C. §§ 6694 and 6695**

36. The United States incorporates by reference the allegations in paragraphs 1 through 35.

37. A court is authorized to issue an injunction if an income tax return preparer engages in conduct subject to penalty under 26 U.S.C. § 6694 or § 6695, pursuant to 26 U.S.C. § 7407.

38. Section 6694(a) penalizes a tax return preparer if (1) the preparer prepares a return or claim for refund that includes an understatement of liability due to a position for which there is not a realistic possibility of being sustained on the merits; (2) the preparer knew (or reasonably should have known) of such position; and (3) the position was not disclosed in accordance with § 6662(d)(2)(B)(ii) or was frivolous.

39. Section 6694(b) penalizes a tax return preparer who prepares a return or claim with an understatement of liability (1) in a willful attempt to understate the liability or (2) with a reckless and intentional disregard of rules or regulations.

40. Section 6695(g) penalizes a tax return preparer who fails to comply with due diligence requirements for determining a taxpayer's eligibility for and the amount of the EITC.

41. Ms. Davis's conduct as described above is subject to penalty under §§ 6694(a), 6694(b) and 6695(g).

42. The IRS has assessed penalties against Ms. Davis pursuant to 26 U.S.C. § 6695(g) which she has failed to pay in full.

43. Ms. Davis has prepared income tax returns that include understatements of her customers' liability which had no realistic possibility of being sustained on the merits; Ms. Davis

knew or reasonably should have known about these understatements; Ms. Davis did not disclose them in accordance with 26 U.S.C. § 6662(d)(2)(B)(ii); and such understatements are frivolous. Ms. Davis has thus engaged in conduct subject to penalty under § 6694(a).

44. Ms. Davis prepares returns for customers with false entries in a willful attempt to understate the customers' liability or with a reckless and intentional disregard of rules and regulations. Ms. Davis has thus engaged in conduct subject to penalty under § 6694(b).

45. Ms. Davis has continually and repeatedly engaged in conduct that violates §§ 6694 and 6695. An injunction merely prohibiting Ms. Davis from engaging in conduct subject to penalty under §§ 6694 and 6695 would not be sufficient to prevent her interference with the proper administration of the tax laws. Accordingly, Ms. Davis should be permanently enjoined from acting as an income tax return preparer.

**Count IV:  
Injunction under I.R.C. § 7402(a) for Unlawful Interference  
with Enforcement of the Internal Revenue Laws  
and Appropriateness of Injunctive Relief**

46. The United States incorporates by reference the allegations in paragraphs 1 through 45.

47. A court is authorized to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws, pursuant to 26 U.S.C. § 7402(a).

48. Section § 7402(a) expressly provides that its injunction remedy is "in addition to and not exclusive of" other remedies for enforcing the internal revenue laws.

49. Defendants, through the actions described above, have engaged in conduct that interferes substantially with the enforcement of the internal revenue laws.

50. Defendants' conduct causes irreparable harm to the United States and to the customers of Ms. Davis and NKB Tax Services.

51. Defendants are causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

52. If Defendants are not enjoined, they are likely to continue to engage in conduct that interferes with the enforcement of the internal revenue laws.

53. The United States will suffer irreparable injury if Defendants are not enjoined. This outweighs the harm to the Defendants from being enjoined from return-preparation and violating tax laws.

54. The public interest would be advanced by enjoining the Defendants because an injunction will stop their illegal conduct and the harm that conduct is causing to the United States Treasury.

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

A. That the Court find that Ms. Davis has engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

B. That this Court, pursuant to 26 U.S.C. § 7408, enter a permanent injunction prohibiting Ms. Davis, individually and doing business as NKB Tax Services, or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with her, from directly or indirectly:

1. Engaging in activity subject to penalty under 26 U.S.C. § 6701, including aiding or assisting in, procuring, or advising with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document;

knowing (or having reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and knowing that such portion (if so used) would result in an understatement of the liability for tax of another person; and

2. Engaging in any other activity subject to penalty under 26 U.S.C. § 6701 or any other provisions of the Internal Revenue Code.

C. That the Court find that Ms. Davis has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that, pursuant to 26 U.S.C. § 7407, an injunction prohibiting such conduct would not be sufficient to prevent Ms. Davis's interference with the proper administration of the tax laws and that Ms. Davis should be enjoined from acting as an income tax return preparer;

D. That this Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Ms. Davis, individually and doing business as NKB Tax Services, or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and all persons in active concert or participation with her, from directly or indirectly acting as a federal income tax return preparer;

E. That the Court find that Defendants are interfering with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a) and the Court's inherent equity powers;

F. That this Court, pursuant to 26 U.S.C. § 7402(a), enter a permanent injunction prohibiting Ms. Davis, individually and doing business as NKB Tax Services, or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with her, from directly or indirectly:

1. Preparing or assisting in the preparation of any federal tax return with the exception of her own personal tax return;
2. Advising, counseling, or instructing anyone about the preparation of a federal tax return;
3. Filing or assisting in the filing of a federal income tax return for any other person;
4. Owning, managing, controlling, working for, or volunteering for a tax-return-preparation business;
5. Representing customers in connection with any matter before the IRS; and
6. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

G. That this Court, pursuant to 26 U.S.C. § 7402(a) enter a permanent injunction preventing Mr. Barnes from applying for an EFIN or assisting any other individual or entity in the application for or procurement or use of an EFIN to file a federal income tax return;

H. That this Court, pursuant to 26 U.S.C. § 7402(a), require Ms. Davis at her own expense to contact by mail all customers for whom she has prepared federal tax returns or assisted in preparing tax returns since January 1, 2008, and send them a copy of this Complaint and the permanent injunction order, and to certify to the Court within eleven days of entry of the permanent injunction that she has complied with this provision;

I. That this Court require Ms. Davis to provide the United States with a list of everyone for whom she has prepared (or helped to prepare) a federal tax return for the tax years 2007-2011 and set forth on said list all of the names, addresses, e-mail addresses, telephone numbers, and social security numbers of the customers.

J. That this Court permit the United States to conduct post-judgment discovery to ensure Defendants' compliance with the permanent injunction; and

K. That this Court grant the United States such other relief, including costs, as is just and equitable.

KATHRYN KENEALLY  
Assistant Attorney General  
U.S. Department of Justice, Tax Division

*/s/ Lisa L. Bellamy*

LISA L. BELLAMY  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 55, Ben Franklin Station  
Washington, DC 20044  
Telephone: (202) 307-6416  
Facsimile: (202) 514-5238  
E-Mail: Lisa.L.Bellamy@usdoj.gov