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IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

MICHAEL I. TURNER,)

Defendant.)

Civil No. '13CV1827 DMS NLS

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
RELIEF**

The United States of America, alleges against Defendant Michael I. Turner,
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.) (“the Code”) to enjoin Michael I. Turner (“Turner”) individually and doing business as any entity, and anyone in active concert with him, from preparing federal tax returns for

1 others, engaging in any activity subject to penalty under 26 U.S.C.
2 §§ 6694, 6695, or 6701, or engaging in conduct that substantially
3 interferes with the proper administration and enforcement of the internal
4 revenue laws.

- 5 2. This action has been requested by a delegate of the Secretary of the
6 Treasury, and commenced at the direction of a delegate of the Attorney
7 General of the United States, pursuant to the provisions of 26 U.S.C.
8 §§ 7402, 7407 and 7408.

9 **Jurisdiction and Venue**

- 10 3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345
11 and 26 U.S.C. § 7402(a).
12 4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because
13 a substantial part of the events giving rise to this suit occurred/occur in
14 this judicial district.

15 **Background**

- 16 5. Turner prepares federal income tax returns for others out of his home at
17 6808 Rockglen Avenue in San Diego, California.
18 6. Turner is not an attorney, CPA, or enrolled agent.
19 7. Turner has prepared federal income taxes since at least 2004, often
20 without signing or affixing a Preparer Tax Identification Number
21 (“PTIN”) to those returns, in order to avoid detection as the return
22 preparer. Tax return preparers are required to affix PTINs to the tax
23 returns that they prepare. 26 U.S.C. § 6109(a)(4.)
24 8. Turner has told customers that he was “not licensed” to prepare federal
25 tax returns.
26 9. Typically, in the first year that Turner prepares a customer’s return,
27 Turner prepares the federal income tax return after a brief meeting with
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1 the customer, usually in Turner's kitchen.

2 10. In subsequent years, many customers do not meet face-to-face with
3 Turner. His customers report dropping off or mailing their documents to
4 Turner, and collecting the completed return at a later date.

5 11. When the customer collects the return, the customer pays for the
6 preparation of the return, in amounts between \$150 and \$250, in addition
7 to providing Turner with a "tip," often at Turner's suggestion.

8 12. Customers have paid Turner as much as \$50 as an additional "tip" in
9 cash, gift cards, or other items.

10 13. In order to expand his customer base and increase his profits, Turner
11 engages in a tax-fraud scheme wherein he inflates or fabricates
12 deductions in order to get larger refunds for his customers. His
13 customers, in turn, recommend Turner as a tax preparer to their friends
14 and co-workers.

15 14. As a matter of course, Turner prepares federal income tax returns
16 claiming non-cash charitable contributions in inflated amounts on
17 Schedule A of the Form 1040.

18 15. Turner also routinely claims inflated or fabricated amounts of
19 unreimbursed employee expenses on his customers' federal income tax
20 returns.

21 16. When Turner's customers are audited by the IRS, Turner instructs his
22 customers to delay or otherwise not cooperate in the audit process.

23 17. Turner does not represent his customers before the IRS, and has
24 instructed customers who are audited not to mention his name.

25 18. Turner has, however, provided fabricated documents to his customers in
26 an attempt to substantiate charitable contributions and unreimbursed
27 employee expenses during the audit process.

1 19. Turner has also instructed customers on how to create fabricated
2 documents in an attempt to substantiate improper and/or overstated
3 deductions on their federal tax returns.

4 20. Turner has offered to provide receipts for charitable donations to
5 customers under examination.

6 **Customers B.T. and A.T.**

7 21. Turner prepared the federal income tax returns for B. Thomas (“B.T.”)
8 and A. Thomas (“A.T.”) for the 2008, 2009, and 2010 tax years.

9 22. Turner did not sign the federal income tax returns that he prepared for
10 B.T. and A.T. for the 2008, 2009, and 2010 tax years.

11 23. Turner told B.T. that he was “not licensed” to prepare federal tax returns.

12 24. B.T. paid \$150-\$175 in order to have her tax returns prepared for each of
13 the 2008, 2009, and 2010 tax years.

14 25. Turner told B.T., “I take tips,” and so, on at least one occasion, B.T. gave
15 Turner a Starbucks gift card in the amount of \$25.00.

16 26. Turner claimed non cash charitable contributions of \$8,562 on Schedule
17 A of B.T. and A.T.’s 2009 federal income tax return.

18 27. B.T. called Turner when she received notice from the IRS that federal
19 income tax returns had been selected for examination.

20 28. Turner told B.T. not to identify him as the tax return preparer in
21 communications with the IRS.

22 29. Turner provided B.T. with spreadsheets for use in the audit related to
23 non-cash charitable contributions. The spreadsheets contained false
24 statements, purporting to be lists of items and their purported value.

25 30. Turner instructed B.T. to rewrite the spreadsheets in her own handwriting
26 for presentation to the IRS.

27 31. One of the typed sheets provided by Turner includes a listing for a
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1 “Mahogany Wardrobe” with a basis of \$380 and a fair market value of
2 \$200, although B.T. does not recall donating a mahogany wardrobe.

3 32. Another typed sheet provided by Turner bearing a donation date of July
4 18, 2009 includes a listing for a “Nautilus Treadmill/Walker” with a basis
5 of \$408.50 and a fair market value of \$215.00 as well as an entry for “3
6 Mexican Blankets (Twin bed size)” with a basis of \$85.50 and a fair
7 market value of \$45.00.

8 **Customers E.P. and L.P.**

9 33. Turner prepared, but did not sign, federal income tax returns for E.
10 Pinedo (“E.P.”) and L. Pinedo (“L.P.”) for the 2008, 2009, and 2010 tax
11 years.

12 34. Turner claimed non cash charitable contributions of \$6,045 on E.P. and
13 L.P.’s 2010 federal income tax return.

14 35. During the IRS examination of E.P. and L.P., the Internal Revenue
15 Service received a typed sheet detailing items purportedly donated by
16 E.P. and L.P. to a Disabled American Veterans Thrift Store.

17 36. The typed sheet includes a listing for a “Nautilus Treadmill/Walker” with
18 a basis of \$408.50 and a fair market value of \$215.00, as well as an entry
19 for “3 Mexican Blankets (Twin bed size)” with a basis of \$85.50 and a
20 fair market value of \$45.00. These two entries are identical to two of the
21 entries on the typed sheet Turner provided to customer B.T., described
22 above in paragraph 32.

23 **Customer D.K.**

24 37. Turner prepared, but did not sign, the federal income tax returns for
25 customer D. Kummer (“D.K.”) for the 2008, 2009, and 2010 tax years.

26 38. D.K. was introduced to Turner by a friend.

27 39. D.K. provided Turner with his W-2 form, a mortgage interest statement,
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1 and documentation of his and his children's social security numbers.

2 40. D.K. paid Turner approximately \$200 for the preparation of his federal
3 income tax returns each year.

4 41. D.K. was employed as a waiter at a hotel in the 2008 and 2009 tax years
5 and told Turner that he was employed as a waiter during those years.
6 Turner prepared D.K.'s tax return and wrote in the occupation line
7 "marketing." Turner did not review the return with D.K.

8 42. D.K. did not incur any unreimbursed employee expenses in his work as a
9 waiter in 2008 and 2009.

10 43. Turner claimed unreimbursed employee expenses on Schedule A of
11 D.K.'s 2008 federal income tax return in the amount of \$10,184.00.

12 44. Turner claimed unreimbursed employee expenses on Schedule A of
13 D.K.'s 2009 return, in the amount of \$8,319.00.

14 45. When D.K. was audited, he contacted Turner and asked him to
15 accompany him to the IRS, but Turner refused.

16 **Customers J.D. and G.D.**

17 46. Turner prepared federal income tax returns for J. Diaz ("J.D.") and G.
18 Diaz ("G.D.") for many years, and most recently, for the tax years
19 between 2008 through 2010.

20 47. Turner did not sign the federal income tax returns that he prepared for
21 J.D. and G.D. for tax years 2008, 2009, and 2010.

22 48. In 2011, J.D. paid Turner \$500 for the preparation of his 2010 federal
23 income tax return, and the federal income tax return of his wife, G.D.

24 49. Turner prepared J.D.'s federal tax return claiming "single" status and his
25 wife's return as "head of household" in an attempt to cause J.D. and G.D.
26 to receive larger refunds from the IRS.

27 50. When J.D. learned that the IRS was examining his federal income tax
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1 return, Turner advised J.D. to call the IRS after hours.

2 51. Turner provided G.D. with an “audit checklist” to assist her in justifying
3 the amounts on her federal tax returns.

4 52. In this audit checklist, Turner advised G.D. to tell the auditor that the
5 returns were “self-prepared.”

6 53. Turner provided G.D. with price sheets containing false statements to
7 substantiate deductions for non-cash contributions. These price sheets
8 included a list of items and their fair market value.

9 54. Based on the price sheets that he prepared, Turner advised G.D. to
10 prepare two price sheets, and stated: “Highly recommend the two price
11 sheets be hand-written (adds authenticity to the sheets) and feel free to
12 change the format/style as long as the bottom line total price remains the
13 same.”

14 **Customer A.W.**

15 55. Turner prepared, but did not sign, the federal income tax returns for A.
16 Weismann (“A.W.”) for the 2008 and 2009 tax years.

17 56. When A.W. asked Turner why he didn’t sign the federal income tax
18 returns that he prepared, Turner told A.W. that he did not sign the returns
19 so that he would not have to pay taxes on the money that he earned
20 through tax return preparation.

21 57. Turner prepared A.W.’s federal income tax returns in Turner’s home.

22 58. Turner did not review the return with A.W., other than to point out the
23 amount of the refund, and instructed A.W. to mail the tax return to the
24 IRS.

25 59. A.W. was employed as a police officer in the 2008 and 2009 tax years.

26 60. Turner claimed inflated amounts of unreimbursed employee business
27 expenses on Schedule A of A.W.’s return in the amount of \$19,804 for
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1 the 2008 tax year, and in the amount of \$40,766.00 for the 2009 tax year.

2 61. When A.W. informed Turner that the IRS was examining his federal
3 income tax returns, Turner told A.W. “I have donation receipts to support
4 your audit.” A.W. did not provide any receipts from Turner to the IRS.

5 **Turner Continues to Prepare Federal Income Tax Returns**

6 62. Turner applied for a PTIN on August 16, 2010, and Turner so far has used
7 that PTIN to prepare at least 68 federal income tax returns for the 2012 tax
8 year.

9 63. As someone who files more than 11 federal income tax returns per year,
10 Turner is required to file federal income tax returns electronically by
11 using an Electronic Filing ID Number, (“EFIN.”)

12 64. Although Turner has applied for an EFIN, the IRS has not issued an EFIN
13 to Turner.

14 65. Many of the federal income tax returns that Turner has filed for the 2012
15 tax year include a Form 8948, “Preparer Explanation for Not Filing
16 Electronically.”

17 66. On the Forms 8948 that Turner completes, Turner checks off a box that
18 states “Taxpayer chose to file this return on paper.”

19 **Harm to the United States and the Public**

20 67. Turner’s preparation of fraudulent tax returns claiming inflated and/or
21 bogus deductions improperly lowers his customers’ reported tax
22 liabilities, resulting in customers receiving substantially larger refunds
23 than what they are entitled to receive or receiving refunds when they
24 actually owe tax to the U.S. Treasury.

25 68. Turner’s fraudulent return preparation business has been very profitable
26 for Turner, but at the expense of the public fisc. Since Turner has charged
27 \$150 to \$250 for each federal income tax return that he prepares, and
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1 expects that his customers provide him with a“tip” in addition to his fee,
2 he is unlikely to stop preparing federal income tax returns unless this
3 Court enjoins him from doing so.

4 69. Turner attracts his clients through word of mouth. Therefore, Defendant’s
5 motive for inflating and/or fabricating deductions is to attract customers
6 through referrals from customers who receive large, unwarranted refunds.

7 70. Because Turner does not always sign the federal income tax returns that
8 he prepares, the IRS is unable to readily identify returns that he prepares
9 that may contain improper deductions.

10 71. In an effort to conceal his role in the fraud, Turner instructs his customers
11 not to identify him as their preparer if the IRS contacts them.

12 72. The public is harmed because Turner’s customers file tax returns claiming
13 false deductions and, as a result, lower amounts of tax are remitted to the
14 IRS.

15 73. Turner’s customers also suffer harm because they pay him return
16 preparation fees of \$150 to \$250 per return, plus tip, and rely on Turner to
17 prepare proper tax returns. Instead, Turner prepares returns that
18 substantially understate each customer’s true tax liability. As a result,
19 many customers later face large income tax deficiencies, including
20 sizeable penalties and interest.

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

22 74. The United States incorporates by reference paragraphs 1 through 73
23 above.

24 75. Section 7407 of the Code authorizes a court to enjoin a tax return preparer
25 who has engaged in conduct subject to penalty under §§ 6694 or 6695 if
26 injunctive relief is appropriate to prevent the recurrence of the conduct.

27 76. Treasury Regulations define a return preparer as “any person who
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1 prepares for compensation or who employs one or more persons to
2 prepare for compensation, all or a substantial portion of any return of tax
3 or claim for refund.” 26 C.F.R. §301.7701-15. Turner qualifies as a return
4 preparer under this definition.

5 77. Section 6694(a) of the Code imposes penalties on a tax return preparer
6 who prepares “any return or claim of refund with respect to which any
7 part of an understatement of liability is due to” an unreasonable position
8 and “knew (or reasonably should have known) of the position.”

9 78. By preparing federal income tax returns containing false and/or overstated
10 information regarding filing status, occupation, and/or deductions, Turner
11 continually and repeatedly engages in conduct subject to penalty under §
12 6694(a) by taking unreasonable positions on federal tax returns that he
13 knew or reasonably should have known were not supported by substantial
14 authority.

15 79. Section 6694(b) of the Code imposes penalties on a tax return preparer
16 who willfully attempts to understate the tax liability of another person or
17 whose reckless or intentional disregard of rules and regulations results in
18 the understatement of tax liability.

19 80. By preparing tax returns containing false information and/or claiming
20 bogus or overstated deductions, Turner continually and repeatedly
21 engages in conduct subject to penalty under § 6694(b) by willfully
22 attempting to understate his customers’ tax liabilities. Turner also displays
23 a reckless and/or intentional disregard of rules and regulations thereby
24 causing his customers to understate their tax liabilities.

25 81. Section 6695(b) of the Code imposes penalties on a tax return preparer
26 who fails to sign a return or claim for refund. Turner has continually and
27 repeatedly engaged in conduct subject to penalty by failing to sign the
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1 federal income tax returns that he prepares, and is subject to penalty under
2 § 6695(b).

3 82. Section 6109(a)(4) of the Code also requires that returns prepared by a tax
4 return preparer bear the return preparer's tax identification number
5 (PTIN). Section 6695(c) of the Code penalizes a return preparer who fails
6 to include his or her preparer tax identification number (PTIN) on returns
7 he or she prepares.

8 83. Turner has continually and repeatedly engaged in conduct subject to
9 penalty under § 6695(c) by failing to include a PTIN on the federal
10 income tax returns that he prepares.

11 84. Pursuant to 26 U.S.C. § 7407, the Court should permanently enjoin Turner
12 from acting as a tax return preparer. Injunctive relief is appropriate
13 because, absent an injunction, he will likely continue to engage in penalty
14 conduct to the detriment of the United States and the taxpaying public.

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

16 85. The United States incorporates by reference paragraphs 1 through 84
17 above.

18 86. Section 7408 of the Code authorizes courts to enjoin any person from
19 engaging in conduct that is subject to penalty under § 6701 if injunctive
20 relief is appropriate to prevent recurrence of that conduct.

21 87. Section 6701(a) of the Code penalizes any person who aids or assists in
22 the preparation of any portion of a federal tax return or other document
23 knowing that it will be used in connection with any material matter arising
24 under the internal revenue laws and knowing that if it is so used it would
25 result in an understatement of another person's tax liability.

26 88. Turner has prepared federal income tax returns for customers knowing
27 that the returns and accompanying schedules improperly claim deductions
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1 and thereby understate his customers' correct federal tax liabilities.
2 Turner's conduct is subject to penalty under 26 U.S.C. § 6701, but
3 penalties alone will not deter his conduct.

4 89. Unless enjoined by this Court, Turner will continue preparing tax returns
5 and other documents or forms that he knows will result in the
6 understatement of tax liability.

7 90. Accordingly, this Court should permanently enjoin Turner under § 7408
8 from engaging in conduct subject to penalty under § 6701.

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

10 91. The United States incorporates by reference paragraphs 1 through 90
11 above.

12 92. Section 7402 of the Code authorizes courts to issue injunctions "as may be
13 necessary or appropriate for the enforcement of the internal revenue
14 laws." The remedies available to the United States under that statute "are
15 in addition to and not exclusive of any and all other penalties." 26 U.S.C.
16 § 7402(a).

17 93. Turner has engaged in conduct that substantially interferes with the
18 administration and enforcement of the internal revenue laws by the actions
19 described in this complaint, particularly including his failure to sign the
20 federal income tax returns that he prepares, encouraging his customers not
21 to identify him as the tax preparer, and his involvement in fabricating
22 documents in an attempt to substantiate bogus or overstated deductions at
23 audit. He will likely continue to engage in such conduct unless enjoined.

24 94. The United States has already expended considerable resources
25 investigating Turner's return preparation activities.

26 95. Turner is causing irreparable injury to the United States and an injunction
27 under § 7402(a) is necessary and appropriate. If Turner is not enjoined
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1 from preparing tax returns for others, the United States will suffer
2 irreparable injury by erroneously providing tax refunds to persons not
3 entitled to receive them and by taxpayers not reporting and paying the
4 correct amount of taxes.

5 96. Many customers have been harmed by paying Turner's substantial return
6 preparation fees, additional "tip," and relying on Turner to prepare proper
7 tax returns. As a result, many customers may now face large income tax
8 deficiencies, including sizeable penalties and interest.

9 97. Unless this Court enjoins Turner from preparing tax returns, the IRS will
10 have to continue to devote substantial time and resources to identify and
11 locate his customers, and then examine their tax returns. Pursuing all of
12 Turner's customers may be impossible given the IRS's limited resources.

13 98. Enjoining Turner from preparing tax returns is in the public interest
14 because an injunction will stop his illegal conduct and the harm it causes
15 the United States, and the Court should therefore order injunctive relief
16 under § 7402(a).

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

- 18 A. That the Court find that Turner has engaged in repeated and continual
19 conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701, and that
20 injunctive relief is appropriate under 26 U.S.C. §§ 7407, 7402 and 7408 to
21 permanently enjoin him from preparing federal tax returns for others;
- 22 B. That the Court, under 26 §§ 7407, 7408 and 7402(a), enter a permanent
23 injunction prohibiting Turner from preparing or assisting in the preparation
24 or filing of federal tax returns or other related documents and forms for
25 others;
- 26 C. That the Court find that Turner has engaged in conduct that interferes with
27 the enforcement of the internal revenue laws, and that injunctive relief
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1 against Turner and anyone acting in concert with him is appropriate to
2 prevent the recurrence of that conduct pursuant to the Court's inherent equity
3 powers and § 7402(a);

4 D. That this Court, pursuant to §§ 7402, 7407 and 7408, enter a permanent
5 injunction prohibiting Michael Turner, individually and through any other
6 name or entity, and his representatives, agents, servants, employees,
7 attorneys, and those persons in active concert or participation with him, from
8 directly or indirectly:

- 9 a. Acting as a federal tax return preparer or requesting, assisting in, or
10 directing the preparation or filing of federal tax returns or amended
11 returns (or other related tax forms or documents) for any person or entity
12 other than preparing his own personal tax return(s);
- 13 b. Appearing as a representative on behalf of any person or entity before the
14 IRS;
- 15 c. Owning, managing, controlling, working for, or volunteering for a tax-
16 return preparation business;
- 17 d. Seeking permission or authorization (or helping or soliciting others to
18 seek permission or authorization) to file tax returns with an IRS Preparer
19 Tax Identification Number ("PTIN") and/or IRS Electronic Filing
20 Identification Number ("EFIN"), or any other IRS service or program by
21 which one prepares or files tax returns;
- 22 e. Engaging in conduct subject to penalty under § 6701, including preparing
23 or assisting in the preparation of, or advising with respect to, a document
24 related to a material matter under the internal revenue laws that includes a
25 position that Michael Turner knows will, if used, result in an
26 understatement of tax liability;
- 27 f. Engaging in conduct designed or intended to, or having the effect of,
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1 obstructing or delaying an IRS investigation or audit; and

2 g. Engaging in any other conduct that interferes with the proper
3 administration and enforcement of the internal revenue laws.

4 E. That the Court, pursuant to § 7402(a), enter an order requiring Turner to
5 contact by United States mail (or by e-mail, if a postal address is unknown)
6 all persons for whom he has prepared a federal tax return since January 1,
7 2009, to inform them of the Court's findings in this matter and to provide – at
8 his own expense – a copy of any injunction order entered by this Court, and
9 to file with the Court within fifteen days of the date the permanent injunction
10 is entered a certification signed under penalty of perjury that he has done so;

11 F. That the Court, pursuant to § 7402(a), enter an order requiring to Turner to
12 provide counsel for the United States with a list of all persons for whom
13 Turner has prepared a federal income tax return since January 1, 2009, and to
14 file with the Court within fifteen days of the date the permanent injunction is
15 entered a certification signed under penalty of perjury that he has done so;

16 G. That the Court authorize the United States to engage in post-judgment
17 discovery pursuant to the Federal Rules of Civil Procedure in order to
18 monitor compliance with the Court's injunction; and

19 H. That the Court grant the United States such other and further relief as the
20 Court deems appropriate.

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1 Dated: August 7, 2013

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3 Respectfully submitted,

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7 *s/Miranda Bureau*
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