

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA)
)
Plaintiff,)
)
v.)
)
SHAWANDA NEVERS, a/k/a)
SHAWANDA BRYANT, a/k/a)
SHAWANDA HAWKINS, a/k/a)
SHAWANDA JOHNSON,)
)
Defendant.)
_____)

Civil Action No. 13-6397

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The plaintiff, the United States of America, alleges as follows for its complaint to enjoin Shawanda Nevers, a/k/a Shawanda Bryant, a/k/a Shawanda Hawkins, a/k/a Shawanda Johnson (herein “Nevers”) from violating and interfering with the administration of the internal revenue laws, to wit:

1. This is a civil action brought by the United States under 26 U.S.C. §§ 7401, 7402(a), 7407, and 7408 to enjoin defendant Nevers and anyone in active concert or participation with her, or her business, 3LJ’s Industrial Service Solutions, LLC, from:
 - a. Preparing federal tax returns, amended returns, and other related documents and forms for others;
 - b. Assisting in the preparation of federal tax returns that the person knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
 - c. Engaging in any activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, or 6701; and,
 - d. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

2. 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 the provisions of 26 U.S.C. §§ 7401, 7402(a), 7407, and 7408.

3. Jurisdiction is conferred on the Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).

4. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396 because the defendant resides in this district and a substantial part of the actions giving rise to this suit took place in this district.

BACKGROUND AND DEFENDANT'S ACTIVITIES

5. Nevers resides in La Place, Louisiana, within the jurisdiction of the Court.

6. Nevers is a paid tax return preparer who operates through a business out of her home called 3LJ's Industrial Service Solutions, LLC ("3LJ"). Nevers has a two-year college degree in nutrition, but no apparent background or specific training as a paid tax return preparer.

7. Nevers has prepared at least 735 tax returns from 2009 through 2011. She prepares inaccurate and false returns on a regular and recurring basis, and has been doing so for years. The inaccuracies in the returns she prepares causes the IRS to issue erroneous tax refund checks to Nevers and her clients, which harms the public fisc, the administration of the internal revenue laws, and causes the IRS to waste time and resources to audit and adjust her clients' tax returns.

8. Nevers prepares her clients' tax returns for a fee — and lists the fee as an itemized deduction on her clients' tax returns — but does not identify herself on the returns she prepares, as required. Instead, Nevers improperly lists the returns she prepared as "self-prepared" by the taxpayers.

9. Nevers' clients generally provide records to assist Nevers in preparing their tax returns. Although she claims the returns are self-prepared by clients, the returns direct the IRS to deposit the requested tax refund into 3LJ's bank account. Nevers then issues checks from the 3LJ's account to her clients for the amount of the IRS refund, minus a fee, usually \$250-\$300 for her tax return preparation service. The IRS estimated that Nevers prepared at least 735 returns between 2009 and 2011 by tabulating the number of refund checks that were deposited in 3LJ's bank account.

Fabricated Schedule Cs

10. For several years, Nevers has prepared tax returns that falsely report business income and expenses on a Schedule C ("Profit or Loss From Business") in order to increase her clients' earned income tax credit ("EITC"). Generally, higher losses reduce earned income, resulting in a greater EITC for the client. This, in turn, increases the amount of the client's refund.

11. Nevers lists false Schedule C businesses, such as lawn care, hair styling, or catering to claim improper deductions for her clients. Frequently, Nevers prepares and includes false Schedule Cs in her clients' tax returns without their knowledge. Most of Nevers' clients either do not have Schedule C businesses at all, or have filed a Schedule C with inflated or fabricated deductions to claim a loss from an otherwise profitable enterprise.

12. The IRS has examined 76 tax returns that Nevers prepared for her clients for the tax years 2009 through 2011. Almost all of the 76 returns examined had Schedule C losses that audits proved were either overstated or fabricated. Moreover, the volume of tax returns that Nevers prepared with a Schedule C was abnormal — over 50 percent of the 2010 tax returns Nevers prepared had an attached Schedule C. That percentage increased to over 70 percent of returns Nevers prepared for the 2011 tax year.

13. The types of businesses that Nevers fabricates tend to be those whose existence and activities are hard to verify because they are traditionally cash based — such as lawn care, hair care, and catering run out of a taxpayer’s home.

14. One such example concerned a taxpayer, T.J., who claimed a \$37,500 loss from tutoring activities. During an interview, the taxpayer told the examining IRS agent that she turned a profit providing tutoring services. The fabricated loss allowed the tax on that profit to go unpaid.

15. In another instance, Nevers provided client E.V. — who purportedly operated a catering business and was under audit — with phony documents to mask the illegitimacy of the Schedule C Nevers prepared. Specifically, Nevers fabricated a bank statement, a Louisiana Secretary of State document, and Articles of Incorporation in an attempt to deceive the IRS agent conducting the audit.

16. On another occasion, Nevers fabricated receipts to support deductions for purported business expenses incurred by the taxpayer’s non-existent catering business. When presented with approximately 200 of these receipts, the taxpayers immediately informed the investigating IRS agent that almost none were their own receipts, they did not in fact incur these expenses, and that they did not operate a catering business.

Fabricated Tax Credits and Schedule A Itemized Deductions

17. Nevers also claims false itemized deductions and education credits for her clients, again, without their knowledge. For example, she has claimed false American Opportunity Credits (“AOC”) without her clients’ knowledge or consent. The AOC is a refundable credit for students who are enrolled in an undergraduate degree program or pursuing an educational

certificate. The AOC can provide an additional \$2,500 in tax credits, \$1,000 of which is refundable to a qualifying taxpayer.

18. In addition, Nevers has fabricated itemized deductions on her clients' Schedule As. The vast majority of the returns the IRS audited had Schedule As, and none of the deductions claimed proved to be accurate. In most cases, after the audit adjustments, the taxpayers should have taken the standard deduction available to them instead of itemizing their deductions. By claiming itemized deductions that exceeded the standard amount, Nevers reduced her clients' taxable income, and increased the amount of their tax refund.

Harm Caused by Nevers' Activities

19. Nevers' clients have been harmed because they paid Nevers a fee to prepare proper tax returns. Instead, Nevers prepared returns that substantially understated her clients' correct tax liabilities and claimed improper refunds, part of which she siphoned for herself. Many clients now face large income tax deficiencies and may be liable for penalties and interest.

20. Nevers' conduct harms the United States because her clients have underreported and underpaid their tax liabilities. The IRS has examined a sample of 76 tax returns that Nevers prepared for her clients for the tax years 2009 through 2011. Of those 76 that the IRS audited, the average tax deficiency per client was about \$8,000. Using this average deficiency to extrapolate the total tax underpayment on the 735 tax returns that Nevers prepared from 2009 through 2011, the IRS estimates that Nevers' return preparation could have resulted in as much as \$6 million in revenue lost to the United States.

21. In addition to the direct harm caused by preparing tax returns that understate clients' tax liabilities, Nevers' activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

22. Nevers further harms the United States because the IRS must devote its limited resources to identifying her clients, ascertaining their correct tax liabilities, recovering any funds erroneously issued (if possible), and collecting additional taxes and penalties.

**COUNT I:
INJUNCTION UNDER 26 U.S.C. § 7407 DUE TO VIOLATIONS OF 26 U.S.C. § 6694**

23. The United States realleges and incorporates by reference the allegations in the above paragraphs.

24. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under 26 U.S.C. § 6694.

25. Section 6694 penalizes a tax return preparer who prepares a return that contains an understatement of tax liability or overstatement of a refund that is due to an unreasonable position which the return preparer knew or should have known was unreasonable.

26. Section 7407 also authorizes a district court to enjoin a tax return preparer from engaging in any “other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws.”

27. If a court finds that a tax return preparer has continually or repeatedly engaged in prohibited conduct and that an injunction prohibiting such conduct would be insufficient to prevent the preparer’s interference with the proper administration of the internal revenue laws, the court may enjoin such person from acting as a tax return preparer.

28. In order for a court to issue such an injunction, the court must find (1) that the preparer has engaged in such conduct, and (2) that injunctive relief is appropriate to prevent the recurrence of the conduct.

29. The court may permanently enjoin the person from further acting as a federal tax return preparer if it finds that a preparer has continually or repeatedly engaged in such conduct,

and the court further finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would be insufficient to prevent that person's interference with the proper administration of the internal revenue laws.

30. Nevers has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing federal income tax returns that understate her clients' liabilities or overstate their refunds based on fabricated, unrealistic, frivolous, and reckless positions.

31. Nevers' continual and repeated violations of section 6694 fall within 26 U.S.C. § 7407(b)(1)(A) and (D), and thus are subject to an injunction under section 7407.

32. If she is not enjoined, Nevers is likely to continue to prepare and file false and fraudulent tax returns, causing economic loss to the United States, causing the United States to commit finite, scarce, and unrecoverable resources to the examination of Nevers' clients, and exposing their clients to large liabilities that include penalties and interest.

33. Nevers' continual and repeated conduct is subject to an injunction under 26 U.S.C. § 7407 — including her repeated bogus claims of expenses, deductions, and fictitious businesses and businesses expenses — demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent her interference with the proper administration of the internal revenue laws. Thus, she should be permanently barred from acting as a federal tax return preparer.

COUNT II
INJUNCTION UNDER 26 U.S.C. § 7407 DUE TO VIOLATIONS OF 26 U.S.C. § 6695

34. The United States realleges and incorporates by reference the allegations in the above paragraphs.

35. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under 26 U.S.C. § 6695.

36. Section 6695 penalizes paid tax return preparers, who are required to sign the tax returns that they prepare, and who fail to do so. Nevers has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695 by not signing the tax returns she prepared for her clients. In fact, there is no evidence that Nevers has ever signed a tax return that she has prepared for any of her clients.

37. Section 6695 also penalizes tax return preparers who endorse or otherwise negotiate any tax refund check that is issued to a taxpayer.

38. Between 2009 and 2011, Nevers repeatedly placed 3LJ's bank account information on the tax returns of her clients. The IRS then deposits the clients' tax refunds into 3LJ's bank account. Nevers then issues a check from the 3LJ's account to her clients for the amount of the IRS refund minus a fee, usually \$250-\$300, for her tax return preparation service. Nevers has engaged in this conduct, which is expressly prohibited by section 6695, several hundred times between 2009 and 2011.

39. Nevers' continual and repeated violations of section 6695 fall within 26 U.S.C. § 7407(b)(1)(A) and (D), and thus are subject to an injunction under section 7407.

40. If a court finds that a tax return preparer has continually or repeatedly engaged in prohibited conduct and that an injunction prohibiting such conduct would be insufficient to prevent the preparer's interference with the proper administration of the internal revenue laws, the court may enjoin such person from acting as a tax return preparer.

41. In order for a court to issue such an injunction, the court must find (1) that the preparer has engaged in such conduct, and (2) that injunctive relief is appropriate to prevent the recurrence of the conduct.

42. The court may permanently enjoin the person from further acting as a federal tax return preparer if it finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would be insufficient to prevent that person's interference with the proper administration of the internal revenue laws.

43. Nevers has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695 by preparing federal income tax returns without signing them, and by depositing her clients' tax refund checks into her own business account, and subsequently cutting a check to her clients.

44. Nevers' continual and repeated violations of section 6695 fall within 26 U.S.C. § 7407(b)(1)(A) and (D), and thus are subject to an injunction under section 7407.

45. If she is not enjoined, Nevers is likely to continue to prepare and file false and fraudulent tax returns, to refrain from signing her name on the tax returns she prepares for her clients, and may continue to have her clients' tax refund checks deposited in her 3LJ's bank account.

46. Nevers' continual and repeated conduct is subject to an injunction under 26 U.S.C. § 7407 and demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent her interference with the proper administration of the internal revenue laws. Thus, she should be barred permanently from acting as a federal tax return preparer.

**COUNT III:
INJUNCTION UNDER 26 U.S.C. § 7408 DUE TO VIOLATIONS OF 26 U.S.C. § 6701**

47. The United States realleges and incorporates by reference the allegations in the above paragraphs.

48. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

49. Section 6701 of the Internal Revenue Code penalizes any person who aids or assists the preparation or presentation of any portion of a federal tax return when the person knows or has reason to believe that such portion will be used in connection with a material matter arising under the internal revenue laws and knows that if it is so used it will result in an understatement of another person's tax liability.

50. Nevers prepares federal tax returns for clients that she knows will understate their tax liabilities, because she knowingly prepares returns claiming improper expenses and deductions, and because she creates false Schedule C businesses and false Schedule A deductions, which Nevers knows or should know will increase her clients' tax refunds. Nevers' conduct is thus subject to a penalty under § 6701.

51. If the Court does not enjoin Nevers, she is likely to continue to engage in conduct subject to penalty under section 6701. Nevers' preparation of returns claiming improper expenses and deductions, and creating fictitious businesses is widespread over many clients and several tax years. Injunctive relief is therefore appropriate under 26 U.S.C. § 7408.

**COUNT IV:
INJUNCTION UNDER 26 U.S.C. § 7402(a):
NECESSARY TO ENFORCE THE INTERNAL REVENUE LAWS**

52. The United States realleges and incorporates by reference the allegations in the above paragraphs.

53. Section 7402 of the Internal Revenue Code authorizes a district court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws.

54. Nevers, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

55. Unless enjoined, Nevers is likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Nevers is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them, much of which will never be discovered or recovered. The United States will also suffer irreparable injury because it will have to devote substantial unrecoverable time and resources auditing Nevers' clients to determine whether future returns and clients are understating their tax liability or overstating their refund.

56. While the United States will suffer irreparable injury if Nevers is not enjoined, she will not be harmed by being compelled to obey the law.

57. Enjoining Nevers is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop her illegal conduct and the harm it causes the United States.

58. The Court should therefore impose injunctive relief under 26 U.S.C. § 7402(a).

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

A. That the Court find that Nevers has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 and has continually and repeatedly engaged in other fraudulent and deceptive conduct that substantially interferes with the administration of the tax laws, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar her from acting as a federal tax return preparer to prevent recurrence of that conduct;

B. That the Court find that Nevers has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695 and has continually and repeatedly engaged in other fraudulent and deceptive conduct that substantially interferes with the administration of the tax laws, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar her from acting as a federal tax return preparer to prevent recurrence of that conduct;

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

D. That the Court find that Nevers has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and 26 U.S.C. § 7402(a);

E. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Nevers and all those in active concert or participation with her from:

- (1) Preparing federal tax returns, amended returns, and other related documents and forms for others;
- (2) Assisting in the preparation of federal tax returns that the person knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
- (3) Engaging in any activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, or 6701; or,
- (4) Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring that Nevers, within 30 days of entry of the injunction, contact by United States mail and, if an e-mail address is known, by e-mail, all persons for whom she prepared a federal tax return since January 1, 2009, to inform them of the permanent injunction entered against Nevers, including sending a copy of the order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court, and file with the Court a sworn certificate stating that she has complied with this requirement;

G. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Nevers to produce to counsel for the United States within 30 days a list that identifies by name, social security number, address, e-mail address, telephone number, and tax period(s) all persons for whom she prepared federal tax returns or claims for refund since January 1, 2009;

H. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Nevers to produce to counsel for the United States within 30 days copies of all federal tax returns that she has prepared since January 1, 2009;

I. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Nevers to provide a copy of the Court's order to all of her or 3LJ's Industrial Service Solutions, LLC's principals, officers, managers, employees, and independent contractors within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment or receipt of the Court's order for each person to whom she provided a copy of the Court's order;

J. That the United States be entitled to conduct discovery to monitor Nevers' compliance with the terms of any permanent injunction entered against her;

K. That the Court retain jurisdiction over Nevers and over this action to enforce any permanent injunction entered against her; and,

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

Respectfully submitted,

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