

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	Case No. 1:14-cv-00859
Plaintiff,)	
)	
v.)	
)	
BARBARA L. GARRETT,)	
)	
Defendant.)	
)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America seeks a permanent injunction against defendant Barbara L. Garrett barring her from acting as a federal tax return preparer and states as follows:

Nature of Action

1. The United States commenced this action to enjoin Garrett, and all those in active concert or participation with her, from directly or indirectly:

A. Acting as a federal tax return preparer, supervising or managing federal tax return preparers, or assisting with, or directing the preparation or filing of federal tax returns, amended tax returns, claims for tax refunds, or other related documents, for any person or entity other than herself, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service (“IRS”);

B. Engaging in conduct subject to penalty under 26 U.S.C. (“I.R.C.”) § 6701, including aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or advise) with respect to the preparation or presentation of any portion of a tax return,

claim, or other document, that defendant knows (or has reason to know) will be used as to a material matter arising under the federal tax laws, and will result in the understatement of the liability for tax of another person or entity;

C. Aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or advise) others to understate their federal tax liabilities or assert unreasonable, frivolous, or reckless positions, or preparing or assisting in the preparation or filing of tax returns for others that defendant knows (or has reason to know) will result in the understatement of any tax liability as subject to penalty under I.R.C. § 6694;

D. Improperly aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who improperly aid, instruct, assist, encourage, enable, incite, or advise) others to avoid the assessment or collection of their federal tax liabilities or to claim improper tax refunds;

E. Engaging in any activity subject to penalty under I.R.C. § 6695; and

F. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

2. The Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 I.R.C. § 7402(a).
3. Venue is proper pursuant to 28 U.S.C. § 1391(b) because defendant resides or conducts business within this judicial district and because a substantial part of the events giving rise to this suit occurred or are taking place in this judicial district.

Authorization

4. This action has been requested by the Chief Counsel of the IRS, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7401, 7402, 7407 and 7408.

Facts

5. Since at least 2001, Garrett has been a tax return preparer at several tax preparation businesses in the Chicago area, including Jackson Hewitt, Instant Tax Service, Preferred Financial, and Income Tax Solutions.
6. Garrett prepares fraudulent federal tax returns for her customers, including tax returns that, among other violations of the law, claim non-qualified individuals as dependents, fake charitable deductions, deductions for false education expenses, improper deductions or claims for tax credits from childcare expenses, false claims for the Earned Income Tax Credit, bogus property tax deductions, and fabricated business expense deductions.

Improper Tax Returns

7. In order to understate tax liabilities and claim improper tax refunds for her customers, Garrett prepares and files tax returns that include fraudulent claims for business expense deductions.
8. For some customers, Garrett claims deductions for fake, unreimbursed business expenses from the customer's employment, which Garrett lists on Forms Schedule A of customer tax returns.
9. For example, a resident of East Chicago, Indiana (Customer 1) hired Garrett to prepare his 2011 and 2012 tax returns while Garrett worked at Income Tax Solutions. The 2011 tax return is dated February 13, 2012, and the 2012 tax return is dated February 1, 2013.

Schedule A of Customer 1's tax returns claims over \$1,500 in 2011 and \$7,600 in 2012 for deductible vehicle expenses purportedly related to the customer's job as a utility worker at a steel mill. When interviewed by the IRS, Customer 1 reported that he had no deductible job-related vehicle expenses, provided no information to Garrett to support vehicle expense deductions claimed on his returns, and explained that these deductions were false. During audits of Customer 1's 2011 and 2012 tax returns, the IRS disallowed these fraudulent vehicle expense deductions, disallowed other improper claims Garrett asserted on the returns, and determined that Customer 1 owed over \$6,800 of taxes.

10. Garrett also prepares and files false Forms Schedule C. When used legitimately, Form Schedule C reports profits and losses from self-employment. The Forms Schedule C Garrett prepares claim fictitious losses due to expenses from entirely non-existent businesses, which, in turn, improperly reduce her customers' reported income tax liabilities from actual employment. Examples include:

- A. Customer 2: While working at Instant Tax Service, Garrett prepared a 2007 tax return for a resident of Chicago who worked as a collections supervisor at an automobile financing company. Garrett prepared a Schedule C for Customer 2 that falsely claims that the customer also owned a "janitorial service" business with no income, but incurred over \$9,000 in expenses, including for advertising, office expenses, supplies, deductible meals and entertainment, and utilities. Garrett prepared a similar bogus Schedule C for 2008, which claims that Customer 2 ran a "transporter" business with over \$7,500 of expenses and no income. And again, while working at Preferred Financial, Garrett prepared a fraudulent Schedule C for Customer 2's 2009 tax return, this time for a "designer" business with no income and over \$11,000 in expenses. When

interviewed by government investigators, Customer 2 confirmed that Garrett prepared her tax returns for 2007, 2008, and 2009, but denied that she owned any business or provided proof of business expenses to Garrett. The IRS disallowed these expense deductions as a result of an audit of Customer 2's 2007, 2008, and 2009 tax returns. In combination with other improper items Garrett included in Customer 2's tax returns, the IRS determined that Customer 2 owed over \$13,000 of additional taxes for these three tax years; and

B. Customer 3: Garrett, as an employee of Instant Tax Service, prepared 2007 and 2008 tax returns of a resident of Chicago, Illinois who worked as a bus driver for the Chicago Transit Authority. Among other fraudulent items on both these returns, Garrett prepared Forms Schedule C that falsely report that Customer 3 owned a transportation company with over \$25,000 in business losses for 2007 and 2008. Customer 3 told the IRS that he was unaware Garrett prepared the Schedule C and admitted that he did not own or operate a transportation company, or own any business during these tax years. Collectively, the 2007 and 2008 returns Garrett prepared resulted in an additional \$16,000 of taxes owed by Customer 3, as determined by an IRS audit.

11. Garrett also prepares tax returns that include claims for other fake or inflated tax deductions, such as for charitable contributions, property taxes, medical expenses, and childcare expenses. Examples include:

A. Customer 4: A police officer who resides in Oak Lawn, Illinois and had his 2011 and 2012 tax returns prepared by Garrett while she worked at Income Tax Solutions. Customer 4 informed government investigators that he neither provided, nor was requested to provide documentation to support charitable deduction claims appearing on both tax returns. The 2012 tax return, dated March 7, 2013, claims \$3,500 in

unsubstantiated charitable deductions. The 2011 tax return, dated February 13, 2012, claims \$3,500 in unsubstantiated charitable deductions;

B. Customer 5: Garrett prepared the 2008 tax return of Customer 5, a resident of Chicago who worked as a cable company technician. Garrett improperly claimed over \$4,500 in childcare expenses and falsely listed herself as the childcare provider for Customer 5's children. Combined with other improper claims Garrett included in the return, such as deductions for unsupported employee expenses and fraudulent expenses for a fictitious personal business, the IRS determined during an audit that Customer 5 owed over \$5,200 of tax for 2008; and

C. Customer 6: A resident of Chicago had his 2008 tax return prepared by Garrett at Instant Tax Service. Customer 6 informed IRS agents during an interview that the only documents he gave Garrett to prepare his tax return were copies of his Forms W-2 and 1099. Without documentation as support, Garrett falsely claimed that Customer 6 incurred over \$13,000 in medical expenses and over \$2,200 in property taxes, which Customer 6 confirmed were false. Based on an audit, the IRS disallowed these deductions. The IRS also determined that Customer 6 owed an additional \$22,000 in tax from multiple improper claims Garrett included in Customer 6's 2008 tax return.

12. Garrett fabricates claims for tax credits for her customers, including education credits and the Earned Income Tax Credit. Examples include:

A. Customer 7: A resident of Westchester, Illinois had her 2007 and 2008 tax returns prepared by Garrett at Instant Tax Service, and her 2009 tax return prepared by Garrett at Preferred Financial. The IRS determined that Garrett improperly claimed education credits for Customer 7 for 2007 and 2009, including the Hope and American

Opportunity Credits, which are only available to taxpayers if they incur qualifying education expenses. When interviewed by government investigators, Customer 7 denied having any education expenses in 2007 or 2009. From its audit of these returns, the IRS disallowed the claims for education credits, and, combined with other improper claims included by Garrett, determined that Customer 7 owed \$1,900 of additional tax for each of the three years Garrett prepared these tax returns; and

B. Customer 8: Garrett prepared the 2008 tax return of a resident of Markham, Illinois. Although Customer 8 informed government investigators during an interview that Garrett prepared his 2008 tax return without meeting in-person, he explained that Garrett prepared his returns for multiple tax years and understood that Garrett prepared the 2008 return, which also identifies Garrett as the preparer. The 2008 tax return claims a dependent with a different last name and also lists the purported dependent's social security number. Customer 8 admitted he did not know the claimed dependent and reported that he neither asked Garrett to claim the dependent on his tax return, nor provided Garrett with the claimed dependent's social security number. Garrett used the false dependent to improperly qualify Customer 8 for the Earned Income Tax Credit. In total, the IRS determined from an audit of the 2008 return that Customer 8 owed more than \$7,800 for that year, based on the return Garrett prepared.

Other Wrongful Conduct

13. Garrett encouraged and assisted at least one customer to lie to government investigators when the return she prepared was selected for audit by the IRS. The IRS audited the 2008 and 2009 tax returns of Customer 9, a high school math teacher and resident of East Chicago, Indiana. As an employee for Instant Tax Service, Garrett prepared the 2008 tax

return and, in February 2010, prepared the 2009 tax return while working at Preferred Financial. Both the 2008 and 2009 tax returns claim unsupported deductions for charitable contributions. According to Customer 9, in March 2010, Garrett provided her with fake receipts from a Chicago church to submit to the IRS during the audit in order to conceal the fraud. In addition to uncovering this attempt to deceive IRS auditors, the government also found that Customer 9 owed over \$10,000 of tax because of the improper 2008 and 2009 returns Garrett prepared.

14. On the fraudulent tax returns she prepares for her customers, Garrett often falsely lists other individuals as the preparer and includes preparer identification numbers (“PTINs”) that belong to others. For example, Customer 10, a resident of Frankfort, Illinois, had his 2011 tax return prepared and filed by Garrett in February 2012. He reported to government investigators that shortly after Garrett completed the return, he asked her why another person was listed as the preparer on the return. According to Customer 10, Garrett admitted to the false entry but explained that she listed another person as preparer because she was busy and was trying to get customers out of the store as soon as possible. Based on an IRS audit of the 2011 return, the government determined that Customer 10 owed more than \$2,200, primarily due to fraudulent claims for Schedule A deductions.
15. Garrett has falsely marketed herself to the public as a certified Professional Tax Preparer (“PTP”), including in correspondence she sent to prospective customers in December 2010. PTP certification is offered by Universal Accounting, a private organization that requires tax return preparers to score higher than 90% on an examination that tests proficiency in preparing individual and small business tax returns. Garrett admitted to government investigators during an interview in May 2011 that she does not have PTP

certification.

16. Garrett's own tax returns include fraudulent claims similar to those appearing in tax returns she prepares and files for her customers. For example, as a result of audits by the IRS, the government concluded that Garrett's 2007 and 2008 federal income taxes overstate Schedule C expenses, understate reportable wages and unemployment compensation, and improperly claim tax credits Garrett does not qualify for, such as the first-time homebuyer credit for 2008. Similarly, Garrett's 2009 tax return fails to report over \$12,000 of income and taxable compensation.

Harm to the Public and Necessity of Injunction

17. Garrett's practices harm the United States Treasury. For example, the IRS determined that from 66 audits of tax returns she prepared from 2008 to 2011, all but one understate tax liability. The total tax loss from these 65 tax returns was nearly \$400,000.
18. Garrett's practices likewise harm the public by illegally causing her customers to incorrectly report their federal tax liabilities and underpay their taxes. Garrett further harms her customers by subjecting them to possible civil and criminal sanctions resulting from the false and fraudulent tax returns she prepares.
19. Garrett's misconduct harms the United States and public by requiring the IRS to devote scarce resources to detecting that misconduct and assessing and collecting lost tax revenues from her customers. She further interferes with the proper administration of the internal revenue laws by: (a) failing to identify herself as a preparer on her customers' tax returns and falsely including other individuals' PTINs on returns she prepares; (b) assisting and encouraging at least one customer to lie and provide false documentation to the IRS during an audit; and (c) claiming false dependents and listing their social security

numbers on tax returns she prepares.

20. Finally, Garrett's improper tax return preparation practices harm the public at large by undermining the public confidence in the federal tax system and encouraging violations of the internal revenue laws.
21. The harm to the government and the public will increase unless Garrett is enjoined because – given the seriousness and pervasiveness of her illegal conduct – without an injunction, she is likely to continue to prepare improper federal income tax returns for customers. An injunction will serve the public interest because it will put a stop to Garrett's illegal conduct and the harm that such conduct causes the United States and its citizens.

COUNT I

Injunction under I.R.C. § 7408

22. The United States incorporates by reference the allegations contained in paragraphs 1 through 21.
23. Section 7408 of the I.R.C. authorizes a court to enjoin persons who have engaged in conduct subject to penalty under I.R.C. § 6701 if the court finds that injunctive relief is appropriate to prevent recurrence of such conduct.
24. Section 6701 of the I.R.C. penalizes any person who prepares or aids, or assists, or advises with respect to the preparation of a document that she knows (or has to reason to believe) will be used in connection with any material matter arising under the internal revenue laws and who knows that the document, if so used, would result in an understatement of another person's tax liability.
25. Garrett prepares federal tax returns for her customers that she knows (or has reason to believe) will be filed with the IRS and that she knows will understate her customers' tax

liabilities by claiming, among other things, non-qualified individuals as dependents, fake charitable deductions, deductions for false education expenses, improper deductions or claims for tax credits from childcare expenses, false claims for the Earned Income Tax Credit, bogus property tax deductions, and fabricated business expense deductions.

Garrett's conduct is thus subject to penalty under I.R.C. § 6701.

26. If the Court does not enjoin Garrett, she is likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Injunctive relief is, therefore, appropriate under I.R.C. § 7408.

COUNT II

Injunction under I.R.C. § 7407

27. The United States incorporates by reference the allegations in paragraphs 1 through 26.
28. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from, among other things, engaging in conduct subject to penalty under I.R.C. §§ 6694 or 6695, misrepresenting her experience or education as a tax return preparer, or engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, if the court finds that the preparer has engaged in such conduct and that injunctive relief is appropriate to prevent the recurrence of such conduct.
29. Additionally, § 7407 provides that if the court finds that a tax return preparer has continually or repeatedly engaged in such conduct, and that an injunction prohibiting only such conduct would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a tax return preparer.
30. I.R.C. § 6694 imposes a penalty on any tax return preparer who prepares any return or

claim for refund with respect to which any part of a resulting understatement of liability is due to: (a) an unreasonable position of which the preparer knew or reasonably should have known; (b) a willful attempt to understate the liability for tax on the return; or (c) a reckless or intentional disregard of rules or regulations.

31. I.R.C. § 6695 imposes penalties on any tax return preparer who fails to, among other things, comply with Treasury Regulations requiring the preparer to: (a) sign the returns she prepares; (b) furnish identifying numbers on returns she prepares; or (c) comply with due diligence requirements for determining eligibility for, or the amount of the Earned Income Tax Credit.
32. Garrett has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal income tax returns that understate her customers' liabilities based on unreasonable, unrealistic or frivolous positions of which she knew or should have known, as well as her reckless or intentional disregard of rules or regulations.
33. Garrett has continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695 by, among other things, failing to comply with: (a) Treasury Regulations requiring her to sign all tax returns she prepares and provide her identification number on those returns; and (b) due diligence requirements for claiming the Earned Income Tax Credit. Garrett's conduct demonstrates a reckless or intentional disregard of these regulations.
34. Garrett has misrepresented her experience or education as a tax return preparer by claiming to have Professional Tax Preparer certification.
35. Garrett has continually and repeatedly engaged in fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, including by understating

her customers' tax liabilities and her own tax liabilities, providing false documentation to at least one customer under audit to deceive the IRS, and preparing tax returns that erroneously identify others as the preparer.

36. If the Court does not enjoin Garrett, she is likely to continue engaging in conduct subject to penalty under I.R.C. §§ 6694 and 6695, misrepresenting her experience or education as a tax return preparer, as well as engaging in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws. Garrett's preparation of fraudulent tax returns is widespread and spans multiple tax years at several tax preparation businesses in the Chicago area. Injunctive relief is therefore appropriate under I.R.C. § 7407.
37. The continuing and repetitive nature of Garrett's misconduct demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent her from continuing to interfere with the proper administration of the tax laws. Thus, the Court should permanently enjoin Garrett from acting as a tax return preparer.

COUNT III

Injunction under I.R.C. § 7402(a)

38. The United States incorporates by reference the allegations in paragraphs 1 through 37.
39. I.R.C. § 7402(a) authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.
40. Through the actions described above, Garrett has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.
41. Unless enjoined, Garrett is likely to continue to engage in such conduct and interfere with the enforcement of the internal revenue laws.
42. If Garrett is not enjoined from engaging in such conduct, the United States will suffer

irreparable injury by mistakenly providing federal income tax refunds to individuals not entitled to receive them, as well as expending time and resources to identify the individuals, determine their proper federal tax liabilities, and recover the erroneous refunds from them, if possible.

43. Enjoining Garrett from engaging in such conduct is in the public interest because an injunction, backed by the Court's contempt powers, is likely to stop Garrett's illegal conduct and the harm it causes to her customers, the public, and the United States Treasury.
44. The Court should thus grant injunctive relief under I.R.C. § 7402(a).

WHEREFORE, the United States of America requests the following:

- I. That the Court find that Garrett has continually or repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, misrepresented her experience or education as a tax return preparer, and continually and repeatedly engaged in fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws;
- II. That the Court find that injunctive relief under I.R.C. § 7407 is appropriate to prevent the recurrence of such conduct and that a narrower injunction prohibiting only this specific misconduct would not be sufficient to prevent Garrett's interference with the proper administration of the internal revenue laws;
- III. That the Court find that Garrett has engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief under I.R.C. § 7408 is appropriate to prevent the recurrence of such conduct;
- IV. That the Court find that Garrett has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws and that injunctive relief is necessary and

appropriate to prevent the recurrence of such conduct pursuant to the Court's inherent equitable powers and I.R.C. § 7402(a);

V. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Garrett and all those in active concert or participation with her, from:

A. Acting as a federal tax return preparer, supervising or managing federal tax return preparers, or assisting with, or directing the preparation or filing of federal tax returns, amended tax returns, claims for tax refunds, or other related documents, for any person or entity other than herself, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the IRS;

B. Engaging in conduct subject to penalty under I.R.C. § 6701, including aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or advise) with respect to the preparation or presentation of any portion of a tax return, claim, or other document, that defendant knows (or has reason to know) will be used as to a material matter arising under the federal tax law, and will result in the understatement of the liability for tax of another person or entity;

C. Aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who aid, instruct, assist, encourage, enable, incite, or advise) others to understate their federal tax liabilities or assert unreasonable, frivolous, or reckless positions, or preparing or assisting in the preparation or filing of tax returns for others that defendant knows (or has reason to know) will result in the understatement of any tax liability as subject to penalty under I.R.C. § 6694;

D. Improperly aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising or managing others who improperly aid, instruct, assist, encourage, enable, incite, or advise) others to avoid the assessment or collection of their federal tax liabilities or to claim improper tax refunds;

E. Engaging in any activity subject to penalty under I.R.C. § 6695; and

F. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

- VI. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Garrett, within 30 days of receiving the Court's order, to contact by U.S. mail and, if an e-mail address is known, by e-mail, all persons for whom she has prepared federal tax returns, amended tax returns, or claims for refund since January 2008, as well as all persons or entities that have employed her to prepare tax returns since January 2008, and to inform them of the permanent injunction entered against her by sending each of them a copy of the order of permanent injunction, with no other enclosures unless approved by the Department of Justice or the Court;
- VII. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Garrett, within 30 days of receiving the Court's order, to produce to counsel for the United States a list that identifies by name, social security number, address, e-mail address (if known), telephone number, and tax period, all persons for whom she has prepared federal tax returns, amended tax returns, or claims for refund since January 2008.
- VIII. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Garrett, within 45 days of receiving the Court's order, to file a declaration, signed under penalty of perjury, confirming that she has received a copy of the Court's order and complied

with the terms described in Paragraphs VI and VII of this Complaint.

- IX. That the Court retain jurisdiction over this action to enforce any permanent injunction against Garrett;
- X. That the Court order that the United States be entitled to conduct discovery to monitor Garrett's compliance with the terms of any permanent injunction entered against her; and
- XI. That the Court grant the United States such other relief, including costs, as is just and proper.

Respectfully submitted,

ZACHARY T. FARDON
United States Attorney

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

/s/ Russell J. Edelstein
RUSSELL J. EDELSTEIN
(MA Bar No. 663227)
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 616-2704
Facsimile: (202) 514-6770
russell.j.edelstein@usdoj.gov

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