

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:17-cv-2648-ELR
)	
MARJORIE ST. JEAN and)	
MARJORIESTJEANLLC,)	
)	
Defendants.)	

**JUDGMENT AND ORDER AND JUDGMENT OF PERMANENT INJUNCTION
AGAINST MARJORIE ST. JEAN AND MARJORIESTJEANLLC**

Before the Court is a Motion for Partial Default Judgment against Marjorie St. Jean and MarjorieStjeanLLC on Counts I, II, and III of the Complaint. (Docket no. 14.) For the reasons stated below, the motion is granted and judgment is entered in favor of the United States and against Marjorie St. Jean and MarjorieStjeanLLC on Counts I, II, and III of the Complaint.

FINDINGS OF FACT

The United States filed its Complaint for Permanent Injunction and Other Relief on July 14, 2017. (Docket no. 1.) Pursuant to 26 U.S.C. §§ 7407, 7408, and 7402, the government seeks injunctive relief barring Marjorie St. Jean and MarjorieStjeanLLC from acting as tax return preparers and owning and operating a tax preparation business, and the disgorgement of the ill-gotten gains that Marjorie St. Jean and MarjorieStjeanLLC received for the preparation of tax returns. (*Id.*) On December 6, 2017, the Clerk entered default against Marjorie St. Jean and MarjorieStjeanLLC. Consequently, Marjorie St. Jean and MarjorieStjeanLLC are deemed to have admitted all well-pled allegations of the complaint. *See Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1307 (11th Cir. 2009); *see also* Fed. R. Civ. P. 8(b)(6).

Based on the well-pled allegations of the complaint, the Court finds that St. Jean is an owner and officer of MarjorieStjeanLLC, through which St. Jean owns and operates tax preparation stores. (Compl. ¶¶ 5-6, 11-12.)

The Defendants prepare tax returns that include fraudulent claims for the Earned Income Tax Credit (“EITC”), often based on bogus dependents, fabricated business income and expenses, and/or false filing status. (Compl. ¶ 18.)

The Defendants falsify information to claim the maximum EITC. (Compl. ¶ 22.) The Defendants exploit the EITC rules by creating phony Schedule C income or expenses, or reporting bogus “Household Help” income, to bring customers’ incomes within the EITC “sweet spot.” (Compl. ¶¶ 22-23.) The Defendants prepare tax returns reporting non-existent businesses on bogus Forms Schedule C.¹ (Compl. ¶ 34.) On some of these returns, the Defendants report substantial income, but little or no expenses. (*Id.*) On other returns, the Defendants report substantial expenses, but little or no income. (*Id.*) The determining factor is whether the tax return preparer needs to inflate a customer’s income (or create income when the customer has none) to bring the income within the EITC range or “sweet spot,” or lower the taxable income of a customer who has actual income (such as wages reported on a W-2) in order to bring the income within the EITC “sweet spot.” (*Id.*)

Tax preparers are required to follow “due diligence” requirements if claiming the EITC on behalf of their customers. (Compl. ¶ 25.) The Defendants fail to comply with the due diligence requirements; rather, they falsify information in order to maximize the EITC for their customers. (Compl. ¶ 26.)

¹ A Form Schedule C is an IRS form used to report income or losses from a sole proprietorship. The net income or loss reported on a Schedule C “flows through” to the Form 1040 tax return and, therefore, can increase or decrease the taxable income on the return.

The Defendants prepare and file federal income tax returns for customers on which they improperly claim false or fraudulent fuel tax credits using IRS Form 4136, “Credit for Federal Tax Paid on Fuels.” The fuel tax credit is available only to taxpayers who operate farm equipment or other off-highway business vehicles. (Compl. ¶ 30.) The Defendants claim the fuel tax credit for fabricated and non-qualifying fuel purchases. (Compl. ¶ 27.)

The Defendants prepare tax returns claiming bogus Schedule A deductions, to improperly or fraudulently reduce customers’ taxable income. (Compl. ¶ 45.) The Defendants often prepare tax returns for customers which include false claims for purported unreimbursed employee business expenses, particularly for purported business miles driven by customers. (Compl. ¶ 46.)

The Defendants charge unconscionably high tax preparation fees, mostly through added, deceptive fees which are often charged without customers’ knowledge. (Compl. ¶ 54.) The Defendants also routinely and intentionally fail to disclose to customers all fees charged. (Compl. ¶ 60.)

The Defendants fail to provide customers with copies of their completed tax returns. (Compl. ¶ 63.) This is because the Defendants do not provide them with copies of these completed forms to conceal the fraud from customers. (Compl. ¶ 65.) Failing to provide a customer with a copy of the completed tax return also violates 26 U.S.C. § 6107(a), which requires that a tax return preparer “shall furnish a completed copy of [a tax return or claim for refund] to the taxpayer not later than the time such return or claim is presented for such taxpayer’s signature.” (Compl. ¶ 64.)

CONCLUSIONS OF LAW

Based on the foregoing facts, the Court concludes that Marjorie St. Jean and MarjorieStjeanLLC are income tax return preparers who have repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. § 6694 and 6695, and are subject to

injunctive relief under 26 U.S.C § 7407. Marjorie St. Jean and MarjorieStjeanLLC also repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. § 6701, and are subject to injunctive relief under 26 U.S.C § 7408. A permanent injunction is necessary to prevent such conduct in the future. A permanent injunction is also necessary or appropriate under 26 U.S.C. § 7402 for enforcement of the internal revenue laws.

Pursuant to Fed. R. Civ. P. 54(b), which permits the entry of a final judgment on one or more, but fewer than all, of the asserted claims, the Court concludes that there is no just reason for delaying the entry of a final judgment on Counts I, II, and III of the Complaint.

ORDER AND JUDGMENT OF PERMANENT INJUNCTION

Pursuant to 26 U.S.C. §§ 7407, 7408, and 7402,

IT IS HEREBY ORDERED that Marjorie St. Jean and MarjorieStjeanLLC, and all those in active concert or participation with them, are permanently enjoined from:

- (1) acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
- (2) preparing or assisting in preparing federal tax returns that they know or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by 26 U.S.C. § 6694;
- (3) owning, operating, managing, working in, investing in, providing capital or loans to, receiving fees or remuneration from, controlling, licensing, consulting with, or franchising a tax return preparation business;
- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);

- (6) engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6701, or any other penalty provision in the Internal Revenue Code; and
- (7) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC shall immediately and permanently close, because of the pervasive fraud, all tax return preparation stores that they own directly or through MarjorieStjeanLLC, or any other entity, and whether those stores do business as Precise Tax Services or under any other name.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC are prohibited from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to Precise Tax Services or any other tax return preparation business to which they or any entity under their control is a party.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC are prohibited from: (1) selling to any individual or entity a list of customers, or any other customer information, for whom Marjorie St. Jean, MarjorieStjeanLLC, Precise Tax Services, and any other business or name through which Marjorie St. Jean and MarjorieStjeanLLC, or those acting at their direction, have at any time since 2013 prepared a tax return; (2) assigning, disseminating, providing, or giving to any current or former franchisee, General Sales Manager, District Sales Manager, manager, tax return preparer, employee, or independent contractor of Marjorie St. Jean, MarjorieStjeanLLC, Precise Tax Services, or any other business through which Marjorie St. Jean and MarjorieStjeanLLC prepare tax returns or own or franchise a tax return preparation business, a list of customers or any other customer information for customers for whom Marjorie St. Jean, MarjorieStjeanLLC, Precise Tax Services, and any other business or name through which Marjorie St. Jean and MarjorieStjeanLLC, or those acting at their direction, have at any

time since 2013 prepared a tax return; and (3) selling to any individual or entity any proprietary information pertaining to Precise Tax Services and any other business or name through which Marjorie St. Jean and MarjorieStjeanLLC, or those acting at their direction, have at any time since 2013 prepared a tax return.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC shall contact, within 30 days of this Order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom Marjorie St. Jean and MarjorieStjeanLLC. and their managers, employees, and tax return preparers prepared federal tax returns or claims for a refund from 2013 to the date of this Order to inform them of the permanent injunction entered against them, including sending a copy of this Order but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC shall produce to counsel for the United States, within 30 days of this Order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom Marjorie St. Jean and MarjorieStjeanLLC, and their managers, employees, and tax return preparers prepared federal tax returns or claims for a refund from 2013 to the date of this Order.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC shall produce to counsel for the United States, within 30 days of this Order, a list that identifies by name, address, e-mail address, and telephone number all principals, officers, managers, franchisees, employees, and independent contractors of Marjorie St. Jean and MarjorieStjeanLLC from 2013 to the date of this Order.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC shall provide a copy of this Order to all principals, officers, managers, franchisees, employees, and independent contractors of Marjorie St. Jean and MarjorieStjeanLLC within 15 days of this Order, and provide to counsel for the United States within 30 days of this Order a signed and dated acknowledgment of receipt of the Court's order for each person whom Marjorie St. Jean and MarjorieStjeanLLC provided a copy of this Order.

IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC shall, within 5 days of this Order, post a message on all of their social media accounts (Facebook, Twitter, Instagram, and any other account) held or controlled by them or used by any of their tax preparation businesses stating that the Court has permanently barred them from preparing tax returns.

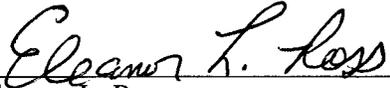
IT IS FURTHER ORDERED that Marjorie St. Jean and MarjorieStjeanLLC shall, within 5 days, post a full-sized (8 ½" by 11"), paper copy of this Order of Permanent Injunction upon the entrance place, front door, or front window of any tax preparation store that they own, are currently renting, or have rented for the 2018 tax filing season so that it is prominent and visible to the public, and shall maintain a copy of this Order of Permanent Injunction upon the entrance for one year from the date of this Order or until such time as the Defendants no longer rent or own the property, whichever occurs first.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over Marjorie St. Jean and MarjorieStjeanLLC and over this action to enforce this Order and Judgment of Permanent Injunction entered against them.

IT IS FURTHER ORDERED that the United States is entitled to conduct discovery to monitor Marjorie St. Jean’s and MarjorieStjeanLLC’s compliance with the terms of this Order and Judgment of Permanent Injunction entered against them.

The Clerk of the Court is **DIRECTED** to enter Judgment accordingly on Counts I, II, and III in favor of the United States and against Marjorie St. Jean and MarjorieStjeanLLC.

IT IS SO ORDERED, this 21st day of August, 2018.



Eleanor L. Ross
United States District Judge
Northern District of Georgia