

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:18-cv-00460-JAR
)	
CHERLYNN HARRINGTON, LINDA)	
MCCLENDON, GOODLINK, LLC d/b/a)	
GOODLINK TAX SERVICES, and)	
GOODLINK, INC. d/b/a GOODLINK)	
TAX SERVICES,)	
)	
Defendants.)	

ORDER OF DEFAULT JUDGMENT AND PERMANENT INJUNCTION

This matter is before the Court on Plaintiff United States of America’s motions for default judgment and permanent injunction. (Doc. Nos. 19 and 24). The United States filed this action seeking permanent injunctive relief against Defendants Cherlynn Harrington (“Harrington”), Linda McClendon (“McClendon”), Goodlink, LLC d/b/a Goodlink Tax Services, and Goodlink, Inc. d/b/a Goodlink Tax Services, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408. The United States seeks to permanently enjoin Defendants from engaging in various tax-related activities.

I. Background

On April 20, 2018, Harrington and McClendon filed identical papers titled “Complaint for Eviction,” which the Court liberally construed as an answer. (Doc. Nos. 3, 4). Defendants Goodlink, LLC and Goodlink, Inc. (collectively, “Goodlink entities”) failed to file any answer, and, on June 1, 2018, the Clerk of the Court filed an Entry of Default against those entities. (Doc. No. 10). The United States subsequently filed a motion for default judgment against the Goodlink entities. (Doc. No. 19).

On August 6, 2018, the Court entered an Order setting the matter for a scheduling

conference on September 5, 2018, and directed Harrington and McClendon to appear in person or through counsel. (Doc. No. 11). The Court also directed the parties to confer and submit a joint proposed scheduling plan. Harrington and McClendon failed to comply, returning the United States' draft joint proposed schedule with handwritten notations on every page stating "I DON'T ACCEPT THIS OFFER OF CONTRACT AND I DON'T CONSENT TO THESE PROCEEDINGS." (Doc. Nos. 12-1 and 12-2). On August 27, 2018, Harrington and McClendon filed identical papers titled "Disclaimer Notice" and an affidavit questionnaire directed at counsel for the United States. (Doc. Nos. 15 and 16).

On September 5, 2018, Harrington and McClendon failed to appear at the status conference, despite demonstrating through their filings that they were aware of this litigation and the orders of the Court. On September 6, 2018, the Court held that their failure to appear constituted an apparent willful violation of the Court's Order, and the Court directed them to show cause why the Court should not impose sanctions against them. Harrington and McClendon failed to comply, and on October 4, 2018, the Court issued an Order striking Harrington and McClendon's answers as a sanction for their willful violation of the Court's Orders. (Doc. No. 22). Then, on October 23, 2018, the United States filed the present motion for default judgment and permanent injunction against Harrington and McClendon.

II. Findings of Fact

This is a civil action brought by the United States under Internal Revenue Code ("IRC") §§ 7402(a), 7407, and 7408 to enjoin Defendants and all those in active concert and participation with them, from:

1. acting as a federal tax return preparer or requesting, assisting in, advising with respect to, or directing the preparation or filing of federal tax returns, amended tax returns, or other related documents or forms for any person or entity other than themselves;

2. owning, operating, managing, working for, profiting from, receiving fees or remuneration from, volunteering for, or controlling a tax-return-preparation business;
3. 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;
4. using, maintaining, renewing, obtaining, transferring, selling, or assigning any IRS Preparer Tax Identification Number (“PTIN”) and/or IRS Electronic Filing Identification Number (“EFIN”), or any other IRS service or program by which one prepares or files tax returns; and
5. engaging in any conduct that substantially interferes with the proper administration of the internal revenue laws.

Jurisdiction is conferred on this Court by 28 U.S.C §§ 1340, 1345, and 26 U.S.C. § 7402(a). Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and 26 U.S.C. §§ 7407, 7408 because Harrington and McClendon reside in this judicial district, the Goodlink entities operates in the judicial district, and a substantial part of the actions giving rise to this suit took place in this judicial district.

Since at least 2001, Harrington and McClendon, through the Goodlink entities, have operated a tax return preparation business from Harrington’s residence in St. Louis, Missouri. They frequently do business using the name “Goodlink Tax Services.” Harrington and McClendon list Goodlink Tax Services as the tax preparation firm on returns that they prepare. Harrington, McClendon, and the Goodlink entities are tax return preparers within the meaning of 26 U.S.C. § 7701(a)(36).

Between 2009 and 2017, Harrington and McClendon prepared over 1,300 tax returns, many of which claimed a refund that was based on false information. In particular, Harrington and McClendon prepare tax returns that make false claims for the Earned Income Tax Credit (“EITC”). Harrington and McClendon use inflated or fabricated business income reported on a Form 1040, Schedule C, “Profit or Loss from Business (Sole Proprietorship)” (used to report

income and expenses from a sole proprietorship), in order to fraudulently increase customers' reported earned income, or claim fake Schedule C expenses to fraudulently decrease customers' reported earned income in order to maximize the EITC claimed on the return. Harrington and McClendon also manipulate the EITC claims by claiming dependents who do not actually qualify as dependents, on customers' tax returns. They also claim Head of Household filing status when the customer does not actually qualify for that filing status because, for example, they actually live with their spouse. Defendants also manipulate the customers' income, dependents, and filing status in order to increase the amount of the EITC, and the customer's claimed refund.

Harrington and McClendon, through the Goodlink entities, repeatedly and continually engaged in conduct that is subject to penalty under 26 U.S.C. § 6694 by preparing tax returns that report non-existent business, fake income and expenses on Form 1040, Schedule C, false dependent exemptions, and incorrect filing status—all in an effort to generate and inflate customers' EITC or to reduce their tax liability. Harrington and McClendon, through the Goodlink entities, repeatedly and continually engaged in conduct penalized under 26 U.S.C. § 6695 circumventing, and intentionally disregarding, the due diligence requirements associated with the EITC under 26 U.S.C. § 6695 and the associated regulations.

Further, Harrington and McClendon, through the Goodlink entities, repeatedly and continually engaged in conduct in violation of 26 U.S.C. § 6701 by preparing fraudulent returns that make false claims for the EITC, knowing that such returns understate customers' tax liabilities and that the returns will be used in connection with a material matter arising under the internal revenue laws. Harrington and McClendon, through the Goodlink entities, charge unconscionable fees that they do not disclose to customers.

Defendants arranged to have their customers' tax refunds deposited onto a debit card that Defendants controlled. Harrington sometimes used the tax refunds on the debit cards for her own

purposes. After “skimming” money, sometimes thousands of dollars, from the refund, Harrington would give the customer the debit card. The customer would be unaware that they did not receive their entire refund on the debit card until later, such as when the IRS contacted them as part of an audit, or in its investigation in this case. Harrington and McClendon, through the Goodlink entities, harmed their customers who relied on them to prepare correct and legitimate tax returns. Instead, Defendants prepared tax returns that substantially understated customers’ tax liabilities and overstated their refunds. Because of Defendants’ conduct, some of their customers face significant tax deficiency assessments, interest, and penalties. In some cases, because the defendants “skimmed” from the tax refund, the customers have to pay back money to the IRS that they never even received.

Harrington and McClendon, through the Goodlink entities, also harmed the United States. Their conduct caused their customers to understate their tax liabilities and receive bogus or inflated refunds, depriving the United States of revenue to which it is lawfully entitled. Defendants further harm the United States because the IRS must devote its limited resources to investigating them, identifying their customers, ascertaining their customers’ correct tax liabilities, attempting to recover any refunds erroneously issued, and collecting additional tax, penalties, and interest. In addition to the direct harm caused by preparing tax returns that understate customers’ tax liabilities, Defendants’ activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with tax laws.

III. Legal Standard

The Federal Rules of Civil Procedure permit a default judgment to be entered against a defendant when the defendant has failed to plead or otherwise defend within the required time. Fed. R. Civ. P. 55. If a defendant’s answer is stricken as a sanction, the court may then enter default judgment. *Int’l Bhd. of Elec. Workers, Local Union No. 545 v. Hope Elec. Corp.*, 380

F.3d 1084, 1105 (8th Cir. 2004). “Upon default, the factual allegations of a complaint (except those relating to the amount of damages) are taken as true, but ‘it remains for the court to consider whether the unchallenged facts constitute a legitimate cause of action, since a party in default does not admit mere conclusions of law.’” *Murray v. Lene*, 595 F.3d 868, 871 (8th Cir. 2010) (quoting 10A C. Wright, A. Miller & M. Kane, Federal Practice and Procedure § 2688 at 63 (3d ed. 1998)); see also *United States v. Brooks*, No. 4:16CV1160 RLW, 2017 WL 2799306, at *2 (E.D. Mo. June 5, 2017) (granting the United States a permanent injunction by default judgment).

IV. Conclusions of Law

a. An Injunction is Warranted under 26 U.S.C. § 7407

Section 7407 of the IRC provides that authorizes a court to enjoin any person who is a tax return preparer from further engaging in certain proscribed conduct subject to penalty under §§ 6694 or 6695, or any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the IRS. 26 U.S.C. § 7407(b). “The court may enjoin such person from acting as a tax return preparer ‘[i]f the court finds that a tax return preparer has continually or repeatedly engaged in [the proscribed conduct] and that an injunction prohibiting such conduct would not be sufficient to prevent such person’s interference with the proper administration of [the Internal Revenue Code]’” *Brooks*, 2017 WL 2799306, at *3 (citing 26 U.S.C. § 7407(b)).

The Court finds that Defendants continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing federal income tax returns that understate their customers’ liabilities based on unreasonable positions based on willful conduct or reckless or intentional disregard of rules or regulations. 26 U.S.C. § 6694(a)-(b). Defendants have also continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695 by preparing federal income tax returns that understate their customers’ liabilities based on their failure to comply with due diligence requirements. 26 U.S.C. § 6695(g). Defendants’

willingness to falsify information to obtain the EITC for their customers shows a reckless and/or intentional disregard for the IRS rules and regulations. Harrington, McClendon, and Goodlink have continually and repeatedly prepared federal income tax returns that claim the EITC for which they not only have not conducted or documented the required due diligence procedures, but for which they flouted these requirements by fabricating phony business income or expenses in order to improperly claim the EITC.

Accordingly, the Court concludes that a permanent injunction enjoining Defendants from acting as tax preparers is appropriate to prevent the recurrence of preparing tax returns for customers that contain false, improper, and inflated credits and deductions, and a more limited injunction to prohibit the conduct would be insufficient to prevent Defendants' interference with the proper administration of the tax laws. 26 U.S.C. § 7407(b).

b. An Injunction is Warranted under 26 U.S.C. § 7408

Section 7406 of the IRC authorizes a court to enjoin any person who is a tax return preparer from further engaging in conduct that is subject to penalty under § 6701 if injunctive relief is appropriate to prevent the recurrence of such conduct. 26 U.S.C. § 7408. Section 6701 imposes a penalty against any person who aids or assists in, procures, or advises with respect to the preparation of any portion of a federal tax return, refund claim, or other document where that person knows, or has reason to believe, that such portion will be used in connection with any material matter arising under the internal revenue laws, and who knows that such portion would result in an understatement of another person's tax liability. 26 U.S.C. § 6701(a).

Here, Defendants engaged in conduct subject to penalty under § 6701 by preparing federal tax returns upon which they intentionally falsifying information knowing, or having reason to know, that once filed, the returns will result in the understatement of another person's federal income tax liabilities. The Court concludes that Defendants will not cease the fraudulent

preparation of tax returns unless they are enjoined, such that injunctive relief is appropriate. 26 U.S.C. § 7408.

c. An Injunction is Warranted under 26 U.S.C. § 7402

Section 7402 of the IRC authorizes district courts to issue injunctions “as may be necessary or appropriate for the enforcement of the internal revenue laws.” 26 U.S.C. § 7402(a). As discussed, Defendants have engaged in conduct that interferes substantially with the proper enforcement of the internal revenue laws. Defendants prepared federal income tax returns that intentionally understate their customers’ tax liabilities and charged unconscionable and undisclosed fees for the preparation of tax returns. As a result, the United States Treasury issued erroneous refunds, and the IRS has been forced to expend some of its limited resources to investigate Defendants’ tax return preparation, as well as identify and recover revenues lost from Defendants’ preparation of false and fraudulent returns. Thus, an injunction is necessary to enforce the internal revenue laws.

d. Appropriateness of Injunctive Relief

With respect to relief sought under §§ 7402, 7407, 7408, the Court is not required to consider the traditional equitable factors applied in non-statutory injunctive relief cases (as set forth in *Dataphase Systems, Inc. v. C L Systems, Inc.*, 640 F.2d 109, 113 (8th Cir.1981)), because the injunctive relief requested is expressly authorized by statute. *United States v. Zerjav*, No. 4:08CV00207 ERW, 2009 WL 912821, at *29 (E.D. Mo. Mar. 31, 2009); *see also United States v. Brooks*, No. 4:16CV1160 RLW, 2017 WL 2799306, at *4 (E.D. Mo. June 5, 2017) (granting permanent injunction in similar case without engaging in analysis using *Dataphase* factors). Thus, the Court concludes that unless they are enjoined by the Court, Defendants are likely to continue to engage in the conduct set forth above.

Further, even if the Court were to engage in a *Dataphase* analysis, the United States would

prevail. The Court finds that (1) the United States will continue to suffer irreparable injury if Defendants continue their conduct and actions as income tax return preparers; (2) in light of Defendants' default, the United States will succeed on the merits; (3) the harm that the United States would suffer if the Court did not issue a permanent injunction would outweigh the harm suffered by Defendants if the Court did issue a permanent injunction; and (4) it is clear that the public has an interest in being protected from fraudulent tax return preparers and in having access to competent tax preparers. Thus, injunctive relief preventing Defendants from acting as a tax preparers and engaging in conduct subject to penalty pursuant to 26 U.S.C. §§ 7407, 7408, and 7402(a) is the appropriate remedy in this case.

V. Conclusion

Accordingly,

IT IS HEREBY ORDERED that Plaintiff United States of America's motions for default judgment and permanent injunction (Doc. Nos. 19 and 24) are **GRANTED**.

IT IS FURTHER ORDERED that, based on the foregoing factual findings and pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, the Court orders that Defendants Cherlynn Harrington, Linda McClendon, Goodlink, LLC d/b/a Goodlink Tax Services, and Goodlink, Inc. d/b/a Goodlink Tax Services are enjoined from:

1. acting as a federal tax return preparer or requesting, assisting in, advising with respect to, or directing the preparation or filing of federal tax returns, amended tax returns, or other related documents or forms for any person or entity other than themselves;
2. owning, operating, managing, working for, profiting from, receiving fees or remuneration from, volunteering for, or controlling a tax-return-preparation business;
3. 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;
4. using, maintaining, renewing, obtaining, transferring, selling, or assigning any IRS Preparer Tax Identification Number ("PTIN") and/or IRS Electronic Filing Identification Number ("EFIN"), or any other IRS service or program by which one prepares or files tax

returns; and

5. engaging in any conduct that substantially interferes with the proper administration of the internal revenue laws.

IT IS FURTHER ORDERED that, within 30 days of this Order, Defendants Cherlynn Harrington, Linda McClendon, Goodlink, LLC d/b/a Goodlink Tax Services, and Goodlink, Inc. d/b/a Goodlink Tax Services shall contact, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom they prepared federal tax returns or claims for a refund for tax years beginning in 2008 and continuing through this litigation to inform them of the permanent injunction entered against Defendants, including sending a copy of this Order, but not enclosing any other documents or enclosures unless agreed by counsel for the United States or approved by the Court. Within 30 days of this Order, Defendants shall provide to counsel for the United States a signed and dated certification that they so informed these persons.

IT IS FURTHER ORDERED that, within 30 days of this Order, Defendants Cherlynn Harrington, Linda McClendon, Goodlink, LLC d/b/a Goodlink Tax Services, and Goodlink, Inc. d/b/a Goodlink Tax Services shall produce to counsel for the United States a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) for all persons for whom they prepared federal tax returns or claims for a refund for tax years beginning with 2008 and continuing through this litigation.

IT IS FURTHER ORDERED that, within 15 days of this Order, Defendants Cherlynn Harrington, Linda McClendon, Goodlink, LLC d/b/a Goodlink Tax Services, and Goodlink, Inc. d/b/a Goodlink Tax Services shall provide a copy of this Order to all of their principals, officers, managers, employees, volunteers, and independent contractors (if any), and provide to counsel for the United States within 30 days a signed and dated acknowledgement of receipt of the Court's Order for each person whom they provided a copy of the Court's Order.

IT IS FURTHER ORDERED that the United States may conduct discovery to monitor Cherlynn Harrington, Linda McClendon, Goodlink, LLC d/b/a Goodlink Tax Services, and Goodlink, Inc. d/b/a Goodlink Tax Services's compliance with the terms of this permanent injunction.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over Cherlynn Harrington, Linda McClendon, Goodlink, LLC d/b/a Goodlink Tax Services, and Goodlink, Inc. d/b/a Goodlink Tax Services and over this action to enforce this permanent injunction entered against Defendants.

IT IS FURTHER ORDERED that the Clerk of the Court shall administratively close the above-captioned case.

Dated this 4th day of February, 2019.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE