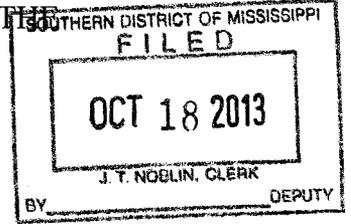


IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DANEE AIKENS,)
)
Defendant.)

Civil Case No. 3:13 CV 653
DPS
FKB

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America alleges as follows:

1. The United States brings this complaint to enjoin Danee Aikens, and any other person working in concert or participation with her, from directly or indirectly:
 - (a) preparing, filing, or assisting in the preparation or filing of, or directing the preparation or filing of federal income tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than herself;
 - (b) preparing or assisting in the preparation of federal tax returns that she knows will result in the understatement of any federal tax liability or the overstatement of a federal tax refund;
 - (c) engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701; and
 - (d) engaging in any conduct that substantially interferes with the proper administration and enforcement of the tax laws.

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 of the United States pursuant to 26 U.S.C. §§ 7401, 7407, and 7408.

Jurisdiction and Venue

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).
4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 26 U.S.C. §§ 7407(a) and 7408(a) because Aikens resides within this judicial district, prepares tax returns within this judicial district, and a substantial part of the events giving rise to this claim occurred within this judicial district.

Summary of Defendant's Activities

5. Aikens resides at 448 Cooper Road, Jackson, Mississippi.
6. Aikens prepares income tax returns, including Form 1040, "Individual Income Tax Return," for other taxpayers from an office location at 15275 S. Jackson Street in Durant, Mississippi.
7. Aikens prepares tax returns under the name "Comprotax Service," which is operated as a sole proprietorship.
8. Aikens learned how to prepare income tax returns through seminars given by ComproTax, Inc., which is a company that claims to facilitate independent tax preparers and to provide its affiliates with tax preparation training, continuing education, and administrative support. The president of ComproTax, Inc., Ronald Fontenot, has been permanently enjoined from, *inter alia*, engaging in any conduct subject to penalty under 26 U.S.C. § 6700 by making or furnishing false statements about the allowability of any

deduction or credit, the excludability of any income, or the securing of any tax benefit by the reason of participating in any tax shelter, plan or arrangement, or making gross valuation overstatements. *United States v. Ronald Fontenot, et al.*, Case No 1:09-cv-782-MAC (E.D. Tex. September 12, 2011)

9. IRS records show that 1780 returns were prepared by or at the direction of Aikens from 2009 to 2012 (the most recent year for which records are available). The number of returns prepared in each calendar year was as follows:

<u>Year</u>	<u>Number of Returns</u>
2012	608
2011	484
2010	406
2009	282

10. All of the 1780 returns referred to in paragraph 9, above, claimed a refund.
11. Since at least 2009, most of the income tax returns prepared by Aikens have understated the filing taxpayer's liability or overstated the taxpayer's refund by falsely claiming or inflating tax credits or fabricating deductions. The improper credits Aikens claimed for clients include the Earned Income Tax Credit ("EITC") (26 U.S.C. § 32) and education credits (26 U.S.C. § 25A).
12. Aikens has repeatedly and continually improperly claimed the EITC on her clients' returns to generate large and erroneous refunds for her clients. The EITC is a refundable credit, which means that it can generate a refund exceeding the amount of income tax paid by an individual taxpayer.
13. Aikens has repeatedly and continually improperly claimed refundable education credits.
14. In addition to preparing returns that improperly claim credits, Aikens has continually and repeatedly failed to comply with the due diligence requirements set forth in 26 U.S.C. §

6695(g), and accompanying regulations, for determining eligibility and amount of these EITCs. The due diligence a preparer must undertake includes, *inter alia*, the duty to make reasonable inquiries if the information provided by the taxpayer appears to be incorrect, incomplete, or inconsistent, as well as a duty to contemporaneously document the inquiries made and the responses to these inquiries.

Due diligence monitoring and penalties

15. On January 27, 2012, the IRS conducted an investigation of Aikens for returns she prepared during the 2010 filing season to determine whether the due diligence requirements were being met as to the eligibility of taxpayers for the EITC and whether the amount of EITC claimed was correct. The IRS requested 232 client files from Aikens for this purpose. Aikens refused to allow the IRS to inspect the 232 client files, but instead admitted that she had violated the due diligence requirements for all 232 returns. On May 30, 2012, the IRS assessed \$23,200 in penalties pursuant to 26 U.S.C. § 6695(g).
16. On February 13, 2013, an IRS Revenue Agent interviewed Aikens via teleconference to follow up on the issues which led to the assessment of penalties against Aikens. After reviewing 20 client files and returns and then interviewing Aikens, the Revenue Agent informed Aikens that she continued to improperly document certain positions taken on returns she filed.

Examples of Aikens' Fraudulent Schemes

EARNED INCOME TAX CREDIT

17. Aikens' primary scheme for underreporting her clients' liability or overstating their claim to a refund has been to report false information pertaining to the EITC.

18. Aikens has employed several methods to fraudulently increase her clients' EITC claims, including reporting fraudulent income on a Schedule C or as wage income on her clients' returns.
19. The amount of the EITC that a taxpayer may claim increases in proportion to a taxpayer's wages or other earned income up to a certain dollar amount. As such, there is a "plateau" of earned income that will result in the maximum possible EITC a taxpayer may claim. Because that "plateau" amount may be more than the income the taxpayer actually earned, a return falsely overstating income will, in certain circumstances, generate a larger refund.
20. In some instances, Aikens falsely overstates her clients' income in order to maximize their EITC claim by reporting false "HSH" income on the return.
21. The "HSH" designation is intended to document income earned by a taxpayer as a household employee, i.e. "household help," in situations where the employer does not provide independent documentation of the amount paid. As such, "HSH" income is not directly verifiable through a third-party reporting document such as a W-2 or 1099. Accordingly, it is susceptible to being falsely reported in order to claim an illegitimate EITC of the maximum amount.
22. In the 2012 filing season, 326 of the 608 returns prepared by Aikens reported HSH income.
23. Aikens also prepares returns that falsely claim that a "qualifying child" resides with the taxpayer, which increases the maximum allowable amount of the EITC.

EDUCATION CREDIT

24. For 2009 and subsequent tax years, the American Recovery and Reinvestment Act modified the existing Hope Credit for education to make it available to a broader range of taxpayers. Generally, 40% of the credit is refundable, meaning that a taxpayer would be able to receive an education credit of up to \$1,000 even if he owed no taxes.
25. Aikens has prepared returns that falsely claimed that the taxpayer was entitled to a refundable education credit.
26. In the 2012 filing season, 606 of the 608 returns Aikens prepared claimed an education credit.

Harm to the United States

27. Aikens has caused harm to the United States by creating substantial revenue losses through fabricating or inflating claims to refundable credits and falsifying deductions on the returns she prepares through the schemes described above.
28. In many instances, Aikens' clients had taxes withheld during the reporting years and Aikens' understatement of those clients' liabilities caused the United States to issue refunds that the clients were not entitled to receive.
29. Because most of the returns prepared by Aikens wrongfully claim EITC credits, which are refundable, the returns prepared by Aikens caused the United States to make a tax refund payment to many individuals who had little or no income tax liability, had made little or no payments, and were actually not entitled to any refund.
30. The IRS has examined at least 183 returns prepared by Aikens to determine whether the EITC and other credits were properly claimed. Of those returns, the IRS adjusted

approximately 98% of the returns by an average of \$4,791, for a total adjustment of \$876,768.

31. Based on the examinations referred to in paragraph 30, *supra*, the IRS estimates that the loss to the government from Aikens' return preparation from 2009 through 2012 could exceed \$7 million.
32. In addition, Aikens' actions have forced the United States to expend significant resources to examine and correct the returns she prepared.

COUNT I

INJUNCTION UNDER 26 U.S.C. § 7407 FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. §§ 6694 AND 6695

33. The United States incorporates by reference the allegations in paragraphs 1 through 32.
34. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a person who is a tax return preparer from engaging in certain prohibited conduct or from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, *inter alia*, the following:

- (a) Engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a tax return preparer who prepares a return that contains an understatement of tax liability or an overstatement of a refund due to an unreasonable position that the return preparer knew or should have known was unreasonable;
- (b) Engaging in conduct subject to penalty under 26 U.S.C. § 6695(g), which penalizes a tax return preparer for failing to exercise due diligence in determining eligibility for the EITC; and

- (c) Engaging in any other fraudulent or deceptive conduct which substantially interferes with the proper administrations of the internal revenue laws.
- 35. In order for a court to issue such an injunction, the court must find that:
 - (a) The tax return preparer engaged in the prohibited conduct; and
 - (b) Injunctive relief is appropriate to prevent the recurrence of such conduct.
- 36. If a tax return preparer's conduct is continual or repeated and the court finds that a narrower injunction would not be sufficient to prevent the preparer's interference with the proper administration of the internal revenue laws, the court may permanently enjoin the person from acting as a tax return preparer. *See* 26 U.S.C. § 7407(b).
- 37. Aikens has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing returns that understate the filers' tax liabilities and overstate their refunds based on unreasonable and reckless positions. As described in paragraphs 9 through 26, above, Aikens prepares returns that claim credits to which the taxpayer is not entitled. Aikens does so with the knowledge that the positions taken on the returns are unreasonable and lacked substantial authority. Aikens has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694(a).
- 38. Aikens engaged in conduct subject to penalty under 26 U.S.C. § 6695(g) by failing to exercise due diligence in determining eligibility for the EITC. Among other violations, Aikens does not keep a proper record of the client's eligibility for the EITC and does not obtain verification for questionable sources of income.
- 39. Aikens has continued to engage in the behavior described in this complaint even after being interviewed by the IRS in January of 2012, and being informed of her failure to meet the due diligence requirements.

40. Aikens has continually and repeatedly engaged in conduct that violates 26 U.S.C. §§ 6694 and 6695 and which substantially interferes with the administration of the internal revenue laws. Injunctive relief is necessary to prevent this misconduct because, absent an injunction, Aikens is likely to continue preparing false federal income tax returns.
41. As described above, the IRS has conducted multiple interviews and determined that Aikens failed to comply with the EITC due diligence rules. The IRS assessed penalties against Aikens for failing to comply with the EITC due diligence requirements. Despite these enforcement efforts, Aikens has continued to prepare improper returns.
42. A narrower injunction against only specific conduct – as opposed to enjoining her from acting as a return preparer – would be insufficient to prevent Aikens’ interference with the administration of the federal tax laws because she abuses the tax code through multiple schemes. To date, she has focused primarily on the EITC, employing several schemes described in paragraphs 18-23, above. In addition, she has falsely claimed refundable education credits on several occasions, and the IRS may not yet have identified all of the schemes used by Aikens to understate her clients’ liabilities or inflate their refund claims. This underscores the need to enjoin Aikens from all tax return preparation. Finally, lesser sanctions, such as the assessment of penalties, have not deterred Aikens from her fraudulent behavior.
43. Failure to permanently enjoin Aikens from acting as a return preparer will require the IRS to spend additional resources to uncover all of Aikens’ future schemes. The harm resulting from these schemes includes both the expenditures of these resources and the revenue loss caused by the improper credits Aikens claims on returns she prepares.

Accordingly, only a permanent injunction is sufficient to prevent future harm. Aikens should be permanently enjoined from acting as a tax return preparer

COUNT II

INJUNCTION UNDER 26 U.S.C. §7408
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. § 6701

44. The United States incorporates by reference the allegations contained in paragraphs 1 through 32.
45. 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, which penalizes a person who (1) aids or assists in the preparation of any portion of a tax return, (2) 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 (3) knows that such portion, if so used, would result in an understatement of tax liability.
46. Aikens has engaged in conduct subject to penalty under 26 U.S.C. § 6701 by preparing or directing the preparation of income tax returns that claim a tax credit when she knew that the taxpayer was not entitled to the credit, or the credit in the full amount claimed, and that this would understate the taxpayer's federal tax liability.
47. Aikens' repeated actions such as those described in paragraphs 9 through 26, above, fall within 26 U.S.C. § 7408(c)(1), and injunctive relief is appropriate to prevent recurrence of this conduct.
48. Accordingly, Aikens should be permanently enjoined from preparing any returns that improperly claim or inflate a claim to a tax credit.

COUNT III

INJUNCTION UNDER 26 U.S.C. §7402 FOR UNLAWFUL
INTERFERENCE WITH THE ENFORCEMENT OF INTERNAL REVENUE LAWS

49. The United States incorporates by reference the allegations contained in paragraphs 1 through 32.
50. Section 7402(a) of the Internal Revenue Code authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of internal revenue laws.
51. Aikens has repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of internal revenue laws.
52. If Aikens continues to act as a tax return preparer, her conduct will result in irreparable harm to the United States, and the United States has no adequate remedy at law.
53. Aikens' conduct has caused and will continue to cause substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable. Moreover, unless Aikens is enjoined from preparing returns, the IRS will have to devote substantial and unrecoverable time and resources auditing her clients individually to detect false, fraudulent, or overstated refund claims in future returns.
54. The detection and audit of erroneous tax credits claimed on returns prepared by Aikens will be a significant burden on IRS resources.
55. The harm to the United States without the permanent injunction outweighs any harm to Aikens if the permanent injunction is granted.

56. Although a permanent injunction would prevent Aikens from preparing any tax returns, such an occurrence would only be a direct result of her own fraudulent actions in preparing a large volume of erroneous returns which generate substantial tax losses over an extended period of time. Moreover, because Aikens' business and income is premised largely on the preparation of fraudulent income tax returns, this is not an interest that the Court should even weigh in deciding whether to issue a permanent injunction. Finally, the irreparable harm to the United States without the injunction far outweighs any harm the injunction might cause Aikens. She will be able to pursue other financial endeavors to support herself, but the United States cannot recover the additional moneys lost if she is allowed to continue preparing tax returns.

57. The public interest strongly favors permanently enjoining Aikens from preparing tax returns so as to put a stop to her abusive schemes, which have thus far generated potentially millions in tax loss. The public is best served by having only ethical and honest tax return preparers in business. Permanently enjoining Aikens would also ensure that members of the public are not unknowingly subject to her fraudulent return preparation practices, which makes it more likely that the innocent taxpayers will be audited by the IRS, owe additional taxes, interest and penalties, and face collection actions until those amounts are paid in full.

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

A. That the Court find that Danee Aikens has repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695(g) and that injunctive relief is appropriate under 26 U.S.C. § 7407 to prevent recurrence of that conduct;

B. That the Court find that Danee Aikens has repeatedly and continually 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;

C. That the Court find that Aikens has repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the internal revenue laws, and that injunctive relief against Aikens is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a);

D. That the Court enter a permanent injunction prohibiting Aikens or any other person working in concert or participation with her from directly or indirectly:

- (1) preparing, filing, or assisting in the preparation or filing of, or directing the preparation or filing of federal income tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than herself;
- (2) preparing or assisting in the preparation of federal tax returns that she knows will result in the understatement of any federal tax liability or the overstatement of a federal tax refund;
- (3) engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701; and
- (4) engaging in any conduct that substantially interferes with the proper administration and enforcement of the tax laws;

E. That the injunction further require Aikens:

1. At her own expense, to notify each person for whom she prepared, or directed the preparation of, federal income tax returns or any other federal tax forms after January 1, 2009, of this action and provide each person with a copy of the final injunction entered against her, as well as a copy of the Complaint setting forth the allegations as to how Aikens fraudulently prepared federal income tax returns;

2. To turn over to the United States copies of all returns or claims for refund that she prepared, or directed the preparation of, after January 1, 2009;

3. To turn over to the United States a list with the name, address, telephone number, email address, and social security number or other taxpayer identification number of all customers for whom she prepared, or directed the preparation of, returns after January 1, 2009;

4. To provide to the United States a sworn statement evidencing her compliance with the foregoing directives within forty-five (45) days of entry of the final injunction in this action; and

5. To keep records of her compliance with the foregoing directives, which may be produced to the Court, if requested, or the United States pursuant to paragraph F, below;

F. That the Court enter an order allowing the United States to monitor Aikens' compliance with the injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

(Continued on following page.)

G. That the Court grant the United States such other and further relief as the Court deems appropriate

Dated: October 17, 2013

Respectfully submitted,

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