

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2:11-cv-00063
)	
DELOIS WARREN, INDIVIDUALLY)	
and d/b/a BRANJALO TAX SERVICE)	
)	
Defendant.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

The plaintiff, United States of America for its complaint against defendant Delois Warren, individually and doing business as Branjalo Tax Service, alleges as follows:

1. This is a civil action brought by the United States under 26 U.S.C. §§ 7402(a), 7407, and 7408 to enjoin the defendant, and anyone in active concert or participation with her, from:

- (a) Acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns for any person or entity other than herself;
- (b) Understating taxpayers' liabilities as prohibited by 26 U.S.C. § 6694;
- (c) Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, or 6701; and
- (d) Engaging in conduct that substantially interferes with the administration or 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 26 U.S.C. §§ 7402, 7407 and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.

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

Defendant and Her Activities

5. Delois Warren resides and conducts business in Greensboro, Alabama. Branjalo Tax Service is located and conducts business in Greensboro, Alabama.

6. Delois Warren is a tax return preparer as defined by 26 U.S.C. § 7701(a)(36). She prepares other people's federal tax returns for compensation.

7. Delois Warren is an experienced tax return preparer who has prepared returns since at least 2005. She conducts her tax return preparation business through Branjalo Tax Service. Before forming Branjalo Tax Service, Warren worked for other tax return preparation firms in Alabama (including H&R Block), preparing tax returns for others.

8. In 2009 and 2010 alone, Warren prepared and filed over 3,600 income tax returns.

False Claims for Business Deductions and the Earned Income Credit

9. Warren prepared federal tax returns containing false information in order to fabricate higher tax refunds for customers based on overstated earned income tax credits (EITC). The EITC is a refundable federal income tax credit for low-income working individuals and families. Congress originally approved the tax credit legislation in 1975 in part to offset the burden of social security taxes and to provide an incentive to work. When the EITC exceeds the amount of taxes owed, it results in a tax refund to those who claim and qualify for the credit.

10. Because of the way the EITC works, in some instances, increases in reported income can lead to larger tax refunds after taking the EITC into account. As part of her tax scam, Warren prepared federal tax returns for customers reporting fictitious business profits in amounts calculated to result in increased claimed tax refunds based on the EITC.

11. As part of this scheme, Warren prepared federal tax returns for some customers falsely claiming that the customers - who did not have businesses - were engaged in businesses, in order to create a false business profit to maximize refunds based on the EITC.

12. For example, Warren prepared a 2008 income tax return for Sophia Pugh. On the return's Schedule C, Warren falsely reported that Pugh earned \$5,000 of business income in addition to \$5,347 in wages. Pugh, however, did not operate a business in 2008, and Pugh never informed Warren that she had a business of her own. As a direct result of Warren's false reporting, Pugh's return claimed a refund of \$4,476, a larger refund than she was entitled to.

13. Additionally, Warren prepared a 2008 income tax return for Helen Paige. Again, on the return's Schedule C, Warren falsely reported that Paige earned \$5,000 of business income from a cleaning service in addition to \$2,583 in wages. Paige did not operate a business in 2008, and Paige never told Warren that she operated a business of her own. As a result of Warren's false reporting, Paige's return claimed a larger refund than she was entitled to.

False Claims for the First-Time-Homebuyer Credit

14. As a means to strengthen the real estate market and help the economy, Congress enacted the first-time-homebuyer Credit ("the credit") in July 2008. The credit allowed first-time homebuyers a credit against their federal income tax of the lesser of ten percent of the home's purchase price or \$8,000.

15. The credit, which is codified at 26 U.S.C. § 36, is claimed by completing an IRS Form 5405 and attaching it to the income tax return. Form 5405 sets forth the requirements for

credit eligibility. Form 5405 requires the preparer to list the purchased home's address and acquisition date.

16. To be eligible for the credit (as in effect for tax year 2008) a person must not have owned a home in the previous three years and must have actually purchased a home after April 8, 2008 and during the tax year for which the credit is claimed.

17. The Internal Revenue Service has identified at least 190 returns prepared by Branjalo Tax Service in 2009 that claim the credit.

18. For example, Demetria Williams went to Branjalo Tax Service to have Warren prepare her 2008 federal income tax return. Williams's return reported \$14,431 of income in 2008. The return claimed \$11,431 of itemized deductions. On Williams's behalf, Warren claimed a first-time-homebuyer credit of \$8,000. Williams, however, did not purchase a house in 2008 and advised Ms. Warren of that. Williams was not eligible for the first-time-homebuyer credit. As a result of Warren's false reporting, Williams's return claimed a refund of \$7,687, which she was not entitled to.

19. In another example, Warren prepared the 2008 tax return of Twanda Christian. On Christian's behalf, Warren reported \$18,676 of income in 2008 and \$10,676 in deductions. Warren also claimed a \$7,500 first-time-homebuyer credit on Christian's behalf. Christian, however, did not purchase a home in 2008 and informed Warren of that. Thus, Christian was not eligible for the first-

time-homebuyer credit. Nonetheless, Warren claimed a refund of \$12,941 on Christian's behalf, to which she was not entitled.

Count I: Injunction under 26 U.S.C. § 7407

20. The United States incorporates by reference the allegations made in paragraphs 1 through 19.

21. Section § 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax preparer from:

- a. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 or 6695;
- b. Misrepresenting his or her eligibility to practice before the IRS, or otherwise misrepresenting his or her experience or education as a tax return preparer;
- c. Guaranteeing the payment of any tax refund of the allowance of any tax credit, and;
- d. 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 the conduct. If the court finds that a return preparer has continually or repeatedly engaged in such conduct, and the court also finds that a narrower injunction (i.e., prohibiting only that specific enumerated 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 return preparer.

22. Warren has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by willfully and knowingly preparing federal tax returns for customers that improperly understate her customers' tax liabilities based on positions she knows to be false, including fictitious home purchases and businesses.

23. Warren has continually and repeatedly engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the federal tax laws.

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

25. If Warren is not enjoined, she is likely to continue to file false and fraudulent federal tax returns and engage in additional fraudulent conduct.

26. Warren's continual and repeated conduct subject to an injunction under 26 U.S.C. § 7407, including the flagrant misuse of the first-time-homebuyer credit, the earned income credit and fictitious businesses to qualify for Schedule C deductions 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, Warren should be permanently barred from acting as a return preparer.

Count II: Injunction under 26 U.S.C. § 7408

27. The United States incorporates by reference the allegations in paragraphs 1 through 26.

28. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either 26 U.S.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

29. Section 6701(a) of the Internal Revenue Code penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability.

30. By claiming false first-time-homebuyer credits, earned income credits or Schedule C deductions, Warren

knowingly and willfully prepared false federal income tax returns for customers that she knew would understate her customers' correct tax liabilities. This conduct, therefore, is subject to penalty under 26 U.S.C. § 6701.

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

Count III: Injunction Under 26 U.S.C. § 7402(a) Necessary to Enforce the Internal Revenue Laws

32. The United States incorporates by reference the allegations of paragraphs 1 through 31.

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

34. Warren, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws. Warren has intentionally filed false first-time-homebuyer credits, earned income credits and Schedule C deductions.

35. Unless enjoined, Warren is likely to continue to engage in such improper conduct and interfere with the

enforcement of the internal revenue laws. If Warren 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.

36. The United States will suffer irreparable injury if Warren is not enjoined, which outweighs the harm to Warren of being barred from acting as a return preparer.

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

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

WHEREFORE, the United States prays for the following:

A. That the Court find that Warren 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 or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Warren from acting as a federal tax return preparer;

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

D. That the Court find that Warren has engaged in conduct that 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 Warren and all those in active concert or participation with her, from:

- (a) Acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns for any person or entity other than herself;
- (b) Understating taxpayers' liabilities as prohibited by 26 U.S.C. § 6694;

(c) Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, or 6701; and

(d) Engaging in conduct that substantially interferes with the administration or 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 Warren to contact, within fifteen days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom she prepared federal tax returns since January 1, 2007 to inform them of the permanent injunction entered against her;

G. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Warren to produce to counsel for the United States, within fifteen days of the Court's 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 she prepared federal tax returns since January 1, 2007;

H. That the Court retain jurisdiction over Warren and over this action to enforce any permanent injunction entered against her;

I. That the United States be authorized to conduct discovery to monitor Warren's compliance with the terms of any permanent injunction entered against her; and

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

DATED: February 7, 2011

Respectfully submitted,

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