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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,
16 Plaintiff,

17 v.

18 JACK R. GOSNEY; CHARLES T.
19 KIZER; and HAL J. CLARK; each
individually and d/b/a JRG Financial
20 Group or JRG Associates,
21 Defendants.

44-2006-3243 JSL (CWS)

Case no.

**COMPLAINT FOR PERMANENT
INJUNCTION AND FOR OTHER
RELIEF**

22 The United States of America, plaintiff, alleges against defendants Jack R.
23 Gosney, Charles T. Kizer and Hal J. Clark, each individually and doing business
24 as JRG Financial Group or JRG Associates, as follows:

Nature of Complaint

26 1. This is a civil action brought by the United States of America pursuant to
27 28 U.S.C. §§ 1340 and 1345, and Internal Revenue Code (26 U.S.C.; the "Code")

1 §§ 7402, 7407 and 7408 to enjoin Jack R. Gosney, Charles T. Kizer and Hal J.
2 Clark, each individually and doing business as JRG Financial Group or JRG
3 Associates, and any other persons or entities in active concert or participation with
4 them, from:

- 5 (a) Preparing or assisting in the preparation or filing of any federal
6 income tax return for any other person or entity;
- 7 (b) Engaging in conduct subject to penalty under Code § 6701, *i.e.*,
8 preparing or assisting others in the preparation of any tax form or
9 other document to be used in connection with a material matter
10 arising under the internal revenue laws and which the defendant
11 knows will (if so used) result in the understatement of tax liability;
- 12 (c) Understating taxpayers' liabilities as prohibited by Code § 6694;
- 13 (d) Engaging in similar conduct that substantially interferes with the
14 proper administration and enforcement of the internal revenue laws;
- 15 (e) Engaging in any other activity subject to penalty under the Code; and
- 16 (f) Representing persons before the Internal Revenue Service.

17 **Jurisdiction and Venue**

18 2. This action has been requested by a delegate of the Secretary of the
19 Treasury, and commenced at the direction of the Attorney General of the United
20 States, pursuant to the provisions of Code §§ 7402, 7407 and 7408.

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

23 4. Venue is proper in the United States District Court for the Central
24 District of California under 28 U.S.C. § 1391.

25 **Defendants**

26 5. Defendant Jack R. Gosney resides and conducts business in Riverside,
27 California.

1 6. Defendant Charles T. Kizer resides in Moreno Valley, California, and
2 conducts business in Riverside, California.

3 7. Defendant Hal J. Clark presently resides in San Felipe, Baja California,
4 Mexico, and conducts business in Riverside, California.

5 8. The defendants have conducted a federal income tax return preparation
6 business as JRG Financial Group since January 2004. Prior to that time they
7 conducted business as JRG Associates. (These two businesses are hereinafter
8 referred to collectively as "JRG.")

9 **Defendants' Activities**

10 9. The defendants are income tax return preparers as defined by Code §
11 7701(a)(36) because they prepare other people's tax returns for compensation.

12 10. Gosney has been an income tax return preparer and tax accountant for
13 over 40 years. He is a founder and manager of JRG.

14 11. Clark has been an income tax return preparer with JRG since 2002.

15 12. Kizer joined JRG as an income tax return preparer in 2003.

16 13. Each of the defendants holds himself out as knowledgeable in tax
17 matters and return preparation.

18 14. The defendants prepare and file improper partnership and individual
19 income tax returns on behalf of their customers.

20 15. When customers came to the defendants to have their individual income
21 tax returns prepared, the defendants advised them to form partnerships as a vehicle
22 to cut their taxes. The defendants then formed the partnerships—sometimes
23 formally, sometimes informally—on behalf of the customers.

24 16. The defendants then prepared partnership returns (Form 1065) for their
25 customers that included large improper deductions for personal living expenses as
26 well as fictitious or grossly inflated business expenses. These false expense
27 deductions were used to create a loss on the partnership return that would flow to
28

1 the customer/partners' related individual tax returns (Form 1040). This fabricated
2 loss would be used to offset the wages and other income that the customers earned
3 and reported on their individual returns. This method significantly reduced the
4 taxable income shown on the customers' individual tax returns, and consequently
5 reduced or eliminated the customers' taxes. As a result, the majority of the
6 customers received inflated tax refunds to which they were not entitled.

7 17. In or around 2005 the defendants altered their return preparation
8 methods and took a majority of their customers out of partnerships and set them up
9 (on paper at least) as sole proprietorships. Afterwards, instead of reporting
10 improper deductions on a Form 1065, the defendants reported the improper
11 deductions (personal living expenses and false or inflated business expenses) on a
12 Schedule C or a Schedule E (for those with residual partnerships) that are attached
13 to the customers' individual tax return. Thus, the defendants were still able to
14 generate erroneous inflated refunds for their customers.

15 18. The defendants have prepared nearly 5,000 individual income tax
16 returns (Form 1040) and over 3,500 partnership returns (Form 1065) since 2001.
17 Of these returns, Kizer signed as preparer for over 800 and Clark was the signing
18 preparer for over 300. The remainder were signed by Gosney as preparer.

19 19. The Internal Revenue Service has audited 120 of these returns (of
20 which more than 70 were prepared by Gosney, more than 20 prepared by Kizer
21 and more than 20 by Clark), and in each instance the audit has resulted in a
22 deficiency. The average deficiency per return is approximately \$16,000. As
23 described above, for the most part the deficiencies were due to inflated and
24 improper deductions reported on partnership returns or Schedules C, which
25 resulted in losses erroneously included on the returns.

1 20. The defendants are experienced income tax return preparers. They
2 knew that their customers were not entitled to the false and inflated deductions
3 that they were putting on the customers' tax returns.

4 21. They also knew that the partnerships they created for their customers
5 lacked a business purpose or profit motive and were fictitious entities created
6 solely to serve as a vehicle to improperly reduce the customers' tax liabilities.
7 Likewise, they knew that the Schedule C expenses purportedly related to their
8 customers' sole proprietorships were inaccurate.

9 22. The defendants' tax return preparation business has caused substantial
10 harm to the United States either from the issuance of erroneous refunds to their
11 customers or causing the Internal Revenue Service to have to locate and examine
12 their customers' returns. In addition, the defendants' faulty returns lead to
13 substantial deficiencies, interest and penalties levied against their customers by the
14 IRS.

15 **COUNT I – Injunction under Code § 7407**

16 23. The United States incorporates the allegations of paragraphs 1 through
17 22.

18 24. Code § 7407 authorizes a court to enjoin a paid income tax return
19 preparer if, *inter alia*, the court finds that the return preparer has engaged in
20 conduct subject to penalty under Code § 6694 and that injunctive relief is
21 appropriate to prevent the recurrence of the conduct.

22 25. Code § 6694 imposes penalties on income tax return preparers who
23 willfully attempt to understate the tax liability of another person.

24 26. The defendants have engaged in conduct subject to penalty under Code
25 § 6694 by preparing returns containing complete fabrications such as false or
26 inflated expense deductions on either partnership or personal income tax returns.

1 27. Injunctive relief is appropriate to prevent this misconduct because,
2 absent an injunction, the defendants are likely to continue to prepare false federal
3 income tax returns and engage in other misconduct of the type described in this
4 complaint.

5 28. The defendants should be permanently enjoined under Code § 7407
6 from acting as income tax return preparers because a more limited injunction
7 would be insufficient to stop their interference with the proper administration of
8 the tax laws.

9 **COUNT II – Injunction under Code § 7408**

10 29. The United States incorporates the allegations of paragraphs 1 through
11 28.

12 30. Code § 7408 authorizes courts to issue injunctions against conduct that
13 is subject to penalty under Code § 6701 or that is subject to any other penalty
14 under the Internal Revenue Code.

15 31. The defendants have prepared and filed federal tax returns and other
16 documents for others knowing that the returns or documents would, if used, result
17 in the understatement of another person's federal tax liability. They have engaged
18 in conduct that is subject to penalty under Code § 6701, and an injunction under
19 Code § 7408 is appropriate.

20 32. Unless enjoined by the Court, the defendants are likely to prepare tax
21 returns or other documents that they know will result in the understatement of tax
22 liability. Accordingly, the defendants should be enjoined under Code § 7408 from
23 engaging in conduct subject to penalty under Code § 6701 or from engaging in
24 conduct subject to penalty under any other section of the Code.

25 **COUNT III – Injunction under Code § 7402**

26 33. The United States incorporates the allegations of paragraphs 1 through
27 32.

1 34. Code § 7402(a) authorizes courts to issue injunctions as may be
2 necessary or appropriate to enforce the internal revenue laws.

3 35. The defendants, through the actions described above, have engaged in
4 conduct that substantially interferes with the administration and enforcement of
5 the internal revenue laws, and are likely to continue to engage in such conduct
6 unless enjoined by the Court. The defendants' conduct is causing irreparable
7 injury to the United States and an injunction under Code § 7402(a) is necessary
8 and appropriate.

9 36. The Court should order injunctive relief under Code § 7402(a).

10 WHEREFORE, the United States of America requests the following relief:

11 A. The Court find that the defendants have continually and repeatedly
12 engaged in conduct subject to penalty under Code § 6694, and that injunctive
13 relief limited to prohibiting such conduct would not be sufficient to prevent their
14 interference with the proper administration of the Internal Revenue Code;

15 B. The Court, pursuant to Code §§ 7407 and 7402(a), enter a permanent
16 injunction prohibiting the defendants from preparing or assisting in the
17 preparation or filing of federal income tax returns or other related documents and
18 forms for others;

19 C. The Court find that the defendants have engaged in conduct that is
20 subject to penalty under Code § 6701, and an injunction under Code § 7408 is
21 appropriate to prevent recurrence of that conduct.

22 D. The Court find that the defendants have engaged in conduct that
23 interferes with the enforcement of the internal revenue laws, and that injunctive
24 relief against them and anyone acting in concert with them is appropriate to
25 prevent the recurrence of that conduct pursuant to the Court's inherent equity
26 powers and Code § 7402(a);

1 E. The Court, pursuant to Code § 7402(a), prohibit the defendants from
2 representing or appearing on behalf of before the Internal Revenue Service any
3 persons for whom they have prepared federal income tax returns, and to enjoin
4 them from encouraging or abetting noncompliance with the Internal Revenue
5 Service during the examinations of those persons' tax returns;

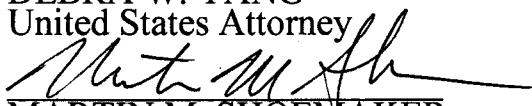
6 F. The Court, pursuant to Code § 7402(a), order the defendants to contact
7 all persons for whom they prepared or assisted in preparing a federal income tax
8 return after January 1, 2002, and inform those persons of the entry of the Court's
9 findings, the falsity of the tax returns prepared on their behalf, the possibility of
10 the imposition of penalties against them, the possibility that the United States may
11 seek to assess and collect any federal income taxes, interest, and penalties, which
12 they may owe, and the entry of the permanent injunction against the defendants;

13 G. The Court, pursuant to Code § 7402(a), order the defendants to turn over
14 to the United States a list of the names, addresses, e-mail addresses, social security
15 numbers (and any other federal tax identification numbers), and telephone
16 numbers of all persons for whom they have prepared or assisted in preparing
17 federal income tax returns since January 1, 2006;

18 H. The Court authorize the United States to engage in post-judgment
19 discovery pursuant to the Federal Rules of Civil Procedure in order to monitor
20 compliance with the Court's injunction; and

21 I. The Court grant the United States such other and further relief as the
22 Court deems appropriate.

23 Dated: May 23, 2006

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