

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No.
v.)	
)	
JEROME J. HARRIS)	COMPLAINT FOR
individually and doing business as,)	PERMANENT INJUNCTION
JAY'S BOOKKEEPING AND TAX)	AND OTHER RELIEF
SERVICES,)	
)	
Defendant.)	
_____)	

The plaintiff, the United States of America, complains and alleges against the defendant, Jerome J. Harris, individually and doing business as Jay's Bookkeeping and Tax Services, as follows:

1. This is a civil action brought by the United States pursuant to sections 7402(a), 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) ("I.R.C.") to restrain and enjoin Harris and all those in active concert or participation with him from:

- (a) Acting as a federal income tax return preparer;
- (b) Preparing or filing, or assisting in the preparation or filing of federal income tax returns for others;
- (c) Representing customers before the Internal Revenue Service;
- (d) Understating customers' liabilities as prohibited by I.R.C. § 6694;
- (e) Engaging in any other activity subject to the penalty under I.R.C. §§ 6694, 6701, or any other penalty provision in the IRS; and
- (f) Engaging in conduct that interferes with the proper administration and enforcement of the internal revenue laws and from promoting his false tax schemes.

Jurisdiction

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 the provisions of I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28, United States Code, and I.R.C. §§ 7402(a), 7407, and 7408.

Defendant

4. Defendant Jerome J. Harris resides in Missouri City, Fort Bend County, Texas, located within this Court's jurisdiction, but is currently housed in federal prison.

Venue

5. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to this claim occurred within this judicial district.

Defendant's activities

6. Harris is a federal income tax return preparer, who has operated under the trade name Jay's Bookkeeping & Tax Services since 1998.

7. Harris has been preparing original and amended returns for individuals since at least 1996.

8. Harris prepares fraudulent returns for his customers, including not reporting or paying self-employment taxes for customers who own their own businesses.

9. Harris falsely maintains that there is no law providing for the taxation of self-employment income, since he contends that the Sixteenth Amendment was never ratified.

False and fraudulent Schedule C deductions

10. Harris also seeks fraudulent tax refunds for customers by fabricating bogus deductions on Schedule C (regarding profit or loss from business).

11. Harris prepares returns that include a completed Schedule C with fabricated information when he knows that the customer has no Schedule C business.

12. Examples of Harris's improper reporting on Schedules C include the following:

- a. Harris reports fictitious expenses on his customers' Schedule Cs without the customer's authorization; and

b. When filing his customers' amended returns Harris fabricates Schedule C businesses in order to obtain deductions not reported on the original return.

13. Manufacturing bogus business expenses causes Harris's customers to underreport their tax liability and obtain refunds to which they are not entitled.

14. Besides filing false and fraudulent Schedule C forms, Harris has begun to file false and fraudulent Schedule F forms (regarding profit or loss from farming). He manufactures bogus Schedule F expenses for customers who are not involved in farming. This fraudulently reduces his customers' reported tax liability.

15. The IRS estimate of the total tax losses caused by Harris's fraudulent activity thus far is \$4.5 million.

Criminal conviction and ongoing activity

16. Harris was indicted in March 2005 under I.R.C. § 7206(2) on twenty-three counts of aiding in the preparation of a false tax return. The indictment charged Harris with preparing returns that included, among other items, false and fraudulent Schedule C deductions.

17. The Government dismissed two of the counts and on September 15, 2005, Harris was convicted on the remaining twenty-one counts. *United States v. Jerome J. Harris*, case no. 4:05-cr-00119, U.S. Dist. Ct., S.D. Tex.

18. On January 27, 2006, the Court sentenced Harris to fifty-seven months in prison, to begin February 3, 2006, followed by twelve months of supervised release.

19. As part of the sentence the Court precluded Harris from preparing tax returns for the duration of his sentence.

20. However, the Internal Revenue Service discovered that Harris, despite his conviction, continued to prepare federal income tax returns.

21. A permanent injunction is necessary to prevent Harris from preparing and filing tax returns after the completion of his prison sentence.

Harm to the public

22. Harris's preparation of false and fraudulent tax returns, to the extent that the Internal Revenue Service does not detect them and issues incorrect refunds, has resulted in customers receiving substantial tax refunds to which they are not legally entitled. The average tax refund requested on the 511 Harris-prepared returns discovered by the Internal Revenue Service was \$8,811.11.

23. Harris harms the United States because his customers are not reporting and paying their correct tax liabilities.

24. Harris further harms the United States because the Internal Revenue Service must devote its limited resources to identifying Harris's customers, ascertaining their correct tax liabilities, and recovering any refunds erroneously issued. Given the IRS's limited resources, identifying and recovering all revenues lost from Harris's preparation of false and fraudulent returns may be impossible.

25. For the Harris customers that it has identified, the Internal Revenue Service must review and respond to correspondences, request that they change their positions by filing correct returns, assess penalties, and audit them to determine their correct tax liability. This effort is required for each return filed.

26. Harris's misconduct undermines public confidence in the administration of the federal tax system and encourages noncompliance with the internal revenue laws.

Count I

Injunction under I.R.C. § 7407

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

28. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin an income tax preparer from:

- (a) engaging in conduct subject to penalty under I.R.C. § 6694 (which penalizes a tax return preparer who prepares or submits a return that contains an unrealistic or frivolous position);
- (b) misrepresenting his experience or education as a tax return preparer; or
- (c) 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 injunctive relief is appropriate to prevent the recurrence of such conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated misconduct) 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 federal income tax return preparer.

29. Harris has continually and repeatedly violated I.R.C. § 6694 by preparing federal tax returns that understate his customers' liabilities based on positions for which there is no realistic possibility of being sustained on the merits: specifically, his frivolous Schedule C deductions.

30. Harris's continual and repeated violations of I.R.C. § 6694 falls within I.R.C. § 7407(b)(1)(A) and (D), and thus are subject to injunction under I.R.C. § 7407.

31. If he is not permanently enjoined from acting as an income-tax preparer, Harris is likely to continue to file tax returns that include false and fraudulent Schedule C deductions.

32. Harris's repetition of conduct subject to injunction under I.R.C. § 7407, even after he was criminally convicted for similar behavior, demonstrates that a narrow injunction prohibiting only specific misconduct would be insufficient to prevent Harris's interference with the proper administration of the internal revenue laws. This warrants an injunction permanently barring him from acting as a return preparer.

Count II

Injunction under I.R.C. § 7408

33. The United States incorporates by reference the allegations in paragraphs 1 through 32.

34. I.R.C. § 7408 authorizes a district court to enjoin any person from engaging in conduct subject to penalties under either I.R.C. §§ 6700 or 6701 where the person has engaged in such conduct and injunctive relief is appropriate to prevent recurrence of such conduct.

35. I.R.C. § 6701 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 a 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.

36. Harris prepared returns he knew his customers would use and that he knew would result in an understatements of his customers' tax liabilities. Harris's conduct is thus subject to penalty under I.R.C. § 6701.

37. If the Court does not enjoin Harris, he is likely to continue to engage in such conduct. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III

Injunction under I.R.C. § 7402(a) for unlawful interference with the enforcement of the internal revenue laws

38. The United States incorporates by reference the allegations of paragraphs 1 through 37.

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

40. Harris, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

41. The federal income tax returns that Harris prepares for his customers falsely report his customers' federal income tax liabilities and claim refunds to which the customers are not entitled.

42. If the Court does not enjoin Harris from engaging in fraudulent and deceptive conduct, such as preparing false and fraudulent tax returns, the United States will suffer irreparable injury from revenue losses caused by Harris.

43. The United States will suffer irreparable injury if the Court does not enjoin Harris. That harm outweighs any harm to Harris as a result of barring him from acting as a return preparer.

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

45. If the Court does not enjoin Harris, he is likely to continue to interfere with the enforcement of the internal revenue laws.

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

A. That the Court find that Jerome J. Harris, individually and doing business as Jay's Bookkeeping and Tax Services, has continually and repeatedly engaged in conduct subject to penalties under I.R.C. § 6694 and has continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court find that Jerome J. Harris, individually and doing business as Jay's Bookkeeping and Tax Services, has engaged in conduct subject to a penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

C. That the Court find that Jerome J. Harris, individually and doing business as Jay's Bookkeeping and Tax Services, 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 I.R.C. § 7402(a);

D. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Jerome J. Harris, individually and doing business as Jay's Bookkeeping and Tax Services, and all those in active concert or participation with him from:

- (1) Acting as a federal income tax preparer;
- (2) Preparing or filing, or assisting others in preparing or filing federal income tax returns for others;
- (3) Representing customers before the Internal Revenue Service;
- (4) Engaging in any other activity subject to the penalty under I.R.C. §§ 6694, and/or 6701, or any other penalty provision in the I.R.C.; and
- (5) Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Jerome J. Harris within fifteen days to contact by United States Mail and, if an e-mail address is known, by e-mail, all persons for whom he prepared a federal tax return after January 1, 2001, to inform them of the Court's Order and enclose a copy of the permanent injunction against him;

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Jerome J. Harris to produce to counsel for the United States within fifteen days a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom he prepared federal tax returns or claims for refund since January 1, 2001;

G. That the Court retain jurisdiction over Jerome J. Harris, individually and doing business as Jay's Bookkeeping and Tax Services, and over this action to enforce any permanent injunction entered against Harris;

H. That the United States be entitled to conduct post-judgment discovery to monitor Harris's compliance with the terms of any permanent injunction entered against him; and

I. That this Court grant the United States such other and further relief, including costs, as is just and equitable.

Dated: June 23, 2006

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