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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 v.)

13 MARY ASHER VINCENT,
a/k/a MARY LOUISE VINCENT,
14 d/b/a VINCENT & ASSOCIATES, LP,)

15 Defendant.)

Civil No. _____

Complaint for Permanent Injunction

16 Plaintiff, the United States of America, states as follows for its complaint against
17 defendant Mary Asher Vincent, also known as Mary Louise Vincent, doing business as Vincent
18 & Associates, LP:

19 **Jurisdiction**

20 1. This Court has jurisdiction over this action to enjoin Vincent from violating and
21 interfering with the administration of the internal revenue laws pursuant to 28 U.S.C. §§ 1340
22 and 1345 and Internal Revenue Code (I.R.C.) (26 U.S.C.) § 7402(a).

23 **Venue**

24 2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396 because
25 Vincent resides in this judicial district.

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1 **Nature of Action**

2 3. This action has been requested by the Chief Counsel of the IRS, a delegate of the
3 Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General,
4 pursuant to I.R.C. § 7402.

5 4. The United States brings this action to enjoin Vincent permanently from:

- 6 a. Engaging in conduct subject to penalty under I.R.C. § 6701, *i.e.*, by preparing or
7 assisting others in the preparation of any tax forms or other documents to be used in
8 connection with any material matter arising under the internal revenue laws and
9 which the defendant knows will (if so used) result in understatement of tax liability;
- 10 b. Engaging in any conduct that violates I.R.C. § 6694, *i.e.*, by preparing or assisting in
11 the preparation of any return that results in the understatement of tax liability based
12 on an unrealistic position;
- 13 c. Acting as an income-tax-return preparer, by preparing for compensation, or
14 employing one or more persons to prepare for compensation, any return of tax
15 imposed by subtitle A or any claim for refund of tax imposed by subtitle A, or a
16 substantial portion of any such return or claim for refund;
- 17 d. Preparing any other federal tax returns for others; and
- 18 e. Engaging in any conduct that interferes with the administration and enforcement of
19 the internal revenue laws.

20 5. An injunction is warranted based on Vincent’s continuing violation of the internal
21 revenue laws, including engaging in conduct subject to penalty under I.R.C. §§ 6694 and 6701.

22 **Defendant**

23 6. Vincent resides at 4784 N. Vagedes, Fresno, California 93705.

24 7. Vincent has during the periods discussed below conducted business under the name
25 Vincent & Associates at 1709 W. Shaw Avenue, Fresno, California 93711.

26 **Defendant’s Activities**

27 8. Vincent is an income-tax-return preparer based in Fresno, California.

1 9. The IRS has identified the following number of income tax returns (Forms 1040,
2 1065, 1120, 1041, and 1040NR), that Vincent prepared for customers in the years 2001-2004:

<u>Year</u>	<u>Total returns</u>
2001	128
2002	93
2003	109
2004	62

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7 10. The majority of these customer returns understate the amount of tax due based on
8 unrealistic positions relating to sham trusts. The customers' sham-trust scheme is typical of those
9 promoted by Global Business Services and Anderson's Ark and Associates, two well-known
10 sham-trust promoters, to which the IRS has linked several of Vincent's customers.

11 11. The sham-trust scheme that Vincent's customers use is generally structured to evade
12 proper tax reporting follows:

- 13 a. the customer establishes a partnership through which to operate a business;
- 14 b. the customer owns a small or nominal percentage of the partnership, often as
15 low as between one and five percent; and
- 16 c. the balance of the partnership is owned by one or more purported domestic
17 trusts, the owners or beneficiaries of which are one or more purported trusts,
18 at least one of which is established offshore.

18 12. As explained more fully below, the scheme is based on a series of purported
19 "distributions" between and among these entities, each of which Vincent's customer establishes
20 for the purpose of evading taxes. In fact, the individual customer actually maintains control of
21 the purportedly distributed funds at all times, and these purported distributions are generally just
22 paper entries designed to make it appear as if a transfer has occurred where none has.

23 13. Vincent's role in the fraudulent scheme is twofold. First, and most importantly, she
24 prepares all the false income tax returns necessary to provide the illegal tax benefits her
25 customers want.

26 14. Second, in at least some instances, she serves as a trustee or officer of the sham
27 domestic trust used in the scheme.

1 15. To implement the scheme, the partnership purportedly distributes its annual profits
2 *pro rata* to the customer individually and the domestic trust(s).

3 16. Vincent prepares a Form 1065 federal partnership income tax return reflecting this
4 purported distribution.

5 17. In fact, the individual customer maintains control of the funds at all times, and the
6 purported “distributions” to offshore entities are merely paper entries designed to make it appear
7 that the customer has surrendered control of the funds.

8 18. The customer then either files a federal income tax return—prepared by
9 Vincent—recognizing and paying tax on his *pro rata* distribution only or, in some instances,
10 simply does not file a return.

11 19. The sham domestic trust or trusts that own the balance of the partnership then
12 purportedly distribute its (or their) entire share of the partnership distribution to another sham
13 trust, or to a series of sham trusts, at least the last of which is established offshore.

14 20. Vincent prepares the domestic trust federal income tax returns, which reflect both the
15 receipt of the partnership distribution and the purported distribution to offshore trusts. These
16 returns claim a deduction for the entire amount the trust claims to distribute, leaving the domestic
17 trust without a tax obligation.

18 21. Because the sham trust or trusts that receive the purported distributions are
19 established offshore, they do not file federal income tax returns or pay income tax on the
20 purported distributions.

21 22. Many of the offshore trusts identified as distributees in returns Vincent prepares
22 purportedly receive distributions from domestic trusts associated with unrelated persons.

23 23. Vincent prepares as many federal tax returns as are necessary to execute this scheme.
24 Because the scheme employs multiple layers of sham entities, Vincent frequently prepares more
25 than three returns for each customer.

1 31. Vincent should be enjoined from preparing any federal income tax returns for others
2 because of her continual and repeated pattern of abusive and fraudulent conduct, as described
3 above.

4 **Count 2: Injunction under I.R.C. § 7408**

5 32. The United States incorporates by reference the allegations made in paragraphs 1
6 through 25.

7 33. In relevant part, I.R.C. § 7408 authorizes a court to enjoin persons who have engaged
8 in conduct subject to penalty under I.R.C. § 6701 from engaging in further such conduct.

9 34. I.R.C. § 6701 imposes a penalty on any person who aids in the preparation of any
10 portion of a return or other document, who knows the portion or other document will be used in
11 connection with a material matter under the internal revenue laws, and who knows the portion or
12 other document (if so used) would result in an understatement of another person's tax liability.

13 35. The Vincent-prepared returns described above together result in understatements of
14 customers' tax liabilities, in that the individual returns do not reflect the money nominally
15 transferred to the trust(s) but over which the customer retains control and/or the Form 1041 trust
16 returns take deductions for transferring amounts the trusts do not actually transfer.

17 36. Vincent knew that these returns would be filed with the IRS and would understate
18 customers' tax liabilities.

19 37. Therefore, Vincent has engaged in conduct subject to penalty under I.R.C. § 6701
20 and should be enjoined from such conduct.

21 **Count 3: Injunction under I.R.C. § 7402**

22 38. The United States incorporates by reference the allegations made in paragraphs 1
23 through 25.

24 39. I.R.C. § 7402 authorizes an injunction against anyone who has engaged in conduct
25 that substantially interferes with the administration of the internal revenue laws.

26 40. Vincent, through the actions described above, has engaged in conduct that interferes
27 substantially with the administration and enforcement of the internal revenue laws.

1 41. If she is not enjoined, Vincent likely will continue to engage in conduct that
2 interferes with the enforcement of the internal revenue laws. She should therefore be enjoined
3 from preparing any federal tax returns and otherwise interfering with the administration of the
4 internal revenue laws.

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

7 A. That the Court find that Vincent has continually and repeatedly engaged in conduct
8 subject to penalty under I.R.C. § 6694, and that injunctive relief is appropriate under I.R.C.
9 § 7407 to prevent her and her representatives, agents, servants, employees, attorneys, and those
10 persons in active concert or participation with her, from acting as income-tax-return preparers;

11 B. That the Court find that Vincent has engaged in conduct subject to penalty under
12 I.R.C. § 6701, and that injunctive relief is appropriate under I.R.C. § 7408 to prevent her and
13 anyone acting in concert with her from engaging in any further such conduct;

14 C. That the Court find that Vincent has engaged in conduct that interferes with the
15 enforcement of the internal revenue laws, and that injunctive relief against her and her
16 representatives, agents, servants, employees, attorneys, and those persons in active concert or
17 participation with her is appropriate to prevent the recurrence of that conduct under the Court's
18 inherent equity powers and I.R.C. § 7402(a);

19 D. That the Court, under I.R.C. §§ 7402, 7407 and 7408, enter a permanent injunction
20 prohibiting Vincent, and her representatives, agents, servants, employees, attorneys, and those
21 persons in active concert or participation with her, from directly or indirectly:

- 22 (1) Engaging in conduct subject to penalty under I.R.C. § 6701, *i.e.*, preparing or
23 assisting others in the preparation of any tax forms or other documents to be used in
24 connection with any material matter arising under the internal revenue laws which
25 the Vincent knows will (if so used) result in understatement of tax liability;
- 26 (2) Engaging in any conduct that violates I.R.C. § 6694, *i.e.*, preparing or assisting in the
27 preparation of any return that results in the understatement of tax liability based on
28 an unrealistic position;
- (3) Acting as an income-tax-return preparer, by preparing for compensation, or
employing one or more persons to prepare for compensation, any return of tax

1 imposed by subtitle A or any claim for refund of tax imposed by subtitle A, or a
2 substantial portion of any such return or claim for refund;

3 (4) Preparing any other federal tax returns for others; and

4 (5) Engaging in any conduct that interferes with the administration and enforcement of
5 the internal revenue laws.

6 E. That this Court, under I.R.C. §§ 7402, 7407, and 7408, enter an injunction requiring
7 Vincent to contact all persons for whom she prepared and/or assisted in the preparation of any
8 federal income tax returns or tax-related documents and inform those persons of the entry of the
9 Court's findings concerning the falsity of the tax returns she prepared on these persons' behalf,
10 the possibility of the imposition of penalties against them, and the fact that an injunction has
11 been entered against Vincent.

12 F. That this Court, under I.R.C. §§ 7402, 7407, and 7408, enter an injunction requiring
13 Vincent and her representatives, agents, servants, employees, attorneys, and those persons in
14 active concert or participation with them, to give the Justice Department a list of the names,
15 addresses, e-mail addresses, telephone numbers, and Social Security and federal tax
16 identification numbers of (1) all individuals and entities for whom Vincent, or her associates,
17 prepared or helped to prepare any tax-related documents, including claims for refund or tax
18 returns, and (2) all individuals or entities who purchased or used any other tax shelter, plan, or
19 arrangement in which Vincent has been involved;

20 G. That this Court allow the Government full post-judgment discovery to monitor
21 compliance with the injunction;

22 H. That this Court retain jurisdiction over this action for purposes of implementing and
23 enforcing the final judgment and any additional orders necessary and appropriate to the public
24 interest; and

1 I. That the Court grant the United States such other and further relief as the Court deems
2 appropriate.

3 Dated: February 10, 2005

4 Respectfully submitted,

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