

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 5:11-cv-299
)	
EDDIE MADRIGAL, and)	
MADRIGAL TAX EXPRESS, INC.,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America seeks a permanent injunction against Eddie Madrigal (“Madrigal”) and Madrigal Tax Express, Inc. (collectively, “Defendants”), permanently barring them from further acting as federal tax return preparers.

Madrigal, through his professional tax return preparation business, Madrigal Tax Express, Inc., improperly reduces his customers’ reported tax liabilities by, *inter alia*, claiming personal deductions as business expenses, false and exaggerated business deductions, false earned income tax credits, and improper miscellaneous itemized deductions to which his customers are not entitled.

Jurisdiction and Venue

1. This action has been requested by the Chief Counsel of the Internal Revenue Service (IRS), a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to the provisions of I.R.C. (26 U.S.C.) §§ 7402, 7407 and 7408.

2. 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.

3. This is a civil action brought by the United States under I.R.C. §§ 7402(a), 7407, and 7408 to enjoin Defendants, and anyone in active concert or participation with them, from:

- a. further acting as federal tax return preparers;
- b. assisting in the preparation of federal tax returns that they know or should know will result in the understatement of any tax liability or the overstatement of a federal tax refund;
- c. organizing or selling plans, or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of their correct federal tax;
- d. understating taxpayers' liabilities as prohibited by I.R.C. § 6694;
- e. failing to comply with the due diligence requirements for claiming earned income tax credits under I.R.C. § 6695(g);
- f. preparing and/or filing federal tax returns and other documents as prohibited by I.R.C. § 6701;
- g. engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6700, or 6701;
- h. engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws and from promoting any false tax scheme; and
- i. representing anyone before the IRS.

4. Venue is proper in this Court under 28 U.S.C. § 1391 because all or a substantial portion of the activities occurred within this district, and all Defendants reside within this district.

Defendants

5. Madrigal prepares federal tax returns and other tax-related forms for compensation. He resides in San Antonio, Texas.

6. Defendant, Madrigal Tax Express, Inc., is a tax preparation business incorporated in Texas. Madrigal is the president and registered agent for defendant Madrigal Tax Express, Inc., which does business as Tax Cash Express. Defendant Madrigal Tax Express, Inc. has a registered office address in San Antonio, Texas. Defendant Madrigal Tax Express, Inc. has been an active corporation since 2000 and is current in its annual report submissions to the Texas Secretary of State, most recently filed in December 2010. The United States believes that Madrigal Tax Express, Inc. may also do business under the assumed name of “Madrigal Tax Express Electronic Tax Services, LLC.”

The Facts

Fraudulent Returns Prepared by Individual Defendants for Madrigal Tax Express, Inc. For 2005 to the present

7. Madrigal has been preparing federal tax returns for others for approximately nineteen years. He was trained to prepare tax returns by his father, who started the tax preparation business in 1989.

8. Madrigal Tax Express, Inc. has three locations in San Antonio. Madrigal’s brother, David Madrigal, is the vice president. David and Eddie Madrigal are the co-owners of Madrigal Tax Express, Inc.

9. Since 2005, defendant Madrigal Tax Express, Inc. has prepared tax returns for clients that understate their tax liabilities by including, *inter alia*, claiming personal deductions as business expenses, false and exaggerated business deductions, false earned income tax credits, and improper miscellaneous itemized deductions to which his customers are not entitled.

10. Madrigal Tax Express, Inc. prepared approximately 28,000 returns from 2005 to

the 2007. In 2007, Madrigal Tax Express, Inc. prepared approximately 9,000 returns. The IRS audited a total sample of 197 returns prepared for tax year 2007 by Madrigal Tax Express, Inc. The IRS determined that 93.9 % of these returns understate their clients' tax liabilities, resulting in an average deficiency exceeding \$1,000 per return, and a disallowance of an average of \$3,000 in credits per return.

Examples

11. Madrigal claims improper miscellaneous itemized deductions for unreimbursed employee business expenses on returns he prepares for clients, typically with little or no substantiation and/or no consultation with his clients. Examples include:

- a. Jesse and Lileana Pena: Madrigal prepared 2005 and 2006 federal income tax returns for Jesse and Lileana Pena, a married couple residing in San Antonio, Texas. Madrigal exaggerated the Penas' deduction for auto mileage, as an unreimbursed employee expense, by \$6,451.93 in 2005 and \$922 in 2006. In addition, Madrigal claimed cell phone usage, a personal expense improperly deducted as business expense, for \$1,970 and \$1,150 for 2005 and 2006, respectively. At the conclusion of the IRS audit, the Penas agreed with the IRS's adjustments to their tax returns; and
- b. Kathryn Ramirez Theis: Madrigal prepared 2005 federal income tax return for Kathryn Ramirez Theis, an individual residing in San Antonio, Texas. The return prepared by Madrigal claimed an improper deduction for unreimbursed employee business expense, for her auto mileage of \$25,947. Madrigal did not explain the requirements in order to claim the deduction; nor could Ms. Theis produce the documentation needed to substantiate the deduction. At the conclusion of the IRS audit, the Ms. Theis agreed with the IRS's adjustments to their tax returns.

12. In addition to claiming improper miscellaneous itemized deductions, Madrigal prepares returns that routinely include fabricated Schedule C businesses. The Schedule C's include fictitious expenses. Examples include:

- a. Andrew and Sandra Vidal: Madrigal prepared 2005 federal income tax return for Andrew and Sandra Vidal, an married couple residing in San Antonio,

Texas. The Vidals are both registered nurses. Returns prepared by Madrigal for the Vidals improperly claim business deductions for a fabricated Schedule C business. Mr. Vidal told Eddie Madrigal that he is a partner in a partnership. Eddie Madrigal prepared a return that reported the partnership items on Schedule E, but also reported these expenses as improper business deductions on a Schedule C, reflecting a fabricated business. In addition, Madrigal inflated the Vidals' charitable contributions by approximately \$4,500, and their unreimbursed employee business expenses by approximately \$9,000. At the conclusion of the IRS audit, the Vidals agreed with the IRS's adjustments to their tax returns; and

- b. Linda Mancha: Madrigal prepared 2005 and 2006 federal income tax returns for Linda Mancha, an individual residing in San Antonio, Texas. Linda Mancha had a small business, Quality Masonry. Madrigal claimed the mortgage interest Ms. Mancha paid on her personal home, as an improper business expense on Ms. Mancha's 2005 Schedule C. He also claimed the duplicate amount as an itemized deduction on Schedule A. Madrigal also claimed an additional \$20,000 in business expenses on Schedule C which could not be substantiated by Ms. Mancha, and were thus disallowed.

13. Based on advice provided by Madrigal, his clients have also asserted improper claims for purported charitable contributions on tax returns prepared by Madrigal.

14. In addition, based on advice provided by Madrigal, his clients have asserted improper claims for earned income tax credits, on tax returns prepared by Madrigal, that have been disallowed.

Harm Caused by Defendants

15. Madrigal's customers have been harmed because they paid him fees to prepare and file proper tax returns on their behalf. Many customers now face large income tax deficiencies and may be liable for sizeable penalties and interest.

16. The United States is harmed because the IRS must continually devote limited resources to detecting and examining inaccurate returns filed by Madrigal in an attempt to assess and collect unpaid taxes.

17. Madrigal Tax Express, Inc. remains an active corporation under Texas law. Unless enjoined by this Court, Madrigal and Madrigal Tax Express, Inc. will likely continue to prepare and file tax returns that improperly reduce his customers' tax liabilities.

Count I
Injunction under I.R.C. § 7407

18. The United States incorporates by reference the allegations in paragraphs 1 through 23.

19. I.R.C. § 7407 authorizes a district court to enjoin a federal tax return preparer from, *inter alia*:

- a. engaging in conduct subject to penalty under I.R.C. § 6694;
- b. engaging in conduct subject to penalty under I.R.C. § 6695; and
- 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 the preparer has engaged in such conduct and that injunctive relief is appropriate to prevent the recurrence of the 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 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 federal tax return preparer entirely.

20. Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by willfully and knowingly preparing federal tax returns for customers that improperly understate customers' tax liabilities based on unreasonable, frivolous, and reckless positions, as detailed above.

21. Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695 by failing to comply with the due diligence requirements for claiming earned income tax credits.

22. Defendants have continually and repeatedly engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the federal tax laws.

23. Defendants' repeated violations of I.R.C. §§ 6694 and 6695 fall within I.R.C. § 7407(b)(1)(A) and (D), and thus are subject to an injunction under I.R.C. § 7407.

24. If Defendants are not enjoined, they are likely to continue filing false and fraudulent federal tax returns and engaging in additional fraudulent conduct.

25. Defendants' continual and repeated conduct subject to an injunction under I.R.C. § 7407, detailed above, shows that a narrow injunction prohibiting only specific conduct would be insufficient to prevent their interference with the proper administration of the internal revenue laws. Thus, Defendants should be permanently barred from acting as federal tax return preparers.

Count II
Injunction under I.R.C. § 7408

26. The United States incorporates by reference the allegations in paragraphs 1 through 31.

27. Sections 7408(a) and (c) of the Internal Revenue Code authorize a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. §§ 6700 or 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

28. 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 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.

29. By claiming improper deductions, tax credits, and filing statuses, Defendants knowingly and willfully prepared false federal income tax returns for customers, and knew the false returns would understate their customers' correct tax liabilities. This conduct, therefore, is subject to penalty under I.R.C. § 6701.

30. If the Court does not enjoin Defendants, they are likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction Under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

31. The United States incorporates by reference the allegations of paragraphs 1 through 36.

32. Section 7402, I.R.C., authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

33. Defendants have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws. Defendants have intentionally claimed false business deductions, improper filing statuses, false earned income tax credits, and other credits to which their customers are not entitled.

34. Unless enjoined, Defendants are likely to continue to engage in this improper conduct. If Defendants are not enjoined from preparing returns for others, the United States will

suffer irreparable injury by failing to receive accurate tax payments from Eddie Madrigal's customers, and erroneously providing federal income tax refunds to customers not entitled to receive them.

35. Permanently enjoining Defendants is in the public interest because an injunction, backed by the Court's contempt powers, if needed, will stop their illegal conduct and the harm they have already caused the United States.

36. 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 Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and have continually and repeatedly engaged in other fraudulent and deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific conduct would be insufficient;

B. That the Court find that Defendants have engaged in conduct subject to 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 Defendants have 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 Defendants, and all those in active concert or participation with them, from:

1. further acting as federal tax return preparers;
2. assisting in the preparation of federal tax returns that they know or should know will result in the understatement of any tax liability or the overstatement of a federal tax refund;
3. organizing or selling abusive tax shelters, plans, or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of their correct federal tax;
4. understating taxpayers' liabilities as prohibited by I.R.C. § 6694;
5. failing to comply with the due diligence requirements for claiming earned income tax credits under I.R.C. § 6695(g);
6. preparing and/or filing federal tax returns and other documents as prohibited by I.R.C. § 6701;
7. engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6700, or 6701;
8. engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws and from promoting any false tax scheme; and
9. representing anyone before the IRS.

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Defendants, within 30 days of entry of the injunction, to contact by United States mail and, if an e-mail address is known, by e-mail, all persons for whom they prepared a federal tax return or tax-related document since January 1, 2007, enclosing a copy of the executed injunction against them, and file with the Court, within 45 days of the injunction order, a sworn certificate stating that they have complied with this requirement;

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Defendants to produce to counsel for the United States within 30 days of the injunction 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 Defendants have prepared federal tax

returns or claims for refund since January 1, 2007;

G. That the Court retain jurisdiction over Defendants and over this action to enforce any permanent injunction entered against Defendants;

H. That the United States be entitled to conduct discovery to monitor Defendants' compliance with the terms of any permanent injunction entered against them; and

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

Respectfully submitted,

JOHN E. MURPHY
United States Attorney

/s/ Moha P. Yepuri

MOHA P. YEPURI
Attorney, Tax Division
Texas State Bar No. 24046651
Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
(214) 880-9767
(214) 880-9741 (FAX)
Moha.P.Yepuri@usdoj.gov

ATTORNEYS FOR THE UNITED STATES

DATED: April 6, 2011