

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
MARVIN L. BINION, SR.,)	
MARVIN L. BINION II,)	
d/b/a/ MARVIN BINION’S UNIVERSAL)	
TAX AND IMMIGRATION SERVICE,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America alleges against Defendants, Marvin L. Binion, Sr., and Marvin L. Binion II, doing business as Marvin Binion’s Universal Tax & Immigration Service, as follows:

Authorization

1. The United States brings this suit under sections 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) (“the Code”) to enjoin Marvin L. Binion, Sr., and his son, Marvin L. Binion II, individually and doing business as any entity, and anyone in active concert with either of them, from preparing federal tax returns for others, engaging in any conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, or 6701, or engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.
2. This action has been requested by 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 26 U.S.C. §§ 7402, 7407 and 7408.

Jurisdiction and Venue

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).
4. 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 suit occurred in, and are currently taking place in, this judicial district.

Defendants' Background

5. Defendants are paid tax return preparers in Prince George's County, Maryland, located near Washington, D.C.
6. Marvin Binion II, who resides in Washington, D.C., owns and operates Marvin Binion's Universal Tax & Immigration Service in Hyattsville, Maryland.
7. Binion II previously worked with his father, Marvin Binion, Sr., and Binion, Sr.'s ex-wife, Tonya Hubbard, at Universal Tax Service ("UTS"), located on the ground floor of an apartment building at 7333 New Hampshire Avenue in Takoma Park, Maryland.
8. Marvin Binion, Sr., who also resides in Washington, D.C., has been in the tax return preparation business for over 20 years. Prior to starting UTS, Binion, Sr., owned and operated People's Tax Service in Washington, D.C.
9. Defendants prepare federal income tax returns for customers using TurboTax computer software. The entire tax return preparation process often lasts less than 15 minutes.
10. In many cases, customers do not meet face-to-face with the return preparer Defendants. Instead, customers leave their W-2s and other tax forms with a receptionist then return at a later time to pay and retrieve their completed tax return.

11. Defendants improperly do not sign or affix a preparer's tax identification number (PTIN) to the returns they prepare to avoid detection as the return preparers. Rather, Defendants print the return and instruct the customer to sign and send the return to the IRS in an postage-paid envelope provided by Defendants.
12. Defendants generally charge customers a return preparation fee of \$300 per return and advise customers to pay in cash, which most customers do.

Binion, Sr. 's Relevant Prior Bad Acts

13. Binion, Sr., has a long history of engaging in I.R.C. penalty conduct, filing false tax returns, and making false statements under oath.
14. In 1993, the IRS assessed over \$100,000 in penalties against Binion, Sr., under I.R.C. § 6694(a) for understating customers' tax liabilities for the tax years 1988, 1989, and 1990. Binion, Sr., never paid the penalties.
15. In August 2007, Binion, Sr., pled guilty to preparing 13 false federal income tax returns and received a 38-month prison sentence. *United States v. Marvin Binion*, Criminal No. PJM-03-0523.
16. In September 2007, during the sentencing phase of his criminal tax case, Binion, Sr., signed a Personal Financial Statement falsely declaring under penalty of perjury that he did not have any bank accounts and that he owned only one automobile, a 1993 Mercedes Benz. In fact, when Binion, Sr., signed the Personal Financial Statement, he owned a 2001 Bentley that he had purchased in 2006 for \$134,275 and had a Wachovia bank account with substantial deposits and significant spending activity.

17. On or about December 4, 2007, Binion, Sr., lied under oath to Judge Peter J. Messitte of the United States District Court for the District of Maryland at a sentencing hearing.
18. When asked by Judge Messitte about the Bentley, Binion, Sr., falsely stated under oath that he had sold the Bentley several months before the hearing and that he used the funds to pay his living expenses.
19. In fact, Binion, Sr., sold the Bentley for \$68,000 just eight days before the sentencing hearing and lied about having spent that money on living expenses.
20. Binion, Sr., also failed to disclose to the Court that he had acquired two additional automobiles on September 13, 2007, and September 26, 2007, respectively. Through his statements and material omissions, Binion, Sr., intentionally deceived the Court into believing that he had no assets with which he could use to pay a fine.
21. In connection with these false statements to the court, Binion, Sr. was indicted in March 2009 for making false declarations to a federal court under 18 U.S.C. § 1623. *United States v. Marvin Binion*, Criminal No. DKC-09-160.
22. On July 31, 2009, a jury convicted Binion, Sr., of making false declarations to a federal court and he was sentenced to an additional 21 months in prison, to run consecutively with the sentence he received for filing false tax returns.

Defendants' Fraudulent Return Preparation Activities

23. Defendants have a long history of preparing and/or directing the preparation of fraudulent federal income tax returns containing inflated and/or bogus itemized deductions for customers,

and hiding from the IRS their role in preparing the returns by not signing as the paid preparer and by not affixing a PTIN to the returns they prepare.

24. Prior to his incarceration for filing false tax returns and perjury, Binion, Sr., regularly claimed fictitious investment and advisory fees of over \$5,000 on returns for customers who had not incurred those fees nor told Binion, Sr., that they had paid such fees.
25. Binion, Sr., would also inflate and/or fabricate deductions on customers' returns for miscellaneous expenses like vehicle expenses, transportation expenses, parking, union and professional dues, uniforms and protective clothing, communications, professional subscriptions, and job search costs.
26. In addition, Binion, Sr., would routinely inflate deductions for cash and non-cash charitable contributions well exceeding the amounts his customers reported to him. In some cases, Binion, Sr., completely fabricated charitable contribution deductions on customers' returns and would give customers copies of blank charitable contribution receipts to use to support the fabricated deductions in the event of an IRS audit.
27. In 2001, Binion, Sr., prepared a federal income tax return for an IRS undercover agent on which Binion, Sr., arbitrarily claimed various fictitious Schedule A expenses, including \$6,525 worth of charitable contributions, \$3,775 of miscellaneous unreimbursed employee business expenses, \$4,800 in tax advice expenses, and \$3,975 in job search expenses. Binion, Sr., did not ask the undercover agent whether he had incurred any of these expenses during the tax year. That return claimed a refund of \$2,136. If Binion, Sr., had prepared that return correctly it would have shown tax owed of \$189.

28. Binion, Sr., was released from prison in May 2012 and now works with his son, Marvin Binion II, at Marvin Binion's Universal Tax & Immigration Services.

Binion II's I.R.C. Penalty Conduct

29. Since at least 2007, Binion II has been preparing fraudulent federal income tax returns containing inflated and/or bogus itemized deductions despite knowing that his father was criminally prosecuted and imprisoned for the very same conduct.
30. Margaret Clark of Brunswick, Maryland, had her 2006 and 2007 federal income tax returns prepared at UTS. Binion, Sr., prepared Clark's 2006 return and Binion II prepared her 2007 return. Defendants charged Clark \$300 per return and told her to pay in cash, which she did. When the returns were completed, Defendants instructed Clark to sign and send the returns to the IRS in a pre-addressed, stamped envelope given to her. Defendants did not sign or affix a PTIN to either return.
31. On Clark's 2007 federal income tax return, Binion II falsely reported non-cash charitable contributions of \$16,227, unreimbursed employee business expenses of \$7,554, and investment expenses of \$6,500. Binion II did not discuss these items with Clark before putting them on her return nor did she make these donations or incur these expenses during the year. The IRS disallowed these deductions resulting in Clark owing \$6,603 in additional tax, penalties, and interest for 2007.
32. Also while working at UTS, Binion II prepared 2007 and 2008 federal income tax returns for Carlos Hawkins of Temple Hills, Maryland. Binion II did not sign either return as the paid preparer and charged Hawkins \$300 for each return. Binion II falsely reported cash charitable

contributions of \$3,480 for 2007 and \$3,825 for 2008. Hawkins did not make cash contributions in either year and did not realize that Binion II had reported such cash contributions on his returns. Binion II also falsely reported non-cash charitable contributions of \$12,379 for 2007 and \$12,691 for 2008. Hawkins made periodic donations to a local thrift store, but did not provide Binion II with a value for the donated items.

33. Binion II also fabricated unreimbursed employee business expenses of \$10,627 for 2007 and \$9,684 for 2008 for Hawkins. These amounts were supposedly for Hawkins's vehicle expenses, uniforms and protective clothing, job search costs, and training. Hawkins's employer reimbursed him for his vehicle expenses, he did not purchase uniforms or protective clothing for his job, he incurred no job search costs, and his employer provided all job training. The IRS disallowed these expenses.
34. Finally, following in his father's footsteps, Binion II fabricated "investment counsel & advisory fees" of \$5,700 for 2007 and \$7,000 for 2008. Hawkins had no idea why Binion II claimed these expenses on his returns, as Hawkins had no investments, nor any financial advisor nor counselor to whom he paid any such fees. Binion II fabricated these items entirely and the IRS disallowed these expenses in full.
35. In total, the audit adjustments made to Hawkins's 2007 and 2008 federal income tax returns from deductions fabricated by Binion II resulted in Hawkins owing over \$12,000 in additional tax, penalties and interest for those periods.
36. Brian Gibbs of Fredericksburg, Virginia, had his 2007 and 2008 federal income tax returns prepared by Binion II at UTS. In 2007 and 2008, Gibbs worked as an elevator mechanic for

Metro in northern Virginia. Gibbs commuted to the Franconia-Springfield Metro station where he parked for free and rode the Metro (for free) to his various job sites.

37. On the 2007 return, Binion II falsely reported that Gibbs had incurred unreimbursed employee business expenses of over \$15,000, including \$4,240 in vehicle expenses, \$1,580 for “job search costs,” \$1,338 for “communication,” and \$6,500 for “training.” Gibbs did not tell Binion II that he had incurred these expenses and Binion II fabricated the amounts.
38. On the 2008 return, Binion II falsely reported that Gibbs had incurred unreimbursed employee business expenses of over \$16,000, including \$4,740 in vehicle expenses, \$1,120 for “job search costs,” \$1,296 for “communication,” and \$8,500 for “training.” Again, Gibbs did not tell Binion II that he had incurred these expenses and Binion II fabricated the amounts.
39. In total, the audit adjustments made to Gibbs’s 2007 and 2008 federal income tax returns as a result of the deductions fabricated by Binion II resulted in Gibbs owing over \$20,000 in additional tax, penalties and interest for those periods.

Binion II Opens Marvin Binion’s Universal Tax & Immigration Service

40. In December 2007, after his conviction for filing false tax returns and shortly before he entered prison, Binion, Sr., married Tonya Hubbard.
41. During his incarceration, which began in February 2008, Binion, Sr., put Hubbard in charge of UTS’s day-to-day operations.
42. During the 2008 and 2009 filing seasons, Binion II continued working at UTS and continued to engage in the wide-scale preparation of fraudulent federal income tax returns claiming the same type of inflated and/or bogus deductions that led to his father’s incarceration.

43. In May 2009, Hubbard became estranged from both Binions. Hubbard closed UTS and opened her own tax return preparation business using the name Universal Tax Service, LLC, in Lanham, Maryland.
44. In August 2009, Hubbard sent a letter to UTS customers informing them that the business had changed locations. Hubbard divorced Binion, Sr., in early 2010.
45. In February 2011, Binion II sent a letter to UTS customers apologizing for the temporary interruption of services and announcing the opening of a new business, Marvin Binion's Universal Tax and Immigration Service ("Binion's Universal Tax Service"), in Hyattsville, Maryland.
46. The letter, sent in both English and Spanish, stated that Binion's Universal Tax Service was separate from Hubbard's business, Universal Tax Service, LLC. The letter was signed by "Marvin L. Binion" and featured Binion, Sr.'s picture in the top right corner.
47. For the past two tax seasons, Binion II, doing business as Binion's Universal Tax Service, has continued preparing fraudulent federal income tax returns containing inflated and/or bogus deductions for charitable contributions, unreimbursed employee business expenses, and other miscellaneous expenses (i.e. investment and advisory fees).
48. For just one example, in 2012 Binion II prepared and improperly failed to sign a fraudulent 2011 joint federal income tax return for a couple from Bowie, Maryland.
49. On the couple's return, Binion II reported unreimbursed business expenses of over \$8,000 and charitable contributions of almost \$20,000. Neither taxpayer incurred employee business expenses during 2011 as the husband is retired and the wife works as a wage-earning employee

for the federal government and commutes to work via Metro with a transit benefit subsidy. The charitable contribution amounts were also bogus.

Harm to the United States and the Public

50. Defendants' preparation of fraudulent federal income tax returns claiming inflated and/or bogus deductions improperly lowers their customers' true tax liabilities, resulting in customers receiving substantially larger refunds than what they are entitled to receive or receiving refunds when they actually owe tax to the U.S. Treasury.
51. The IRS audited 141 federal income tax returns known to have been prepared by Defendants for the 2006 and 2007 tax years. The audits resulted in an average deficiency of \$5,000 per return.
52. Customers have reported long lines with as many as 100 customers waiting to have Defendants prepare their tax returns each day during filing season.
53. Assuming Defendants prepare 100 returns each day during the approximately 90-day core filing season (February 15 - April 15), Defendants prepare as many as 9,000 returns each year. Assuming Defendants prepare 9,000 returns per year, their conduct may cause as much as \$45 million in losses to the public fisc for each year they prepare returns.
54. Defendants may have earned as much as \$30,000 per day during tax season by charging \$300 per return and servicing a reported 100 customers each day.
55. During 2007 and 2008, almost \$700,000 was deposited into a UTS bank account. As stated earlier, in 2006, Binion, Sr., purchased a Bentley for almost \$140,000.
56. Defendants' fraudulent return preparation business has been very profitable, but comes at the expense of the good citizenry and the U.S. Treasury from which they are effectively stealing.

Given the amount of money Defendants make preparing fraudulent federal income tax returns, they are unlikely to stop absent an injunction order.

57. Because Defendants' compensation is directly tied to the number of returns they prepare, their motives for inflating and/or fabricating deductions is to attract customers through referrals from customers who receive large, unwarranted refunds.
58. Many of Defendants' customers have been harmed because they pay Defendants a fee of \$300 to prepare tax returns that substantially understate their true tax liabilities, and as a result, many of those customers may face large income tax deficiencies, including sizeable penalties and interest.

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

59. The United States incorporates by reference paragraphs 1 through 58 above.
60. Section 7407 of the Code authorizes a court to enjoin tax return preparers who have engaged in conduct subject to penalty under I.R.C. §§ 6694 or 6695 or who have engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws and injunctive relief is appropriate to prevent the recurrence of the conduct.
61. Section 6694(b) of the Code imposes penalties on a tax return preparer who willfully attempts to understate the tax liability of another person or whose reckless or intentional disregard of rules and regulations results in the understatement of tax liability.
62. By preparing tax returns containing false information and/or claiming bogus deductions, Defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694(b) by willfully attempting to understate their customers' tax liabilities.

Defendants have also displayed a reckless and/or intentional disregard of rules and regulations thereby causing their customers to understate their tax liabilities.

63. Defendants, through the activities described above, have also engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws.
64. Section 6695(b) of the Code imposes penalties on a tax return preparer who fails to sign a return or claim for refund.
65. Section 6109(a)(4) of the Code requires that returns prepared by a tax return preparer bear the return preparer's tax identification number (PTIN).
66. Section 6695(c) penalizes a return preparer who fails to include his or her preparer tax identification number (PTIN) on returns he or she prepares.
67. Defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6695(b) and 6695(c) by failing to sign the tax returns that they prepare and by failing to include a PTIN on the returns they prepare.
68. Pursuant to 26 U.S.C. § 7407, the Court should permanently enjoin Defendants from preparing federal tax returns for others.
69. Injunctive relief is appropriate because absent an injunction, Defendants will likely continue to violate I.R.C. §§ 6694 and 6695 and to engage in fraudulent or deceptive conduct that interferes with the administration of the internal revenue laws.

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

70. The United States incorporates by reference paragraphs 1 through 69 above.

71. Section 7408 of the Code authorizes courts to enjoin any person from engaging in conduct that is subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.
72. Section 6701(a) of the Code penalizes any person who aids or assists in the preparation of any portion of a federal tax return or other document knowing 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 would result in an understatement of another person's tax liability.
73. Defendants have prepared federal tax returns for others knowing that the returns and documents they prepare improperly claim deductions and thereby understate their customers' correct federal tax liabilities.
74. Defendants' conduct is subject to penalty under 26 U.S.C. § 6701, but penalties alone will not deter their conduct.
75. Unless enjoined by this Court, Defendants will continue preparing tax returns that they know will result in the understatement of tax liability.
76. Binion, Sr., has been penalized civilly and criminally prosecuted and imprisoned for filing false tax returns and this has not deterred him or his son, Binion II, from continuing to prepare fraudulent tax returns.
77. Accordingly, Defendants should be enjoined permanently under 26 U.S.C. § 7408 from engaging in conduct subject to penalty under 26 U.S.C. § 6701 and from preparing federal tax returns for others.

Count III - Injunction under 26 U.S.C. § 7402

78. The United States incorporates by reference paragraphs 1 through 77 above.
79. Section 7402 of the Code authorizes courts to issue injunctions “as may be necessary or appropriate for the enforcement of the internal revenue laws.” The remedies available to the United States under that statute “are in addition to and not exclusive of any and all other penalties.” 26 U.S.C. § 7402(a).
80. Defendants, through the actions described above, have engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws. Defendants will likely continue to engage in such conduct unless enjoined.
81. The United States has already expended considerable resources investigating Defendants’ return preparation activities. The IRS assessed preparer penalties against Binion, Sr., which he refused to pay, and the Department of Justice criminally prosecuted him for filing false tax returns.
82. Neither civil nor criminal penalties (nor the threat thereof) have deterred Defendants from engaging in the preparation of fraudulent tax returns.
83. Defendants are causing irreparable injury to the United States and an injunction under 26 U.S.C. § 7402(a) is necessary and appropriate. If Defendants are not enjoined from preparing tax returns for others, the United States will suffer irreparable injury by erroneously providing tax refunds to persons not entitled to receive them and by taxpayers not reporting and paying the correct amount of taxes.
84. Many customers have been harmed by paying Defendants substantial return preparation fees and relying on Defendants to prepare their tax returns. Instead, Defendants prepare tax returns that

substantially understate their customers' true tax liabilities. As a result, many customers may now face large income tax deficiencies, including sizeable penalties and interest.

85. Unless Defendants are enjoined from preparing tax returns for others, the IRS will have to devote substantial time and resources to identify and locate their customers, and then examine those customers' tax returns. Pursuing all individual customers may be impossible given the IRS's limited resources.
86. Enjoining Defendants from preparing tax returns for others is in the public interest because an injunction will stop their illegal conduct and the harm it causes the United States and its citizenry.
87. The Court should therefore order injunctive relief under 26 U.S.C. § 7402(a).

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

- A. That the Court find that Defendants, Marvin L. Binion, Sr., and Marvin L. Binion II, have engaged in repeated and continual conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701;
- B. That Defendants have engaged in fraudulent and deceptive conduct that substantially interferes with the administration of internal revenue laws;
- C. That injunctive relief is appropriate under 26 U.S.C. §§ 7407 and 7408 to permanently enjoin Defendants from preparing federal tax returns for others;
- D. That the Court, under 26 U.S.C. §§ 7407, 7408 and 7402(a), enter a permanent injunction prohibiting Defendants from preparing or assisting in the preparation or filing of federal tax returns or other related documents and forms for others;

- E. That the Court find that Defendants have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against them and anyone acting in concert with them is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and 26 U.S.C. § 7402(a);
- F. That the Court, pursuant to 26 U.S.C. § 7402(a), enter an order requiring Defendants to contact by United States mail (or by e-mail, if a postal address is unknown) all persons for whom they have prepared a federal income tax return since January 1, 2009, to inform them of the Court's findings in this matter and to provide – at their own expense – a copy of any injunction order entered by this Court, and to file with the Court within fifteen days of the date the permanent injunction is entered a certification signed under penalty of perjury that they have done so;
- G. That the Court authorize the United States to engage in post-judgment discovery pursuant to the Federal Rules of Civil Procedure in order to monitor compliance with the Court's injunction; and
- H. That the Court grant the United States such other and further relief as the Court deems appropriate.

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Dated: January 31, 2013

Respectfully submitted,

KATHRYN KENEALLY
Assistant Attorney General



MARK C. MILTON
Missouri Bar No. 63101
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 616-2904
Fax: (202) 514-6770
Email: mark.c.milton@usdoj.gov