

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA
(Philadelphia)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. _____
)	
DENISE MILLER ALMANZA,)	
DENISE’S CENTRO DE SERVICIOS, PC,)	
)	
Defendants.)	

COMPLAINT

The United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, brings this suit to permanently enjoin defendants, Denise Miller Almanza and Denise’s Centro De Servicios, PC, and all persons and entities in active concert or participation with them, from directly or indirectly:

- a. aiding and assisting in the preparation of federal income tax returns that she knows will result in the understatement of federal tax liabilities or the overstatement of federal tax refunds;
- b. preparing or assisting in the preparation of federal tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than Denise Almanza;
- c. engaging in other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701, or any other penalty provision of the Internal Revenue Code; and
- d. engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

JURISDICTION AND VENUE

1. Jurisdiction exists under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7404 and 7408.

2. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)(1) and (b)(2), and 28 U.S.C. § 1396.

DENISE ALMANZA

3. Denise Almanza resides at 113 Raymond Avenue, Avondale, Pennsylvania 19311, which is within the jurisdiction of this Court.

4. Almanza operates a tax return preparation business under the name Denise's Centro De Servicios, PC ("Centro"), which she operated as a sole proprietorship until 2013 when she incorporated the business. Almanza operates Centro at 37 S. Pennsylvania Avenue, Avondale, Pennsylvania 19311, which is within the jurisdiction of this Court.

SUMMARY OF ALMANZA'S ACTIVITIES

5. Almanza is an income tax preparer within the meaning of 26 U.S.C. § 7701(a)(36) because she prepares, facilitates, and/or assists in the preparation of other people's tax returns for compensation.

6. Internal Revenue Service records show that Almanza and Centro collectively prepared approximately 4,177 returns in 2010, 3,959 returns in 2011, 3,626 in 2012, and 2,954 returns in 2013 (for the 2009, 2010, 2011 and 2012 tax years, respectively).

7. Almanza signs as preparer all returns prepared through her business.

8. Almanza prepared federal income tax returns that fraudulently claimed additional child tax credits to which her clients were clearly not entitled.

9. Almanza knew or should have known that claiming additional child tax credits would lead to the understatement of her clients' federal income tax liabilities or generated erroneous refunds for her clients.

10. Almanza continues to operate her tax return preparation business and market her business to new and former clients.

**DESCRIPTION OF ALMANZA'S FRAUDULENT
RETURN PREPARATION SCHEMES**

11. Almanza has repeatedly and continually fraudulently claimed additional child tax credits on her clients' returns to reduce her clients' tax liability or generate erroneous refunds for her clients.

12. The additional child tax credit is a refundable credit, which means that it can generate a refund exceeding the amount of income tax paid by an individual taxpayer. See 26 U.S.C. § 24(d).

13. The false or overstated additional child tax credit claims reported by Almanza on her clients' returns generate corresponding decreases in tax liability or increases in tax refunds.

14. A taxpayer may only claim the additional child tax credit for qualifying children. See 26 U.S.C. § 24(c).

15. For purposes of Code section 24, a qualifying child must be, in relevant part: (1) a citizen or resident of the United States; (2) who is younger than 17; (3) who lives with the taxpayer for more than six months of the taxable year; and (4) for whom the taxpayer provides more than 50% of the financial support for the child during the taxable year. See 26 U.S.C. §§ 24(c), 152(b)(3)(A), 152(c).

16. The vast majority of the returns prepared by Almanza in 2010, 2011, 2012 and 2013 utilized an Individual Tax Identification Number (“ITIN”) for either the primary taxpayer or a dependent claimed by the taxpayer for purposes of the additional child tax credit. Of the 14,656 returns Almanza prepared from 2010 to 2013, approximately 58%, or 8,500 had filers with ITINs.

17. An ITIN is a tax processing number that is issued to foreign nationals and others who have federal tax reporting or filing requirements, and who do not qualify for a Social Security Number.

18. Almanza prepared tax returns that allowed her clients to claim additional child tax credits for individuals who did not live with her clients at all, let alone for more than six months during the taxable year.

19. Almanza prepared tax returns for her clients that improperly claimed additional child tax credits for individuals who did not live in the United States.

20. Almanza prepared tax returns for her clients that improperly claimed additional child tax credits for individuals without requiring the clients to substantiate that they provided more than 50% of the annual financial support for the claimed individuals.

21. Almanza prepared tax returns for her clients that improperly claimed additional child tax credits for individuals who did not meet the statutory age requirements.

22. The following examples are illustrative of Almanza’s fraudulent practices with respect to the additional child tax credit:

(a) Almanza prepared a return for a client who subsequently informed the Service that Almanza had claimed additional child tax credits with respect to the client’s nephews who lived in Mexico during the tax year in question, and that the client signed his

wife's name on the return. The client told Almanza that he signed his wife's name on the return because she was in Mexico and Almanza told him he could sign his wife's name.

(b) Almanza prepared a return that claimed additional child tax credits for a client who subsequently admitted to the Service that the six dependents claimed on the return actually lived in Guatemala.

(c) Almanza prepared a return that claimed additional child tax credits for five dependents, two nephews and two nieces and a parent, all of whom lived in Mexico. Almanza's client informed the Service that Almanza knew when she prepared the return that the individuals she reported as dependents did not live in the United States.

HARM TO UNITED STATES

23. Denise Almanza has caused substantial revenue losses to the United States.

24. The Service audited 28 returns that Almanza prepared for 20 different clients. Eight of the returns were closed with no changes by the IRS. Twenty returns resulted in adjustments and all twenty used an ITIN. The additional child tax credit was claimed on 16 of the 28 returns audited and the credit was improperly claimed on all 16 of the returns. Including the tax returns where no changes were made, the average tax deficiency for the 28 returns audited was \$2,922.

25. Almanza prepared 14,656 returns from 2010 to 2013.

26. The total projected harm to the United States from loss of revenue due to Almanza's misconduct over 14,656 returns prepared during the four year period from 2010 to 2013 is estimated to be in excess of \$42,000,000.

27. In addition to this known and estimated tax loss, the government has used its resources and agents and others to audit returns prepared by Almanza.

COUNT I
Injunction Under 26 U.S.C. § 7407

28. Plaintiff incorporates by reference the allegations in paragraphs 1 through 27.

29. Under 26 U.S.C. § 7407, Congress has authorized the United States to seek an injunction against any tax preparer who, among other things, has engaged in any conduct subject to penalty under Code section 6694.

30. If a return preparer's conduct is continual and/or repeated and the court finds that a narrower injunction (*i.e.*, prohibiting specific enumerated conduct) would not be sufficient to prevent the preparer's interference with the proper administration of federal tax laws, the court may enjoin the person from acting as a return preparer.

31. Code Section 6694(a) penalizes a tax return preparer who prepares a return understating the taxpayer's liability due to an unreasonable position (one for which there is no substantial authority), and the preparer knew or should have known of the position.

32. Code Section 6694(b) penalizes a tax return preparer who prepares a return or claim with an understatement of liability: (1) in a willful attempt to understate the liability; or (2) with a reckless and intentional disregard of rules or regulations.

33. Denise Almanza and Centro continually and repeatedly prepared and filed federal tax returns that falsely report that their clients are entitled to additional child tax credits, thereby falsely overstating the amount of additional child tax credit claimed by their clients and enabling them to receive greater refunds than they are legitimately entitled to receive.

34. The returns prepared by Almanza and Centro, or their agents, contain unrealistic, unreasonable, and frivolous positions with no basis in fact.

35. Almanza and Centro or their agents, by preparing returns that claim the additional child tax credit based on individuals who clearly do not meet the statutory requirements of 26 U.S.C. §§ 24 and 152, prepare returns in either a willful attempt to understate the liability of their clients or with a reckless and intentional disregard of rules or regulations.

36. Almanza and Centro understated their clients' correct tax liabilities and thus engaged in conduct subject to penalty under either 26 U.S.C. §§ 6694(a) or 6694(b).

37. Almanza and Centro continue to operate and market their tax return preparation businesses.

38. Because Almanza and Centro are likely to continue preparing federal tax returns for clients that enabled them to receive greater refunds than they are legitimately entitled to receive, injunctive relief is necessary to prevent their continued misconduct and loss of federal tax revenue.

39. Penalties and other administrative measures are insufficient to deter Almanza's and Centro's misconduct.

40. Accordingly, Almanza and Centro should be permanently enjoined under 26 U.S.C. § 7407 from acting as an income tax preparer and/or assisting in the preparation of federal income tax returns because a more limited injunction would be insufficient to stop their interference with the proper administration of the tax laws.

COUNT II
Injunction Under 26 U.S.C. § 7408

41. Plaintiff incorporates by reference the allegations in paragraphs 1 through 40.

42. Code Section 7408 authorizes a district court to enjoin any person from engaging in conduct subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

43. Code Section 6701(a) 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 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.

44. Almanza and Centro prepared tax returns claiming additional child tax credits for clients who were not legitimately entitled to receive such credits, knowing that their return preparation would result in their clients' understating their federal tax liabilities.

45. If the Court does not enjoin Denise Almanza and Centro, they are likely to continue to engage in penalty conduct under 26 U.S.C. § 6701.

46. Injunctive relief is therefore appropriate under 26 U.S.C. § 7408 to prevent the recurrence of the conduct complained above.

COUNT III
Injunction Under 26 U.S.C § 7402(a)

47. Plaintiff incorporates by reference the allegations in paragraphs 1 through 46.

48. Code Section 7402(a) authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

49. Denise Almanza and Centro, through the actions described above, engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

50. Unless enjoined, Almanza and Centro are likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws.

51. If Almanza and Centro are not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully issuing federal income tax refunds to individuals not entitled to receive them.

52. Enjoining Almanza and Centro is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Almanza's and Centro's illegal conduct and the harm it causes the United States and its citizens.

53. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

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

A. That the Court find that Denise Almanza, through her return preparer business, continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694, and continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the internal revenue laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Denise Almanza and Centro from acting as federal tax return preparers;

C. That the Court find that Denise Almanza and Centro engaged in conduct subject to a penalty under 26 U.S.C. § 6701, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Denise Almanza, and her return preparer business, 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 26 U.S.C. § 7402(a);

E. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Denise Almanza and Centro, and all those in active concert or participation with Denise Almanza and Centro, from:

- (a) Acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person other than themselves;
- (b) Advising, assisting, counseling, or instructing anyone about the preparation of a federal income tax return;
- (c) Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, 6701 or any other penalty provision in the Internal Revenue Code;
- (d) Representing, or appearing on behalf of, any person before the Internal Revenue Service; and
- (e) Otherwise engaging in any conduct that substantially interferes with the proper administration and enforcement of the Internal Revenue laws.

F. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Denise Almanza and Centro to contact, within 30 days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom they prepared, or assisted in preparing, federal tax returns to inform them of the permanent injunction entered against them;

G. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Denise Almanza and Centro to produce to counsel for the United States, within 30 days of the Court's 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 he prepared, or assisted in preparing, federal tax returns;

H. That the Court retain jurisdiction over Denise Almanza and Centro and over this action to enforce any permanent injunction entered against them;

I. That the United States be entitled to conduct discovery to monitor Denise Almanza's and Centro's compliance with the terms of any permanent injunction entered against him; and

J. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

Dated: September 23, 2014

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