

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- v -

LESTER MORRISON,

Defendant.

:
: 14 Civ. 8456 (AJN)
:

: AMENDED ~~ORDER~~ ORDER
: OF DEFAULT JUDGMENT AND
: PERMANENT INJUNCTION
: AS TO LESTER MORRISON
:

WHEREAS, in October 2014, plaintiff the United States (the "Government") commenced the above-captioned action by filing a Complaint in this District, seeking injunctive relief as to defendant Lester Morrison ("Morrison") and four other co-defendants;

WHEREAS, on September 21, 2015, the Government caused the summons and Complaint in to be personally served on defendant Morrison at his place of incarceration in Monongalia County, West Virginia;

WHEREAS, pursuant to Rule 12 of the Federal Rules of Civil Procedure, the deadline for defendant Morrison to answer or otherwise respond to the Complaint was October 13, 2015;

WHEREAS, in October 2015, defendant Morrison requested, and the Court granted, an extension of his deadline to file an answer from October 13, 2015, to December 21, 2015;

WHEREAS, notwithstanding the extension, defendant Morrison has failed to answer or otherwise respond to the Complaint;

WHEREAS, on January 6, 2016, the Clerk's Office for this Court entered a Certificate of Default as to defendant Morrison in this action;

WHEREAS, in light of defendant Morrison's default, and because the Government does not seek damages against Morrison, this Court can accept as true the allegations against Morrison in the Complaint. *See Chen v. Jenna Lane, Inc.*, 30 F. Supp. 2d 622, 623 (S.D.N.Y. 1998) (where

“the court determines that defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true”);

WHEREAS, in support of its application for default judgment and permanent injunction against defendant Morrison, the Government has submitted a declaration attaching records from a criminal proceeding in which defendant Morrison pled guilty to tax fraud and related charges and also has submitted a brief setting forth the factual and legal basis for its request for default judgment and permanent injunction;

Having reviewed the record in this case, the Court makes following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Defendant Morrison has prepared federal income tax returns for others for compensation.
2. From 2000 to 2008, defendant Morrison was the organizer and leader of a tax preparation fraud scheme, in furtherance of which Morrison not only personally prepared tax returns for customers that he knew to be false but also taught others how to prepare such false tax returns.
3. During that period, defendant Morrison also prepared documents, including federal tax returns, that he knew would be used in connection with material matters arising under the internal revenue laws and that he knew contained understatements of tax liabilities.
4. During that period, defendant Morrison substantially interfered with the administration and enforcement of the internal revenue laws by, *inter alia*, participating in a conspiracy to defraud the Internal Revenue Service (“IRS”) and attempting to obstruct the administration of the federal tax laws.

5. In furtherance of the tax fraud conspiracy, and to prevent the IRS from putting a stop of the conspiracy, defendant Morrison lied to the IRS about whether certain records subject to subpoena had been discarded.

6. In furtherance of the tax fraud conspiracy, defendant Morrison also had his co-conspirators obtain filing identification numbers for him after the IRS had revoked the identification numbers that Morrison was using.

7. Defendant Morrison has caused irreparable injury to the Government in terms of loss of tax receipts in excess of \$17 million.

8. If not enjoined, defendant Morrison is likely to revert to committing violations of the federal tax laws, including preparation of federal tax returns that understate tax liabilities, and interfering with administration of the internal revenue laws.

9. A narrow injunction that only prohibits defendant Morrison from engaging in specific types of unlawful conduct would not be sufficient to protect the Government from the prospect of irreparable harm that would result from this defendant's recidivism. Instead, an injunction prohibiting Morrison from acting as a tax return preparer is needed to protect the public fisc and the integrity of the federal tax system.

CONCLUSION OF LAW

1. Defendant Morrison is a tax return preparer within the meaning of 26 U.S.C. § 7407.

2. Defendant Morrison is subject to injunction under 26 U.S.C. § 7407 because he repeatedly engaged in violations of 26 U.S.C. § 6694(b), and such violations are likely to recur in the absence of an injunction. Further, under 26 U.S.C. § 7407(b), a permanent injunction prohibiting defendant Morrison from acting as a tax returns preparer is appropriate because a

narrower injunction would not be sufficient to protect the public fisc and the integrity of the federal tax system.

3. In addition, defendant Morrison is subject to injunction under 26 U.S.C. § 7408 because he repeatedly engaged in violations of 26 U.S.C. § 6701(a) and such violations are likely to recur in the absence of an injunction.

4. Defendant Morrison also is subject to injunction under 26 U.S.C. § 7402(a) because he has repeatedly engaged in conduct that substantially interferes with the administration of the internal revenue laws. Moreover, a permanent injunction prohibiting defendant Morrison from acting as a tax return preparer is appropriate under 26 U.S.C. § 7402(a) in light of his history of unlawful conduct and because the traditional equity factors – irreparable harm, lack of adequate remedies at law, balance of hardships, and public interest – strongly favor the imposition of such a permanent injunction.

5. Finally, because defendant Morrison and his co-conspirators took affirmative steps to prevent the IRS from detecting their fraud, the Government is entitled to take all appropriate steps to monitor Morrison's compliance with the requirements set forth in this Order.

ORDER

Based on the foregoing findings of fact, conclusions of law, and all other matters in the record, and for good cause shown, the COURT ORDERS, ADJUDGES, AND DECREES THAT:

1. Pursuant to 26 U.S.C. §§ 7407 and 7402, defendant Lester Morrison, along with his agents, employees, or attorneys, and any other person acting in active concert with Morrison, are permanently enjoined from acting as federal tax return preparers as defined in 26 U.S.C. § 7701(a)(36), including by (i) preparing or filing, or assisting in the preparation or filing of, tax returns for any other person or entity, for compensation; (ii) providing any tax advice or services

for compensation; and (iii) providing consultative services or representing any persons or entities before the IRS for compensation.

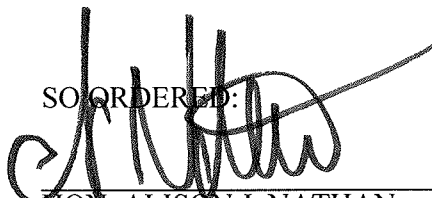
2. The injunction in Paragraph 1 above does not prohibit, and shall not be construed to prohibit, Morrison from preparing or filing his own tax returns or from assisting his spouse or other family members with the preparation or filing of their tax returns, provided that he does not seek or receive any compensation for such assistance.

3. Pursuant to 26 U.S.C. § 7402, defendant Lester Morrison, along with his agents, employees, or attorneys, and any other person acting in active concert with Morrison, are permanently enjoined from engaging in any conduct that is subject to penalty under 26 U.S.C. § 6701, *i.e.*, preparing or assisting others in the preparation of any tax forms or other documents to be used in connection with any material matter arising under the internal revenue laws and which they know will (if so used) result in the understatement of tax liability.

4. Pursuant to 26 U.S.C. § 7402, defendant Lester Morrison, along with his agents, employees, or attorneys, and any other person acting in active concert with Morrison, are permanently enjoined from engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws of the United States.

5. Pursuant to 26 U.S.C. § 7402, the Government is permitted to take all appropriate steps to monitor and ensure compliance with the requirements set forth in Paragraphs 1–4 above, including, but not limited to, engaging in post-judgment discovery and through other means available to the general public.

Dated: Sept. 23, 2016

SO ORDERED:


HON. ALISON J. NATHAN
UNITED STATES DISTRICT JUDGE