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12 Attorneys for United States of America

13 UNITED STATES DISTRICT COURT  
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15  
16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 SAMUEL J. DeANGELO; JOE  
20 GORDON SHIELDS, a/k/a  
GORDON SHIELDS; ALAN M.  
21 HOVEY; JEFFREY R. WRIGHT;  
KELLY DAVID, a/k/a DAVID  
22 KELLY; and WESTERN TAX  
SERVICES, INC.,

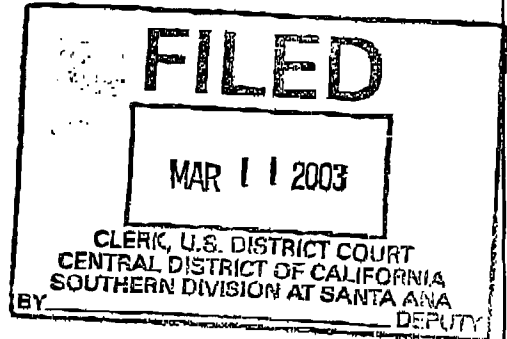
23 Defendants.  
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NO. SA CV 03-0251

) COMPLAINT FOR PERMANENT  
) INJUNCTION AGAINST THE  
) PREPARATION OF TAX RETURNS AND  
) OTHER EQUITABLE RELIEF

25 COMPLAINT

26 The United States of America, by and through its counsel of  
27 record, alleges as follows:  
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1 a sole proprietorship known as DeAngelo Tax Service (DTS).

2 6. Defendant Joe Gordon Shields, a/k/a Gordon Shields  
3 (Shields), resides in Orange, California, within the Central  
4 District of California. He is currently employed as an income  
5 tax preparer in Riverside, California with Tax Matters, Inc.  
6 Though he currently holds himself out as an enrolled agent with  
7 the IRS, his enrolled agent status was terminated in 1993.

8 7. Defendant Alan M. Hovey (Hovey) resides in Cathedral  
9 City, California, within the Central District of California. He  
10 currently works as a paid income tax preparer for WTS.

11 8. Defendant Jeffrey R. Wright (Wright) resides in Anaheim,  
12 California, within the Central District of California. He  
13 currently works as a paid income tax preparer for WTS. He also  
14 serves as the president of WTS. He is DeAngelo's son-in-law.

15 9. Defendant Kelly David, a/k/a David Kelly (David) resides  
16 in Newport Beach, California, within the Central District of  
17 California. He currently works as a paid income tax preparer for  
18 WTS.

19 10. Defendant WTS is a California corporation, its  
20 principal place of business being in Anaheim, California, within  
21 the Central District of California. WTS is in the business of  
22 providing income tax return preparation services. The business  
23 is owned and operated by DeAngelo. WTS was incorporated in 2000.

24 DEFENDANTS' ACTIVITIES

25 11. For approximately the last thirty years, and continuing  
26 to the present, DeAngelo has been engaged in the preparation of  
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1 tax returns, acting as a paid income tax return preparer for  
2 individuals (sometimes referred to herein as "customers").  
3 DeAngelo currently offers tax return preparation services through  
4 WTS, which he owns and operates. While operating his tax return  
5 preparation business, and continuing to the present, DeAngelo has  
6 trained and supervised other return preparers, including the  
7 other individual defendants in this case.

8 12. Defendants Shields, Hovey, Wright, and David each began  
9 their careers as paid income tax return preparers working for  
10 DeAngelo. Each of these defendants currently is preparing income  
11 tax returns as a paid preparer.

12 13. Each defendant has continually or repeatedly engaged in  
13 conduct subject to penalty under Section 6694, Title 26 U.S.C.,  
14 in that each has, among other things, (1) taken unrealistic and  
15 unsustainable positions on customers' tax returns, resulting in  
16 understatements of tax due, and (2) willfully or recklessly  
17 understated the tax due (and, in nearly every case, overstated  
18 the refund due) on customers' tax returns.

19 14. Each defendant has continually or repeatedly engaged in  
20 conduct subject to penalty under Section 6695(c), Title 26  
21 U.S.C., in that each has failed to furnish a correct identifying  
22 number for WTS on each return prepared under the auspices of WTS.

23 15. Further, each defendant has continually or repeatedly  
24 engaged in fraudulent and deceptive conduct which has  
25 substantially interfered with the proper administration of the  
26 Internal Revenue laws in that each defendant has, among other  
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1 things, improperly and purposefully reduced and understated  
2 customers' tax liabilities by claiming false and inflated  
3 itemized deductions for charitable contributions and employee  
4 business expenses, including improper expenses for home computers  
5 or home offices, resulting, in most cases, in an undeserved  
6 refund.

7 16. All of the defendants have been informed by the  
8 Internal Revenue Service that their conduct is improper and  
9 illegal; however, it is believed that each defendant has  
10 continued to prepare improper tax returns.

11 SPECIFIC ALLEGATIONS REGARDING DEFENDANTS' CONDUCT

12 How the WTS return-preparation scheme worked

13 17. At all times relevant hereto, the defendants' typical  
14 customers were middle-income individual wage earners.  
15 Advertising was by word of mouth. Customers typically were  
16 referred by friends or relatives who had received tax refunds  
17 through DTS/WTS. Over 90 percent of the Form 1040 tax returns  
18 the defendants prepared resulted in a refund.

19 18. WTS operated a high-volume business. In the 2000  
20 return season (i.e., tax returns for 1999), WTS prepared 4,229  
21 returns; in the 2001 season, 8,749 returns; in the 2001 season,  
22 5,262 returns. WTS generally prepared each return during a  
23 single conference with the customer at WTS's office, which  
24 sometimes lasted only a few minutes. Returns were prepared using  
25 computer software and were filed electronically.

26 19. During the customer conference, the individual return  
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1 preparer/defendant would input the customer's data into the  
2 computer. The preparer used the customer's Form W-2 or Form 1099  
3 as a source for income data and interviewed the customer  
4 regarding potential deductions.

5 20. Customers typically were asked whether they made  
6 charitable contributions and whether they owned home computers,  
7 used their cars for work, or had other expenses arguably related  
8 to their jobs. For example, military customers were asked if  
9 they paid for their own haircuts and drycleaning. The individual  
10 return preparer/defendant did not, however, make reasonable  
11 inquiries or otherwise attempt to determine or substantiate the  
12 actual amounts of such contributions or expenses.

13 21. In most cases, the customer was not legally entitled to  
14 itemize any employee business expenses or other expenses such as  
15 depreciation on office equipment on Schedule A of Form 1040  
16 because the actual amounts of any such expenses were, in the  
17 aggregate, below the customer's 2 percent adjusted gross income  
18 "floor". The standard deduction thus should have been claimed.  
19 Nonetheless, the defendants claimed fictitious, inflated and  
20 improper itemized deductions for job expenses to reduce  
21 customers' taxable income.

22 22. In addition to improperly claiming job expenses, the  
23 defendants claimed fictitious or inflated charitable contribution  
24 amounts to further reduce customers' taxable income.

25 23. The defendants did not point out or explain these bogus  
26 deductions for expenses and contributions to the customers.



1 Particular customers' experiences

2 29. In April 2001, one customer, referred to WTS by a  
3 family member, went to WTS' offices in Anaheim to have his 2000  
4 joint tax return prepared. He met with David for approximately  
5 20 minutes. David asked the customer whether he made charitable  
6 contributions during the year or incurred any employee business  
7 expenses. The customer told David that he made contributions to  
8 his church but incurred no expenses with respect to his  
9 employment. David prepared a tax return for the customer that  
10 claimed bogus charitable contributions of \$7,800 and bogus  
11 employee business expenses of \$8,114. The customer was charged  
12 \$1,500 for the tax return and initially received a refund. Since  
13 then, the IRS has examined the customer's tax return and has  
14 determined that approximately \$5,000 of tax and interest is due.

15 30. In February 2001, another customer went to WTS to have  
16 her 2000 tax return prepared. She met with Hovey for  
17 approximately 5 minutes. Hovey asked the customer if she  
18 attended church (which she did) and asked if she had bought a  
19 computer (which she had). Hovey prepared a tax return for the  
20 customer that claimed false charitable contributions of \$2,600  
21 and false employee business expenses of \$10,927. The customer  
22 was charged \$500 for the tax return and initially received a  
23 refund. Since then, the IRS has examined the tax return and has  
24 determined additional tax and interest due in the amount of  
25 approximately \$1,700.

26 31. In April 2001, another customer, referred to WTS by a  
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1 family member, went to WTS to have her 2000 joint tax return  
2 prepared. The customer met with Wright for approximately 10  
3 minutes. The customer told Wright she made charitable  
4 contributions of \$3,500 to the Salvation Army. Wright asked the  
5 customer, a social worker, whether she had a computer, a desk,  
6 chairs, and a bookshelf at home (which she did). Wright  
7 incorrectly told the customer she could deduct these items  
8 because she took work home at night. Wright prepared a tax  
9 return for the customer showing inflated charitable contributions  
10 of \$6,500 and bogus employee business expenses of \$15,173. The  
11 customer was charged \$1,050 for the return preparation. She  
12 initially received a refund. Since then, the IRS has examined  
13 the tax return and has determined additional tax and interest due  
14 in the amount of approximately \$4,568.

15 32. In March 2001, another customer, referred to WTS by a  
16 co-worker, went to WTS to have her 2000 joint tax return  
17 prepared. She was told by her co-worker that WTS would get her a  
18 large refund. She and her husband met with Shields. Shields  
19 asked the customer, an ultrasound technician at a hospital, and  
20 her husband if they owned a home computer and any office  
21 furniture at home (which they did). Shields did not ask the  
22 customer when the items were purchased or what they cost.  
23 Shields prepared a tax return for the customer claiming \$1,000 in  
24 false charitable contributions and \$13,005 of bogus employee  
25 business expenses. The customer was charged \$1,500 for the  
26 return preparation. The customer and her husband initially  
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1 received a refund. Since then, the IRS has examined the tax  
2 return and has determined that additional tax and interest in the  
3 amount of \$8,884 is due.

4 33. In February 2000, another customer, referred by a  
5 friend, went to DTS to have her 1999 tax return prepared. She  
6 met with DeAngelo, who asked her whether she made charitable  
7 contributions (which she did) and whether she owned a home  
8 computer (which she did). The customer told DeAngelo that she  
9 did not have receipts to show the amount of her contributions or  
10 the cost of the computer. DeAngelo told the customer how to  
11 create receipts if ever audited by the IRS. DeAngelo prepared a  
12 tax return for the customer showing false charitable  
13 contributions of \$2,600 and false employee business expenses of  
14 \$13,895. The customer was charged \$550. She initially received  
15 a refund. Since then, the IRS has examined the tax return and  
16 has determined that additional tax and interest is due in the  
17 amount of \$5,827.

18 34. With respect to the 1999 tax year, DeAngelo claimed a  
19 bogus "slave reparation credit" of \$40,000 on behalf of an  
20 African-American customer.

21 Customers in military service

22 35. By its proximity to the now-closed El Toro Marine Base  
23 in Orange County, California, and through word-of-mouth, the  
24 defendants managed to target military personnel in Orange County  
25 and San Diego County, California, with their false tax return  
26 preparation scheme. During the 1999 and 2000 tax return filing  
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1 seasons, it is estimated that DTS/WTS personnel prepared returns  
2 for well over one hundred enlisted men and women. These tax  
3 returns, like the other tax returns prepared by DTS/WTS, followed  
4 the same pattern of false deductions as described herein, in that  
5 they contained bogus charitable deductions and bogus employee  
6 business expenses.

7 36. In 2001, it came to the attention of several officers  
8 on the Marine bases at Miramar and Camp Pendleton that WTS was  
9 preparing returns for military personnel that yielded  
10 suspiciously large refunds. After further investigation, it was  
11 determined by these officers, who were attorneys working with the  
12 Volunteer Income Tax Assistance (VITA) programs on the bases,  
13 that the refunds were based on bogus deductions. After  
14 contacting the IRS, these officers warned the military population  
15 of this scam. A military newspaper ran a story entitled "Firm  
16 allegedly cheats on Marine tax refunds." Personnel who may have  
17 filed improper returns were urged to come forward. VITA assisted  
18 those who responded to file amended returns and make arrangements  
19 to pay back, with interest, the undeserved refunds.

20 INJURY TO THE UNITED STATES

21 37. The Internal Revenue Service has thus far examined  
22 approximately 93 of the estimated 18,240 tax returns prepared by  
23 the defendants for the 2000-2002 tax seasons (i.e., returns for  
24 years 1999-2001). Over 90 percent of these audited returns  
25 contained understatements of tax liability, the average tax loss  
26 being \$1,919. Over 90 percent of these audited returns claimed

1 false deductions for charitable contributions or job expenses, or  
2 both.

3 38. Over 90 percent of the returns prepared by the  
4 defendants claimed a refund. This percentage is significantly  
5 higher than the overall percentage of Form 1040 returns claiming  
6 refunds. Of all Forms 1040 filed nationwide, the percentage of  
7 returns claiming a refund was 72.1 for tax year 1999, 72 percent  
8 for 2000, and 76 percent for 2001.

9 39. The errors contained in the returns prepared by the  
10 defendants cannot be automatically detected by cross-checking  
11 information reported to the IRS by employers or other third  
12 parties. The defendants generally report such information (for  
13 example, income from Forms W-2) accurately. Time-intensive  
14 audits by revenue agents, including interviews with the taxpayer-  
15 customers, are usually necessary to ferret out the bogus  
16 deductions claimed by the defendants.

17 40. As a result of the defendants' improper actions, acting  
18 either in concert or individually, the United States has suffered  
19 a significant tax loss. The exact loss is unknown, but based on  
20 the total number of returns prepared by DTS/WTS for the periods  
21 at issue, approximately 18,240, assuming that 90 percent of these  
22 returns contain understatements of tax, and assuming further an  
23 average tax loss per return of \$1,919, the IRS estimates the  
24 aggregate tax loss at \$31.5 million.

25 INJURY TO THE DEFENDANTS' CUSTOMERS

26 41. As a result of the defendants' improper actions, acting  
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1 either in concert or individually, many of their customers have  
2 been required to file amended returns or undergo audits by the  
3 IRS. They have incurred severe, and in most cases unanticipated,  
4 financial burdens due to their liability for additional tax  
5 beyond the amount reported on their original returns, plus  
6 statutory interest.

7 42. As a result of the defendants' improper actions, acting  
8 either in concert or individually, many of their customers will  
9 be required to file amended returns or undergo audits by the IRS.  
10 They will incur severe financial, and in most cases  
11 unanticipated, financial burdens due to their liability for  
12 additional tax beyond the amount reported on their original  
13 returns, plus statutory interest (and perhaps civil penalties).

14 COUNT I

15 (Engaging in Conduct Prohibited by Sections 6694 and 6695)

16 43. Plaintiff realleges and incorporates by reference  
17 paragraphs 1 through 42 of the Complaint.

18 44. The defendants, by reason of their preparation, or  
19 assistance in the preparation, of federal income tax returns for  
20 which they were compensated, are income tax return preparers  
21 within the meaning of Section 7701(a)(36) of the Internal Revenue  
22 Code ("the Code"), Title 26, U.S.C.

23 45. The defendants have continually or repeatedly engaged  
24 in conduct subject to penalty under Section 6694 of the Code by  
25 either (a) recklessly or intentionally disregarding rules and  
26 regulations in preparing the return of another person, resulting  
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1 in an understatement of federal tax liability for that person; or  
2 (b) willfully or recklessly understating the federal tax  
3 liability of another person in preparing the return of that  
4 person; or both.

5 46. The defendants have continually or repeatedly engaged  
6 in conduct subject to penalty under Section 6695 of the Code in  
7 that they have failed to consistently furnish the correct  
8 identifying number for WTS on the returns they have prepared  
9 under the auspices of WTS.

10 47. Unless enjoined by the Court, the defendants will  
11 continue to engage in the above-described conduct.

12 48. The defendants must be enjoined from further acting as  
13 income tax return preparers because an injunction prohibiting  
14 their engaging in conduct subject to penalty under Sections 6694  
15 and 6695 of the Code would not be sufficient to prevent their  
16 further interference with the proper administration of the tax  
17 laws.

18 COUNT II

19 (Unlawful Interference with the Internal Revenue Laws)

20 49. Plaintiff realleges and incorporates by reference  
21 paragraphs 1 through 48 of the Complaint.

22 50. The defendants' fraudulent and deceptive conduct as set  
23 forth above has the effect of substantially interfering with the  
24 proper administration of the Internal Revenue laws by causing the  
25 filing of improper and illegal tax returns or claims for refunds,  
26 as well as the filing of tax returns containing improper and  
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1 illegal deductions, all of which contributes to undermining the  
2 respect for, and deterring voluntary compliance with, the federal  
3 tax laws.

4 51. Unless enjoined by this Court, the defendants will  
5 continue to engage in this conduct.

6 APPROPRIATENESS OF INJUNCTIVE RELIEF

7 52. Injunctive relief is appropriate under Sections 7407  
8 and 7402 of the Code for the following reasons:

9 a. Proscribed Conduct. The defendants, in the course  
10 of preparing income tax returns on behalf of their  
11 customers, have continually or repeatedly engaged in conduct  
12 subject to penalty under Sections 6694 and 6695 of the Code  
13 and which otherwise interferes with the proper  
14 administration of the Internal Revenue law. In addition, by  
15 continuing to represent himself as an enrolled agent even  
16 though that status was terminated in 1993, Shields has  
17 misrepresented his eligibility to practice before the IRS.

18 b. Likelihood of Recurrence. If the defendants are  
19 not enjoined from preparing federal income tax returns, it  
20 is likely that they will continue to do so, since they have  
21 engaged in a pattern and practice of abuse extending over a  
22 number of years.

23 c. Irreparable Injury. The defendants, by their  
24 continual or repeated violations of the internal revenue  
25 laws, have caused a substantial revenue loss to the United  
26 States Treasury as well as a severe drain of government  
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1 administrative resources in identifying and examining the  
2 returns the defendants prepared and in attempting to collect  
3 the monies owed. The IRS lacks sufficient resources to  
4 examine all of the returns the defendants have prepared to  
5 date and are continuing to prepare. The 2003 return  
6 preparation season is in full swing. In addition, the  
7 resulting and potential litigation relating to the tax  
8 returns prepared by the defendants will place a heavy burden  
9 on the judicial system.

10 d. Public interest. Members of the public whom the  
11 defendants aided, advised, or assisted have been harmed  
12 because such persons paid the defendants for their services  
13 in preparing tax returns, and if their returns are examined  
14 by the IRS, they will likely be assessed with deficiencies  
15 in tax, be required to pay statutory interest on the tax  
16 deficiencies resulting from the defendants' improper  
17 preparation, and may also be subject to civil penalties  
18 resulting from the deficiencies. Moreover, the defendants'  
19 behavior encourages a reckless disregard for the internal  
20 revenue laws and erodes public confidence in the fairness of  
21 the federal income tax system, thus causing irreparable  
22 injury to the government and the nation as a whole.

23 RELIEF REQUESTED

24 **WHEREFORE**, plaintiff, the United States of America, prays  
25 for the following:

- 26 1. That the Court find that the defendants, Samuel  
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1 means or instrumentality, from:

2 a. Acting as income tax return preparers within the  
3 meaning of Section 7701(a)(36) of the Code;

4 b. Taking any action in furtherance of aiding,  
5 assisting, advising, or preparing for compensation tax  
6 returns of third-party taxpayers;

7 c. Further engaging in conduct subject to penalty  
8 under Sections 6694 and 6695 of the Code; or

9 d. Substantially interfering with and/or impeding the  
10 proper administration of the internal revenue laws.

11 4. That this Court further order and decree, as part of its  
12 permanent injunctive relief, that the defendants notify, in  
13 writing, all persons whose tax returns they have prepared from  
14 January 1, 1999 to the date of the Court's order, of the findings  
15 and relief ordered by the Court, including in such notice to each  
16 person a copy of the Complaint and of the Court's Final Order of  
17 Permanent Injunction; and that the defendants file with the Court  
18 a list of the names and addresses of all persons so notified  
19 within thirty (30) days of the date the Order is entered.

20 5. That this Court retain jurisdiction of this action for  
21 the purpose of implementing and enforcing the final judgment and  
22 all additional decrees and orders necessary and appropriate to  
23 the public interest.

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1 6. That this Court award plaintiff all its costs in  
2 prosecution of this action.

3 Respectfully submitted,

4 DEBRA W. YANG  
5 United States Attorney  
6 EDWARD M. ROBBINS, JR.  
7 Assistant United States Attorney  
8 Chief, Tax Division

9 Dated: March 11, 2003

*Robert F. Conte*  
ROBERT F. CONTE  
Assistant United States Attorney

10 Dated: March 11, 2003

*W. Carl Hankla*  
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Trial Attorney, Tax Division  
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