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JAMES D. HAYDEN, Clerk
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

Case 1:07-CV-747

SMART TAX OF GEORGIA, INC.,)

d/b/a Jackson Hewitt Tax Service,)

FARRUKH SOHAIL,)

STEVEN EVERLY,)

HILEAH BRAXTON, and)

TAMIKA DONALDSON,)

Defendants.)

**DEFAULT JUDGMENT AND ORDER OF PERMANENT INJUNCTION
AGAINST HILEAH BRAXTON AND TAMIKA DONALSON**

Plaintiff United States filed its complaint for permanent injunction under sections 7407, 7402, and 7408 of the Internal Revenue Code (26 U.S.C. or IRC) on April 2, 2007, seeking to permanently bar defendants Hileah Braxton and Tamika Donaldson (and others) from preparing income tax returns for others. The United States personally served Braxton with process on May 26, 2007, and the clerk entered her default on July 17, 2007, when Braxton failed to answer the complaint or otherwise appear in this action. The United States personally served Donaldson

with process on May 10, 2007, and the clerk entered her default on July 17, 2007, when Donaldson failed to answer the complaint or otherwise appear in this action.

Plaintiff has moved for the entry of a default judgment against these two defendants pursuant to Fed.R.Civ.P. 55(b)(2). In accordance with Fed.R.Civ.P. 65(d), the findings of fact and reasons for the entry of a permanent injunction against Braxton and Donaldson are set forth below.

Findings of Fact

1. This Court has jurisdiction over the parties and subject matter of this case.
2. Braxton and Donaldson were employed as tax return preparers at Smart Tax of Georgia/Jackson Hewitt (Smart Tax/Jackson Hewitt) in 2006. Accordingly, these defendants were "income tax return preparers" as defined in IRC § 7701(36).
3. Braxton and Donaldson willfully understated the federal income tax liabilities of many Smart Tax/Jackson Hewitt customers.
4. There was no possibility, realistic or otherwise, that Braxton's and Donaldson's positions on those tax returns could be sustained on the merits.
5. Braxton and Donaldson either knew or reasonably should have known there was no realistic possibility that the positions they adopted on their customers' returns would be sustained on their merits.

6. Braxton and Donaldson continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 and 6695 when they prepared these false tax returns for customers of Smart Tax/Jackson Hewitt.

7. Braxton and Donaldson interfered with the enforcement of the internal revenue laws by continually and repeatedly understating their customers' tax liabilities.

This conduct is sufficient to justify relief under IRC § 7402. Their continued and repeated understatement of their customers' tax liabilities unduly burdens the IRS and harms their customers, who end up having to pay additional taxes and statutory interest.

8. The Government has been irreparably harmed by the loss of tax revenue due to the understatements of liability. These customers have also been harmed because many are now at risk of having to pay back taxes with interest.

9. The balance of the harm in this case favors the entry of an injunction.

10. The United States is likely to succeed on the merits.

11. These facts support the issuance of an injunction under IRC § 7402, given the strong public interest in the fair administration of the federal tax laws and the proper and efficient collection of taxes to support the federal government and its programs and policies.

Conclusions of Law

12. Based upon the factual findings and evidence presented by the United States that the defendants have not opposed, the Court also finds that Braxton and Donaldson have continually and repeatedly engaged in conduct subject to penalty under IRC §§ 6694 and 6695, and have continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws. The Court also finds that a narrower injunction prohibiting only this specific misconduct would be insufficient.

13. Accordingly, the Court finds that Braxton and Donaldson should be permanently enjoined under IRC § 7407.

14. The Court also finds that Braxton and Donaldson have engaged in conduct in violation of IRC § 6701, and that injunctive relief is appropriate to prevent the recurrence of that conduct.

15. The Court further finds that Braxton and Donaldson have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that the United States and the public will suffer irreparable harm in the absence of a permanent injunction. The public interest will be served by granting a permanent injunction.

16. Accordingly, the Court finds that Braxton and Donaldson should be permanently enjoined under IRC § 7402(a).

Order

Based on the foregoing factual findings, and for good cause shown, the Court orders that defendants Braxton and Donaldson are enjoined from:

- a. acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns for any person or entity other than themselves, or appearing as representatives on behalf of any person or organization whose tax liabilities are under examination or investigation by the Internal Revenue Service;
- b. preparing or assisting in the preparation or filing of tax returns for others that defendants knows will result in the understatement of any tax liability;
- c. understating customers' tax liabilities as subject to penalty under IRC § 6694;
- d. instructing or advising taxpayers to understate their federal tax liabilities;
- e. engaging in any other activity subject to penalty under IRC § 6694;
- f. engaging in any activity subject to penalty under IRC § 6695; and
- g. engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.


Further, the Court orders Braxton and Donaldson to contact by mail all persons for whom they prepared a federal tax return since January 1, 2004, and inform them of the Court's findings concerning the falsity or fraudulent attributes of those tax returns and enclose a copy of the permanent injunction against them. Defendants will bear the costs of providing a copy of the permanent injunction to their customers.

Further, the Court orders Braxton and Donaldson to produce to counsel for the United States, within eleven days of the entry of an injunction against her, a list that identifies by name, social security number, address, email, telephone number, and tax period(s) all persons for whom they prepared federal tax returns or claimed a tax refund since January 1, 2004. Defendants must file a sworn certificate of compliance swearing they have complied with this portion of the Order, within ten days of the date of this Order.

Further, the Court orders that the United States is permitted to engage in post-judgment discovery to ensure compliance with this Order.

Finally, the Court orders that it shall retain jurisdiction over this action for purposes of implementing and enforcing this Order and any additional orders necessary and appropriate to the public interest.

IT IS SO ORDERED this 9th day of August, 2007.


CLARENCE COOPER
UNITED STATES DISTRICT JUDGE