

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 1:07-cv-1142-JBM
)	
v.)	
)	ORDER FOR DEFAULT JUDGMENT
)	AND PERMANENT INJUNCTION
BERTHA L. STEVERSON, individually and)	
d/b/a BERTHA'S TAX SERVICE,)	
Defendants.)	
_____)	

This matter come before the Court on plaintiff's motion for Default Judgement and Permanent injunction. Defendant Bertha L. Steverson was properly served and has failed to appear in this matter. Entry of Default was made against her on April 10, 2007 (Docket Nos. 9-10). Having reviewed the record in this case, the Court makes the following findings of fact and conclusions of law and enters this permanent injunction against Bertha L. Steverson.

FINDINGS OF FACT

1. Bertha L. Steverson has in penalty in this district subject to penalty under I.R.C. §§ 6694, 6695, or 6701 and has engaged in conduct that interferes with the Internal Revenue Laws.
2. From 2004 to 2006, Steverson continually and repeatedly prepared federal income tax returns for others containing false or inflated Form 1040 Schedule A expenses, false Schedule F expenses and false or inflated Schedule C business losses, and other fraudulent items.

3. IRS agents examined at least 93 returns that Steverson prepared for the 2003 through 2005 tax years.

4. The IRS agents determined that 81 returns they examined contained one or more false or inflated Schedule A deductions for charitable contributions, medical expenses, or other miscellaneous deductions. All 93 federal income tax returns audited by the IRS contained false or inflated deductions attributable to Steverson's fraudulent tax preparation.

5. The IRS agents also determined that many of the 93 returns contained false or inflated Schedule C business losses, false or inflated Schedule E expenses, or false head of household filing status.

6. The IRS examiners determined that all 93 returns understated the correct tax, and 76 Steverson customers have agreed to the tax deficiencies the IRS has asserted.

7. Based on the IRS's complete examinations of the 93 returns for the 2003, 2004, and 2005 tax years, Steverson understated her customers' tax liabilities in the total amount of \$231,661, or approximately \$2,491 per return (excluding interest and penalties).

8. To date, the IRS has fully examined 93 of Steverson's returns from an estimated total of 1,224 returns that Steverson prepared since 2004. The IRS estimates a total loss to the Treasury of over \$3 million as a result of Steverson's fraudulent return preparation based on the \$2,491 average deficiency.

False or Fictitious Business Expenses

9. Steverson continually and repeatedly prepared federal income tax returns claiming fictitious or false Schedule C, E and F expenses for customers in order to offset their W-2 income.

10. Of the 97 audited income tax returns, Steverson prepared at least 17 tax returns for the 2003 through 2005 tax years that contained false Schedule C, E, or F expenses.

11. Of these 17 returns, 15 of Steverson's customers have agreed that they are not entitled to these deductions. The same customers acknowledged that they were not aware of the basis for the claimed expenses reported on their income tax returns.

12. For example, Steverson prepared the 2003 federal income tax returns for a Maywood, Illinois, individual that included a form Schedule C. The Form Schedule C included false and fictitious business expenses that the customer did not report to Steverson. Following an audit, the customer agreed to pay an additional \$1,485 due to the false and fictitious Schedule C expenses reported on his income tax return.

False and Fraudulent Schedule A Expenses

13. For the 2003 through 2005 tax years, Steverson prepared federal income tax returns for many customers falsely claiming inflated Schedule A expenses in order to offset their Form W-2 wage income.

14. For example, Steverson prepared the 2003 federal individual income tax return for a Lombard, Illinois customer and falsely reported inflated Schedule A expenses in order to fraudulently increase the customer's income tax refund. That customer reported adjusted gross income totaling \$43,074, while claiming \$46,935 of Schedule A expenses for the same year. The false Schedule A expenses included \$15,200 in charitable contributions, \$5,500 in medical expenses, and \$12,109 of unreimbursed employee expenses.

15. This customer signed an affidavit stating that the itemized deductions reported on Schedule A of his 2003 income tax return were false, that he did not provide Steverson with any

information to complete the Form Schedule A, and that he was not given the opportunity to review the return before it was filed by Steverson.

16. As a result of Steverson's false and fraudulent return preparation, the customer requested a refund of \$3,968 to which he was not entitled, and he has agreed to pay an additional tax of \$1,777 as determined by the IRS for 2003.

17. Steverson prepared a similar Form 1040 for the customer's 2004 tax year, which also falsely reported inflated Schedule A expenses in order to fraudulently increase the customer's income tax refund. The customer reported adjusted gross income totaling \$47,553, while claiming \$31,044 of Schedule A expenses for the same year. The false Schedule A expenses include \$11,250 of deductions related to charitable contributions.

18. Steverson also prepared a Form 8283, Noncash Charitable Contribution, to itemize charitable donations for this customer for both 2003 and 2004. The Forms 8283 that Steverson prepared for this customer for 2003 and 2004 are nearly identical, and both contain false information. Both Forms 8283 Steverson prepared for this customer claim \$4,500 of charitable donations for clothing donated to Goodwill for 2003 and 2004. The Forms 8283 that Steverson prepared also falsely claim \$4,000 and \$2,300 charitable contributions for donating furniture for 2003 and 2004, respectively.

CONCLUSIONS OF LAW

A. Default Judgement Standard.

Rule 55 of the Federal Rules of Civil Procedure provides that where a party fails to plead or otherwise defend against a complaint, and after entry of default, default judgment may be entered against such person. Upon entry of default, the well-pleaded allegations of the complaint

relating to a defendant's liability are taken as true, with the exception of the allegations as to the amount of damages, which is not an issue here because the United States is seeking injunctive, not monetary, relief.¹ Default judgment should not be different in kind than what is sought in the complaint.² Here, the United States seeks only the injunctive relief requested in the complaint.

B. The United States' Substantive Claims Set Forth in its Complaint Satisfy the Standards for a Permanent Injunction.

Section 7407 authorizes the Court to enjoin a federal-tax-return preparer from engaging in conduct subject to penalty under I.R.C. §§ 6694 or 6695 if the Court finds that injunctive relief is appropriate.³ Where a return preparer's conduct subjecting her to penalty under IRC §§ 6694 or 6695 has been continual or repeated, the Court may enjoin her from preparing any federal returns if the Court finds that a more narrow injunction prohibiting only specific misconduct would be insufficient to prevent further interference with the administration of the internal revenue laws.⁴ Because Steverson is continually and repeatedly engaging in conduct subject to penalty under both IRC §§ 6694 and 6695, the Court finds that a permanent injunction under IRC § 7407 is necessary to bar her from preparing federal tax returns.⁵

¹ *Merrill Lynch Mortg. Corp. v. Narayan*, 908 F.2d 246, 253 (7th Cir. 1990); *Angelo Iafrate Const., LLC v. Potashnick Const., Inc.*, 370 F.3d 715, 721-22 (8th Cir. 2004).

² Fed. R. Civ. P. 54(c).

³ IRC § 7407(b).

⁴ *Id.*

⁵ Because § 7408 expressly provides for an injunction, the traditional guidelines for equitable relief do not have to be established for an injunction to issue. *Id.*; *United States v. H & L Schwartz, Inc.*, 60 A.F.T.R.2d 87-6031, 87-6036 (C.D. Cal. 1987) ("Traditional equity grounds need not be proven in order for an injunction that is authorized by statute is issued.") The same is true for an injunction under § 7407.

Section 7408 authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under IRC § 6701 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.⁶ Section 6701 penalizes a person who prepares or assists in the preparation of “any portion of a return, affidavit, claim, or other document” that she “knows (or has reason to believe) will be used in connection with any material matter” under the internal revenue laws and that she knows “(if so used) would result in an understatement of the liability for tax.”⁷ There is overwhelming evidence that Steverson has also engaged in conduct subject to penalty under IRC § 6701.

As discussed above, Steverson prepares federal tax returns, Schedule A, Schedules C, and claims for charitable deductions that she knows or has reason to know will be used in connection with a material matter arising under the internal revenue laws — the determination of her customers’ tax liabilities — and that result in a gross understatement of those liabilities. Accordingly, Steverson is subject to penalty under IRC § 6701 by filing false and fraudulent returns. Thus, an injunction is also warranted barring Steverson from further engaging in conduct subject to penalty under IRC § 7408.

After the statutory requirements for injunctive relief have been met, the Court should consider whether there is a “reasonable likelihood of future violations” before issuing injunctive relief. In *United States v. Estate Preservation Services*, the Ninth Circuit examined the likelihood that an abusive tax scheme promoter would engage in conduct subject to penalty under IRC § 6700, using the following factors: (1) the gravity of the harm caused by the offense,

⁶ IRC § 7408(b)-(c).

⁷ IRC § 6701.

(2) the extent of the defendant's participation in the scheme, (3) the defendant's degree of scienter, (4) the isolated or recurrent nature of the infraction, (5) the defendant's recognition or nonrecognition of her own culpability, and (6) the likelihood that the defendant's occupation would place her in a position where future penalty conduct could be anticipated. Because these factors all point to Steverson continuing to prepare fraudulent returns and to interfere with the IRS, injunctive relief is appropriate.

Steverson has caused serious harm to the United States. Steverson's fraudulent returns have resulted in millions of dollars in potential harm to the United States Treasury. Having prepared these returns herself, Steverson was well aware that they assert unsupportable positions. As a paid return preparer with several customers, Steverson is likely to continue to prepare fraudulent returns. Moreover, Steverson has never made any offer of assurance against future violations, or recognized her culpability for the false returns she prepared. Accordingly, there is a high likelihood that absent an injunction Steverson will continue to prepare fraudulent returns and interfere with the IRS. Thus, Steverson should be enjoined under both IRC §§ 7407 and 7408.

Because IRC §§ 7407 and 7408 set forth criteria for injunctive relief, the United States need only meet those criteria, without reference to the traditional equitable factors, for the Court to issue an injunction. Nonetheless, the traditional equitable factors are also met here: there is a likelihood of irreparable injury and the United States' legal remedies are inadequate.

ORDER

Based on the foregoing finding of fact and for good cause shown the Court ORDERS

A. That pursuant to IRC §§ 7402, 7407 and 7408, Bertha L. Steverson individually and

doing business as Bertha's Tax Service, and anyone acting in concert with her, is permanently enjoined from:

- (1) engaging in any conduct subject to penalty under IRC § 6694, including preparing any part of a return or claim for refund that includes an unrealistic position or a willful understatement of tax;
- (2) engaging in any conduct subject to penalty under IRC § 6695(g), including failing to be diligent in determining eligibility for the earned income tax credit;
- (3) acting as federal-income-tax return preparer;
- (4) assisting in preparing or filing federal income tax returns for others;
- (5) engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws; and
- (6) engaging in conduct subject to penalty under IRC § 6701, i.e., assisting others in the preparation of any tax returns, 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 income tax liability.


B. That pursuant to IRC § 7402, Steverson is ORDERED to contact all persons and entities for whom she prepared any federal income tax returns or other tax-related documents after January 1, 2003, and inform those persons of the entry of the Court's findings concerning the falsity of representations Steverson made on her customers' tax returns, and that a permanent injunction has been entered against her within 30 days of service of this Order.

C. That pursuant to IRC § 7402, Steverson is ORDERED to provide counsel for the United States a list of the names, addresses, e-mail addresses, phone numbers, and Social

Security numbers of all individuals or entities for whom Steverson prepared or helped to prepare any tax-related documents, including claims for refund or tax returns since January 1, 2003; and

D. That the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction.

Dated: May 1, 2007



JAMES B. MORAN, JUDGE
UNITED STATES DISTRICT COURT