

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
ROBERT A. GROVER,)	
d/b/a Grover Tax Preparation LLC,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR PERMANENT INJUNCTION

This is a civil action brought by the United States to permanently enjoin defendant Robert A. Grover from preparing federal income tax returns, amended federal income tax returns and other related documents and forms for others, and/or advising, assisting, counseling, or instructing anyone about the preparation of a federal tax return, engaging in any activity subject to penalty under 26 U.S.C. § § 6694, 6695, or 6701, promoting tax-fraud schemes or other plans or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of federal income taxes, engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws, or representing customers before the Internal Revenue Service (“IRS”).

Jurisdiction

1. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to 26 U.S.C. §§ 7401, 7402(a), 7407, and 7408.

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7401, 7402(a), 7407, and 7408.

3. Mr. Grover resides in and operates a business, Grover Tax Preparation LLC, in Kennebec County, Maine, within the jurisdiction of this Court.

Facts Common to All Counts

4. Mr. Grover prepares or assists in the preparation of individual federal income tax returns for other people for compensation.

5. Mr. Grover operates a business that provides tax return preparation and other accounting services under the name Grover Tax Preparation LLC.

6. Mr. Grover prepared 2,605 federal income tax returns over the past four years.

7. The IRS has examined 92 tax returns prepared by Mr. Grover for the 2004 through 2006 tax years. Each of these examinations resulted in additional tax being owed by the taxpayer.

8. In 88% of the tax returns examined, adjustments were made to the taxpayers' Schedule C, reflecting fabricated and/or inflated deductions for depreciation, costs of goods sold, vehicle expenses, utilities, mortgage interest, rental expense, and understated gross receipts. In 18% of the tax returns examined, adjustments were made to capital gains that had not been reported for the sale of real estate, automobiles, franchises, securities, and business assets on the taxpayers' Schedule D. Finally, in 23% of the tax returns examined, adjustments were made to the taxpayers' Schedule E, reflecting fabricated and/or inflated deductions for depreciation, vehicle expenses, insurance, cleaning/maintenance and interest.

9. Mr. Grover has a history of violating state tax laws. He was indicted on 41 counts of evasion of income tax in violation of 36 ME. REV. STAT. ANN. § 184-A. On December 17, 2008, Mr. Grover entered pleas of nollo contendere to these charges. See State v. Robert A. Grover, No. CR-08-224 (Super. Ct. Maine filed 2008). Mr. Grover is scheduled to be sentenced in this matter in March, 2009.

10. Mr. Grover's actions cause harm to the United States and to the public.

11. The IRS has issued erroneous refunds based on fraudulent returns prepared by Mr. Grover and has then had to audit his customers and take collection action to attempt to recoup the money. The IRS has incurred an actual tax loss to date from the examined returns of \$1.0 million. Based on the average actual tax loss per return of \$11,315, and the fact that 100% of the returns examined by the IRS have been found to be incorrect, the potential total tax deficiencies are estimated to be \$29.5 million for the four-year period that Mr. Grover has prepared returns.

12. The IRS has spent considerable time and resources auditing returns prepared by Mr. Grover and collecting the taxes owed and erroneous refunds paid.

13. Mr. Grover has also harmed his customers because they pay him to prepare these returns, and, after the fraud is detected, are responsible for paying all taxes, interest, and penalties.

Count I:
Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6701

14. The United States incorporates by reference the allegations in paragraphs 1 through 13.

15. A court is authorized to issue an injunction if an income tax preparer engages in conduct subject to penalty under 26 U.S.C. § 6701, pursuant to 26 U.S.C. § 7408.

16. Section 6701 penalizes any person (1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; (2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and (3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person.

17. Mr. Grover prepares or assists in the preparation of federal income tax returns for his customers.

18. Mr. Grover knew or had reason to believe that these income tax returns would be filed with the IRS and thus would be used in connection with a material matter arising under the internal revenue laws.

19. Mr. Grover knew that the federal tax returns he prepares will result in understatements of other persons' tax liabilities.

20. If Mr. Grover is not enjoined, he is likely to continue to engage in conduct which violates § 6701.

Count II:
Injunction Under 26 U.S.C. § 7407 for Violation of 26 U.S.C. § 6694

21. The United States incorporates by reference the allegations in paragraphs 1 through 20.

22. A court is authorized to issue an injunction if an income tax return preparer engages in conduct subject to penalty under 26 U.S.C. § 6694 or § 6695, pursuant to 26. U.S.C. § 7407.

23. Section 6694(a) penalizes a tax return preparer if (1) the preparer prepares a return or claim for refund that includes an understatement of liability due to a position for which there is not a realistic possibility of being sustained on the merits; (2) the preparer knew (or reasonably should have known) of such position; and (3) the position was not disclosed in accordance with 26 U.S.C. § 6662(d)(2)(B)(ii) or was frivolous.

24. 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.

25. Mr. Grover's conduct as described above is subject to penalty under §§ 6694(a), and 6694(b).

26. Mr. Grover has prepared income tax returns that include understatements of his customers' liabilities which had no realistic possibility of being sustained on the merits; Mr. Grover knew or reasonably should have known about these understatements; Mr. Grover did not disclose them in accordance with 26 U.S.C. § 6662(d)(2)(B)(ii); and such understatements are frivolous. Mr. Grover has thus engaged in conduct subject to penalty under § 6694(a).

27. Mr. Grover prepares returns for customers with false entries in a willful attempt to understate the customers' liability or with a reckless and intentional disregard of rules and regulations. Mr. Grover has thus engaged in conduct subject to penalty under § 6694(b).

28. Mr. Grover has continually and repeatedly engaged in conduct that violates § 6694. An injunction merely prohibiting Mr. Grover from engaging in conduct subject to penalty under § 6694 would not be sufficient to prevent his interference with the proper administration of the tax laws. Accordingly, Mr. Grover should be permanently enjoined from acting as an income tax return preparer.

**Count III:
Injunction under I.R.C. § 7402(a) for Unlawful Interference
with Enforcement of the Internal Revenue Laws
and Appropriateness of Injunctive Relief**

29. The United States incorporates by reference the allegations in paragraphs 1 through 28.

30. A court is authorized to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws, pursuant to 26 U.S.C. § 7402(a).

31. Section 7402(a) expressly provides that its injunction remedy is "in addition to and not exclusive of" other remedies for enforcing the internal revenue laws.

32. Mr. Grover, through the actions described above, has engaged in conduct that interferes substantially with the enforcement of the internal revenue laws.

33. Mr. Grover's conduct causes irreparable harm to the United States and to his customers.

34. Mr. Grover is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

35. If Mr. Grover is not enjoined, he is likely to continue to engage in conduct that interferes with the enforcement of the internal revenue laws.

36. The United States will suffer irreparable injury if Mr. Grover is not enjoined. This outweighs the harm to Mr. Grover from being enjoined from return-preparation and violating tax laws.

37. The public interest would be advanced by enjoining Mr. Grover because an injunction will stop his illegal conduct and the harm that conduct is causing to the United States Treasury.

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

A. That the Court find that Mr. Grover has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694, and that, pursuant to 26 U.S.C. § 7407, an injunction prohibiting such conduct would not be sufficient to prevent Mr. Grover's interference with the proper administration of the tax laws and that Mr. Grover should be enjoined from acting as an income tax return preparer;

B. That the Court find that Mr. Grover is interfering with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a) and the Court's inherent equity powers;

C. That this Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Mr. Grover, individually, and doing business under the name Grover Tax Preparation

LLC, or under any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and all persons in active concert or participation with him, from directly or indirectly acting as a federal income tax return preparer;

D. That this Court, pursuant to 26 U.S.C. § 7402(a), enter a permanent injunction prohibiting Mr. Grover, individually and doing business under the name Grover Tax Preparation LLC, or under any other name or using any other entity, as well as any representatives, agents, servants, employees, attorneys, and/or other persons acting in concert or participation with him, from directly or indirectly:

1. Preparing or assisting in the preparation of any federal tax return for anyone other than himself;
2. Advising, counseling, or instructing anyone about the preparation of a federal tax return;
3. Owning, managing, controlling, working for, or volunteering for a tax-return-preparation business, except that Mr. Grover would not be prohibited from selling Grover Tax Preparation LLC to a bona fide third party provided that: a) any such sale occur and be fully consummated on or before May 1, 2009; b) if Grover Tax Preparation LLC is operated between the date of the entry of an order of permanent injunction in this matter and May 1, 2009, it be operated by someone other than Mr. Grover; and c) the proceeds from any such sale are applied towards Mr. Grover's obligation to make restitution to the State of Maine in the aforementioned case of State v. Robert A. Grover, No. CR-08-224 (Super. Ct. Maine filed 2008);
4. Representing customers in connection with any matter before the IRS; and
5. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

E. That this Court, pursuant to 26 U.S.C. § 7402(a), require Mr. Grover at his own expense to contact by mail all customers for whom he has prepared federal tax returns or assisted

in preparing tax returns since January 1, 2005, and send them a copy of this Complaint and the permanent injunction order, and to certify to the Court within ninety (90) days of the date of the entry of an order of permanent injunction, that he has complied with this provision;

F. That this Court require Mr. Grover to provide the United States with a list of everyone for whom he has prepared (or helped to prepare) a federal tax return since January 1, 2005, and set forth on said list all of the names, addresses, telephone numbers, and social security numbers of the customers.

G. That this Court permit the United States to conduct post-judgment discovery to ensure Mr. Grover's compliance with the permanent injunction; and

H. That this Court grant the United States such other relief, including costs, as is just and equitable.

Respectfully submitted,

PAULA SILSBY
United States Attorney

/s/ Lisa L. Bellamy

LISA L. BELLAMY
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
Tel.: (202) 307-6416
Fax: (202) 514-5238
E-Mail: lisa.l.bellamy@usdoj.gov