

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
HAROLD W. METTE,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT FOR PERMANENT INJUNCTION**

Plaintiff United States of America complains against defendant Harold W. Mette, individually and doing business as The Tax Doctor, as follows:

**Nature of the Action**

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 the provisions of Internal Revenue Code (IRC) (26 U.S.C.) §§ 7402, 7407, and 7408.

**Jurisdiction and Venue**

2. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28, United States Code, and IRC §§ 7402(a), 7407, and 7408.

3. This is a civil action brought by the United States under IRC §§ 7402(a), 7407, and 7408 to enjoin Mette and anyone in active concert or participation with him from:

- A. acting as a federal income tax return preparer or assisting in, or directing the preparation or filing of federal tax returns for any person or entity other

than himself, or appearing as representatives on behalf of any person or organization before the Internal Revenue Service;

- B. preparing or filing (or helping to prepare or file) federal tax returns, amended returns, or other related documents or forms for others;
- C. organizing or selling tax shelters, plans, or arrangements that advise or assist taxpayers to attempt to understate their federal tax liabilities or evade the assessment or collection of their correct federal tax;
- D. engaging in any other activity subject to penalty under IRC §§ 6694, 6695, 6700, 6701, or any other penalty provision of the IRC; and
- E. engaging in other conduct that interferes with the proper administration and enforcement of the internal revenue laws.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because Mette resides in Parrish, Florida, within this judicial district and a substantial part of the actions giving rise to this suit took place in this district.

**Defendant**

5. Harold W. Mette, Ph.D., is a paid federal tax preparer, d/b/a The Tax Doctor, operating at 4420 5th Street West, Bradenton, Florida. Mette holds a doctorate degree in finance from Century University, a masters of business administration (MBA) from the University of Michigan, and a bachelors degree from Iowa State University.

6. Mette has been active in tax return preparation for approximately 30 years. He owned a tax preparation franchise business for 10 years before becoming a senior vice president of sales for an insurance and financial service company, named Chubb Company. Mette was employed by Chubb Company for 10 years, then he owned another tax preparation business in North Carolina prior to moving to Florida in 1998. Since the move to Florida, Mette has owned the tax

return preparation business located in Bradenton, Florida. Mette holds himself out as “The Tax Doctor” and has given presentations regarding his tax preparation scheme in the Manatee County area of Florida.

**“Cost Sharing Concept” Scheme**

7. Mette promotes a home-based business scheme he calls a “cost sharing concept.” In order to begin the scheme, Mette creates a corporation for his customers, usually an “S” corporation. An “S” corporation functions similar to a partnership with the added benefit of some liability protection. The corporate entity does not pay any income taxes, instead, the corporation’s income or losses are divided among – or “passed through to” – its shareholders. The shareholders must then report the income or loss on their own individual income tax returns.

8. Under the “cost sharing concept” scheme, Mette fraudulently uses the S Corporation tax return to claim his customers’ non-deductible personal expenses as tax-deductible business expenses. This means that the customer – as the only owner/employee – fraudulently deducts his/her personal expenses disguised as business expenses on the corporate tax return. Under this “cost sharing concept” scheme, Mette’s customers and the customer’s corporation “share” assets, such as the customer’s residence, vehicles, computers, etc. Expenses such as utilities and other operating costs for these “shared” assets are deducted as business expenses on the corporate income tax returns prepared by Mette.

9. As part of this scheme, Mette also prepares both individual income and corporate tax returns for his customers. On corporate tax returns, Mette deducts personal expenses ostensibly categorized as employee “incentives,” such as auto allowances, vacations, education expenses for

customers' family members, and medical expenses. These purported "incentives" were given to the "top producers" in the customer's company; since the company only had one owner/employee, the top producer was Mette's customer.

10. Mette advanced this scheme in some cases by preparing bogus corporate minutes that reflect corporate decisions to award the incentives above.

11. Mette has given presentations regarding his tax preparation scheme in the Manatee County area of Florida. As advertised by Mette, this scheme was a way to "utilize the corporation to cut your total income/social security tax bill by 50% or more."

12. Mette's false and fraudulent claims, as described above, resulted in significant understatements of his customers' tax liabilities.

#### **Mette's Customers**

13. Mette prepared individual tax returns for customers M.H. and A.H., husband and wife, who work, respectively, as a realtor and as a sales representative in Sarasota, Florida. Mette also prepared the corporate tax returns for the S corporation related to M.H. and A.H. These returns understated the customers' tax obligation by \$114,447 in tax year 2005 and \$110,457 in tax year 2006.

14. In understating M.H. and A.H.'s tax liabilities, Mette used numerous false and fraudulent deductions. For example, Mette deducted "rent" on their corporate tax returns – \$12,000 for 2005 and \$10,990 for 2006 – for rent of a home office supposedly paid by their corporation to M.H. and A.H. personally. However, Mette did not account for any rental income on their personal income tax return and, when audited by the IRS, neither Mette nor the

customers were able to show any rent was actually paid.

15. Similar to the fictitious “rent” expense, Mette deducted nearly \$100,000 over the two years on the corporate income tax returns for M.H. and A.H. as “tax” and “advertising” expenses, but, upon audit, those deductions could not be substantiated.

16. Additionally, Mette understated their income tax liability when he fraudulently claimed M.H. and A.H.’s “commissions” – fees paid for their realtor services – as business deductions on their corporate income tax returns instead of as income. These commissions should have been reported as income received for selling real estate, not as business expenses. Specifically, Mette deducted the following “commissions”: \$240,692 in tax year 2005 and \$280,500 in tax year 2006.

17. Mette also prepared tax returns for customer T.D. and his related S Corporation, that together understated T.D.’s federal income tax liabilities by \$30,286 in 2005 and \$10,421 in 2006.

18. T.D., a realtor, earned \$118,076 in real estate sales commissions in 2005, yet he claimed only \$8,000 in wages along with a loss of \$8,129 from his S Corporation. This essentially reduced T.D.’s taxable income to zero on his individual tax return. When questioned as to how he lost money selling real estate, T.D. said that Mette instructed him to keep track of all his expenses, both business and personal, so that those expenses could be deducted under the “cost sharing concept.”

19. T.D.’s corporation listed a 2005 loss of \$8,129 because it reported \$118,076 in gross income, less \$126,205 in total deductions. These deductions consisted of several false or

fraudulent items. Specifically, Mette claimed business expense deductions for T.D.'s personal residence property taxes, \$13,358; a "client reimbursement plan" listed for \$14,592; T.D.'s personal property repairs listed as \$14,109; \$8,809 in "business promotions and incentives;" over \$4,000 in "utilities" and "yard maintenance;" and the fictitious "rent" deduction.

20. The fictitious "rent" deduction of \$9,856 was claimed by Mette for T.D.'s supposed home office. Again, Mette did not account for any rental income for the purported home office on T.D.'s personal tax return and, when audited by the IRS, neither Mette nor T.D. was able to show any rent was actually paid by T.D.'s S Corporation.

21. On T.D.'s 2006 corporate tax return, Mette again claimed false business expenses as follows: \$5,107 for the "employee benefit program;" \$1,783 for personal "repairs and maintenance;" \$4,394 for his fraudulent "reimbursement plan;" \$1,538 in personal residence property taxes; and nearly \$8,000 in personal phone bills and utility expenses.

22. Mette also prepared tax returns for J.K. and L.K., husband and wife, as well as their related S Corporation. On their corporate tax returns Mette deducted over \$4,000 as a fictitious "rent" deduction. Mette also deducted substantial personal expenses – \$47,365 in 2005 and \$30,910 in 2006 – as "other expenses" (some of the listed items were "commissions," "utilities," "lawn maintenance," and "reimbursement plans") that could not be substantiated during an audit. Finally, Mette listed their personal property taxes as a deductible business expense. In total, the IRS made adjustments of \$59,335 in 2005 and \$36,351 in 2006 to the returns Mette prepared for J.K. and L.K.

22. Mette prepared at least 100 personal tax returns for the 2005 tax year, at least 95

personal tax returns for the 2006 tax year, as well as the corresponding corporate tax returns. For the 2007 tax year Mette has prepared at least 20 tax returns, one personal and 19 corporate. Mette states that not all of his clients participated in the “cost sharing concept;” however, at least 60 returns have been identified to contain the above-described overstatements.

23. Thus far, the IRS’ investigation into the returns Mette prepared has revealed more than \$750,000 in additional taxes assessed against Mette’s customers. This amounts to over \$6,000 per year per client of lost revenue to the government.

24. Mette’s scheme has the potential to expand as his customers tell others about Mette’s “cost sharing concept” scheme.

25. The possible spread of this scheme is particularly relevant here because Mette has given presentations regarding his tax preparation scheme in this area of Florida. A flyer advertising Mette’s presentation, this scheme was a way to “utilize the corporation to cut your total income/social security tax bill by 50% or more.”

#### **Harm to the United States**

26. Mette’s preparation of false and fraudulent returns, to the extent that the IRS does not detect and correct them, has resulted in customers significantly under-reporting and underpaying their taxes.

27. Mette harms the United States because his customers are not reporting and paying their correct tax liabilities.

28. The IRS has issued erroneous refunds based on fraudulent returns Mette prepared and has then had to audit Mette’s customers and take collection action to attempt to recover all

revenues lost from Mette's actions.

29. The Government has spent considerable time and resources auditing returns prepared by Mette and collecting the taxes owed and erroneous refunds paid. For each customer's return for each tax year, the IRS must spend time and resources to determine the correct tax liability, and/or request that the customer file correct amended returns and pay the taxes due.

30. As discussed above, Mette prepared at least 100 personal tax returns for the 2005 tax year, at least 95 personal tax returns for the 2006 tax year, and at least 20 tax returns for the 2007 tax year. Thus far, the IRS' investigation into the returns Mette prepared has resulted in over \$750,000 of lost revenue to the United States; the average understatement per return was \$6,000.

31. The estimated harm to the United States from Mette's misconduct with respect to all customers is undoubtedly much greater. This sum does not include the substantial cost to the government of investigating and correcting the fraud.

32. Mette has also harmed his customers because they paid Mette to prepare these fraudulent returns, and, after the fraud is detected, are responsible for paying the correct amount of all taxes, along with interest and potential penalties.

**Count I:  
Injunction under I.R.C. § 7408 for Violation of I.R.C. §§ 6700 and 6701**

33. The United States incorporates by reference the allegations in paragraphs 1 through 32.

34. Section 7408, I.R.C., authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under I.R.C. §§ 6700 or 6701 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.



35. Section 6700, I.R.C., penalizes any person who organizes, promotes or sells a plan or arrangement and makes, in connection with organizing or selling the plan or arrangement, a statement regarding the excludibility of income or securing of any other tax benefit that the person knows or has reason to know is false or fraudulent as to any material matter.

36. Section 6701, I.R.C., 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.

37. Mette knows or has reason to know that he made false or fraudulent statements within the meaning of I.R.C. § 6700 to customers in connection with his cost sharing concept scheme and otherwise. Mette helped his customers set up sham corporations and falsely advised his customers that they could receive tax benefits by using these sham corporations.

38. Mette prepares or assists in the preparation of federal income tax returns for his customers.

39. Mette knows or has reason to believe that these income tax returns will be filed with the IRS and thus will be used in connection with a material matter arising under the internal revenue laws.

40. Mette knows that the federal tax returns he prepares will result in understatements of other persons' tax liabilities.

41. If Mette is not enjoined, he is likely to continue to engage in conduct which violates §§ 6700 and 6701. Injunctive relief is therefore appropriate under I.R.C. § 7408.

**Count II:  
Injunction under I.R.C. § 7407 for Violation of I.R.C. §§ 6694**

42. The United States incorporates by reference the allegations in paragraphs 1 through 41.

43. Section 7407, I.R.C., authorizes a court to issue an injunction if an income tax return preparer engages in conduct subject to penalty under I.R.C. §§ 6694.

44. Section 6694(a), I.R.C., 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 I.R.C. § 6662(d)(2)(B)(ii) or was frivolous.

45. Section 6694(b), I.R.C., 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.

46. Mette's conduct as described above is subject to penalty under §§ 6694(a) and 6694(b).

47. Mette has prepared income tax returns that include understatements of his customers' liability which had no realistic possibility of being sustained on the merits; Mette knew or reasonably should have known about these understatements; Mette did not disclose them in accordance with IRC § 6662(d)(2)(B)(ii); and such understatements are frivolous. Mette has thus

engaged in conduct subject to penalty under § 6694(a).

48. Mette 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. Mette has thus engaged in conduct subject to penalty under § 6694(b).

49. Mette's failure was knowing and intentional, or with willful neglect, and was not supported by any reasonable basis.

50. Mette has continually and repeatedly engaged in conduct that violates §§ 6694(a) and (b). An injunction merely prohibiting Mette from engaging in conduct subject to penalty under §§ 6694(a) and (b) would not be sufficient to prevent his interference with the proper administration of the tax laws. Accordingly, Mette 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**

51. The United States incorporates by reference the allegations in paragraphs 1 through 50.

52. Section 7402(a), I.R.C., authorizes a court to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws.

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

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

55. Mette's conduct has caused irreparable harm to the United States and to his customers.

56. Mette has caused and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

57. The United States will suffer irreparable injury if Mette is not enjoined. This outweighs the harm to Mette from being enjoined from return-preparation.

58. The public interest would be advanced by enjoining Mette because an injunction will prevent recurrence of 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 Mette has engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

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

C. That the Court find that Mette has interfered with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to I.R.C. § 7402(a) and the Court's inherent equity powers;

D. That this Court, pursuant to I.R.C. § 7408, enter a permanent injunction prohibiting Mette, individually and doing business as The Tax Doctor or under any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

1. Engaging in activity subject to penalty under I.R.C. § 6701, including aiding or assisting in, procuring, or advising with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document; knowing (or having reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws; and knowing that such portion (if so used) would result in an understatement of the liability for tax of another person; and
2. Engaging in any other activity subject to penalty under I.R.C. § 6701 or any other provisions of the Internal Revenue Code.
3. Engaging in activity subject to penalty under I.R.C. § 6700, including organizing, promoting or selling the cost sharing concept or similar scheme and making, in connection with organizing or selling the cost sharing concept or similar scheme, a statement regarding the excludibility of income or securing of any other tax benefit that Mette knows or has reason to know is false or fraudulent as to any material matter.

E. That this Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Mette, individually and doing business as The Tax Doctor 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;

F. That this Court, pursuant to I.R.C. § 7402(a), enter a permanent injunction prohibiting Mette, individually and doing business as The Tax Doctor or under any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and those persons in

active 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;
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.

G. That this Court, pursuant to I.R.C. § 7402(a), require Mette at his own expense to contact by mail all customers for whom he has prepared federal tax returns, from January 1, 2005 to the present, or assisted in preparing tax returns, and send them a copy of this Complaint and the permanent injunction order, and to certify to the Court within twenty days of entry of the permanent injunction that he has complied with this provision;

H. That this Court require Mette to provide the United States with a list of everyone for whom he has prepared (or helped to prepare) a federal tax return, from January 1, 2005 to the present, and a list of all of his customers, specifying names, addresses, telephone numbers, and social security numbers which are available to Mette.

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

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

Respectfully submitted,

A. BRIAN ALBRITTON  
United States Attorney

/s/ Olivia R. Hussey

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