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11 IN THE UNITED STATES DISTRICT COURT FOR THE  
12 EASTERN DISTRICT OF CALIFORNIA  
13 SACRAMENTO DIVISION

14 UNITED STATES OF AMERICA, )  
15 )  
16 Plaintiff, )  
17 )  
18 v. )  
19 )  
20 TERESA MARTY, individually and )  
21 d/b/a ADVANCED FINANCIAL )  
22 SERVICES, LLC, )  
23 )  
24 Defendant. )

25 Civil No.  
26 **Complaint for Permanent Injunction**

27 Plaintiff, United States of America, for its complaint against Teresa Marty, individually  
28 and doing business as Advanced Financial Services, LLC, states as follows:

- 1. Jurisdiction is conferred on this Court by 28 U.S.C. § 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.
- 2. This suit is brought under §§ 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) to enjoin Teresa Marty and Advanced Financial Services, LLC, from the following activities:
  - (a) Preparing or filing, or assisting in, or directing the preparation or filing of any federal tax return, amended return or other federal tax documents or forms for any other person or entity;
  - (b) Directly or indirectly organizing, promoting, marketing, or selling any plan or arrangement that advises or assists taxpayers to attempt to violate internal revenue

1 laws or unlawfully evade the assessment or collection of their federal tax  
2 liabilities, including promoting, selling, or advocating the use of false Forms  
3 1099-OID based on the false claims that:

- 4 i. Taxpayers can name the Secretary of the Treasury as their fiduciary and/or  
5 can draw on the Treasury of the United States to pay their tax debt or other  
6 debt using Forms 1099-OID, bonded promissory notes, sight drafts or  
7 other documents;
- 8 ii. Taxpayers can issue false Forms 1099-OID to a creditor and report the  
9 amount on the false Form 1099 as income taxes withheld on their behalf;  
10 and
- 11 iii. Taxpayers have an account with the Treasury Department which they can  
12 use to pay their debts or which they can draw on for refunds through a  
13 process that is often called “redemption” or “commercial redemption.”

14 (c) Engaging in conduct subject to penalty under 26 U.S.C. § 6700, including  
15 organizing or selling a plan or arrangement and making or furnishing a statement  
16 regarding the excludability of income or securing any other tax benefit that she  
17 knows or has reason to know is false or fraudulent as to any material matter;

18 (d) Engaging in conduct subject to penalty under 26 U.S.C. § 6701, including  
19 preparing and filing tax returns and other documents that understate the tax  
20 liabilities of others;

21 (e) Preparing her own federal income tax returns claiming income withholding and  
22 refunds based on amounts shown in Forms 1099-OID issued to her creditors;

23 (f) Filing, providing forms for, or otherwise aiding and abetting the filing of frivolous  
24 Forms 1040 or Forms 1099 for herself or others, including the notarization or  
25 signing of certificates of service or similar documents in connection with the  
26 frivolous tax returns;

27 (g) Representing anyone other than herself before the Internal Revenue Service;

1 (h) Engaging in any other conduct that is subject to penalty under the Internal  
2 Revenue Code or that interferes with the proper administration and enforcement  
3 of the internal revenue laws.

- 4 3. This action has been requested by the Chief Counsel of the Internal Revenue Service, a  
5 delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of  
6 the Attorney General under 26 U.S.C. §§ 7402, 7407, and 7408.

7 **Defendant**

- 8 4. Teresa Marty resides in Pollock Pines, California and does business in Placerville,  
9 California. Venue is thus proper in this Court under 28 U.S.C. § 1391.

10 5. Teresa Marty is the owner and manager of Advanced Financial Services, LLC.

11 6. Teresa Marty and her business Advanced Financial Services, LLC, prepare tax returns for  
12 others in exchange for compensation.

13 7. Teresa Marty is an Enrolled Agent in the State of California, and claims to be a “Certified  
14 Wealth Preservation Planner,” and “Certified Asset Protection Planner.”

15 8. In 2008 and 2009, Teresa Marty, individually and doing business as Advanced Financial  
16 Services, LLC, prepared and filed fraudulent tax returns (IRS Form 1040) for the tax  
17 years 2007 and 2008 and fraudulent amended tax returns (IRS Forms 1040X) for previous  
18 years, and prepared and filed with the IRS other frivolous documents on behalf of others  
19 in exchange for compensation.

20 **The Defendant’s Tax-Fraud Scheme**

21 9. Teresa Marty promotes a tax-fraud scheme that involves filing fraudulent tax returns and  
22 other frivolous documents with the IRS on behalf of her customers.

23 10. The returns Teresa Marty prepares for others fabricate the amount of tax withheld on  
24 behalf of her customer. The fabricated tax withholding reported to the IRS on her  
25 customers’ returns results in fraudulent refund claims by her customers in amounts as  
26 large as \$2.7 million per customer.

- 1 11. In support of the fraudulent refund claim, Teresa Marty prepares and files with the IRS  
2 false Forms 1099-OID.
- 3 12. IRS Forms 1099-OID are used to report Original Issue Discount (OID) income (and any  
4 federal income tax withheld on that income). Original issue discount income refers to the  
5 difference between the price for which a debt instrument is issued and the stated  
6 redemption price at maturity. OID is generally included in a taxpayer's income as it  
7 accrues over the term of the debt instrument, whether or not the taxpayer actually receives  
8 payments from the issuer of the debt instrument. OID is treated like a payment of interest  
9 and a party issuing a financial instrument generating OID must issue a Form 1099-OID.
- 10 13. The Forms 1099-OID that Marty submits with the returns she prepares falsely state that  
11 her customer issued a debt instrument that generated OID or that her customer purchased  
12 a debt instrument that generated OID.
- 13 14. The Forms 1099-OID also falsely state that federal income taxes were withheld for the  
14 full amount of OID purportedly paid or received by her customer.
- 15 15. The frivolous IRS Forms 1099-OID submitted with the returns Marty prepares are  
16 purportedly issued or received by her customer to or from a creditor of the customer,  
17 usually a credit card company or a mortgage company. The amount of the false "original  
18 issue discount" reported appears to be in an amount needed to satisfy a debt (usually a  
19 mortgage, car loan, or credit card debt) owed by the customer to the creditor. The IRS  
20 Forms 1099-OID submitted with the returns Marty prepares also report tax withholding  
21 for the full amount of the phony "original issue discount."
- 22 16. Marty then claims the total amount of the false "original issue discount" and false  
23 withholding on the customer's IRS Form 1040. The result of this is an inflated tax  
24 liability for the customer, but with a huge false refund claim, oftentimes exceeding  
25 \$200,000. One of the returns Marty prepared for a customer included a fraudulent refund  
26 claim in the amount of \$2.7 million for the tax year 2007.

1 17. Consequently, her customers fail to file proper federal income tax returns and falsely  
2 claim tax refunds to which her customers are not entitled.

3 18. The apparent purpose of Marty's frivolous IRS Forms 1040 and IRS Forms 1099-OID is  
4 to request fraudulent refunds by accessing a non-existent Treasury account.

5 19. In reality Marty's scheme fraudulently reports tax was withheld on behalf of her  
6 customers and then claims refunds based on that non-existent withholding.

7 20. The returns that Marty submits on behalf of her customers falsely claim that their  
8 customer withheld the total amount listed on fraudulent Forms 1099-OID attached to the  
9 tax return. The amounts listed on the Forms 1099-OID are based on the total amount of  
10 debt the customer owes to his/her creditor.

11 21. For example, Marty, while doing business as Advanced Financial Services, LLC,  
12 prepared and electronically filed a 2007 Form 1040 on behalf of Janet Crosman who  
13 resides in Seattle, Washington. On Crosman's 2007 federal income tax return, Marty  
14 falsely claimed that Crosman earned interest income in 2007 in the amount of \$813,121  
15 and falsely claimed that \$820,686 in federal income tax had been withheld on Crosman's  
16 behalf. As a result of Marty's false claims, Crosman's tax return claimed a fraudulent  
17 refund in the amount of \$408,012 to which she was not entitled.

18 22. Similarly, Marty prepared and filed a 2007 Form 1040 return on behalf of Merrill and  
19 Laverne Chandler of Bakersfield, California. The Chandlers' return falsely reported  
20 \$1,755,823 as taxable interest income (purportedly received from Countrywide Home  
21 Loans and Citi Mortgage, Inc.) and falsely reported \$1,755,808 as federal tax withheld on  
22 their behalf. As a result of these false claims, the Chandlers' return claimed a refund in  
23 the amount of \$1,171,397. The Chandlers reported no wages on which to withhold  
24 federal taxes and reported no estimated tax payments that would support their claim of  
25 withheld taxes in the amount reported on their return.

26 23. In 2008, Marty prepared and filed a 2007 Form 1040 for Charles and Kathleen Barrett of  
27 Hotchkiss, Colorado. Marty claimed a fraudulent refund request on the Barretts' 2007  
28

1 federal income tax return in the amount of \$217,615. This fraudulent refund request was  
2 based on fabricated withholding reported on Forms 1099-OID that Marty prepared for the  
3 Barretts. On the Forms 1099-OID that Marty prepared for the Barretts, she falsely states  
4 that the Barretts issued OID to several of the Barretts' creditors. Marty then reported that  
5 fabricated OID as income on the Barretts' 2007 Form 1040 and falsely reported that the  
6 full amount of the OID was withheld for federal income taxes.

7 **Harm Caused by Marty's Misconduct**

8 24. The IRS has identified at least 110 returns prepared and/or filed by Marty in 2008 that  
9 request refunds based on Marty's fraudulent Forms 1099-OID. Many of the refund  
10 requests on these fraudulent returns exceed \$200,000 and one return requests a refund of  
11 \$2.7 million. The total amount of refunds requested on those 110 returns is  
12 approximately \$26.2 million.

13 25. As of February 11, 2009, Marty has prepared at least 24 federal income tax returns in  
14 2009. Of these 24 returns, 14 contain fraudulent refund requests based on frivolous IRS  
15 Forms 1099-OID.

16 26. The scheme employed by Marty is part of a growing trend among tax defiers to file  
17 frivolous tax returns and Forms 1099-OID with the IRS and courts in an attempt to escape  
18 their federal tax obligations and steal from the U.S. Treasury.

19 27. In reliance on Marty's services, her customers have failed to file proper federal income  
20 tax returns which has either deprived her customers of proper tax refunds to which they  
21 may have been entitled or deprived the United States of additional tax revenue owed by  
22 their customers.

23 28. While the IRS is able to detect and stop most fraudulent refund claims, Marty's  
24 fraudulent tax return preparation has resulted in the IRS's issuance of at least \$6.9 million  
25 in erroneous payments to her customers.

26 29. In addition to the lost revenue due to the issuance of erroneous refunds, the government  
27 has also incurred the expense of conducting the investigation of Marty's fraudulent return  
28

1 preparation and responding to and processing the frivolous documents Marty submitted to  
2 the IRS.

3 30. The false Forms 1099-OID submitted with Marty's returns may also result in the  
4 assessment of erroneous penalties against creditors identified in the false Forms 1099-  
5 OID for failing to timely submit those forms to the IRS.

6 31. The fraudulent returns that Marty prepared and filed may also result in the issuance of  
7 erroneous notices to public officials identified in Marty's documents.

8 **Count I: Injunction Under 26 U.S.C. § 7407**

9 32. The United States incorporates by reference the allegations contained in paragraphs 1  
10 through 31.

11 33. Internal Revenue Code § 7407 authorizes the United States to seek an injunction against  
12 any tax return preparer who has engaged in any "fraudulent or deceptive conduct which  
13 substantially interferes with the proper administration of the Internal Revenue laws," or  
14 who has "engaged in any conduct subject to penalty under section 6694 or 6695."

15 34. If a return preparer's misconduct is continual or repeated and the court finds that a  
16 narrower injunction (*i.e.* prohibiting specific enumerated conduct) would not be sufficient  
17 to prevent the preparer's interference with the proper administration of federal tax laws,  
18 the court may enjoin the person from further acting as a return preparer.

19 35. Marty has continually and repeatedly prepared and filed with the IRS false and frivolous  
20 federal income tax returns on behalf of her customers.

21 36. As a result Marty has repeatedly engaged in fraudulent or deceptive conduct which  
22 substantially interferes with the proper administration of the Internal Revenue laws.

23 37. Marty has repeatedly and continually prepared and filed federal tax returns that understate  
24 her customers' tax liabilities as a result of unreasonable and frivolous claims and has thus  
25 engaged in conduct subject to penalty under 26 U.S.C. § 6694.

26 38. Marty has repeatedly and continually prepared and filed federal tax returns that understate  
27 their customers' tax liabilities as a result of Marty's willful attempt to understate her  
28

1 customers' tax liabilities and/or Marty's reckless and/or intentional disregard of internal  
2 revenue laws and regulations.

3 39. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction,  
4 Marty is likely to continue to prepare false federal income tax returns and engage in other  
5 misconduct of the type described in this complaint.

6 40. Marty has continually and repeatedly prepared returns that include fraudulent refund  
7 claims.

8 41. Marty should be permanently enjoined under 26 U.S.C. § 7407 from acting as a federal  
9 tax return preparer because a more limited injunction would be insufficient to stop her  
10 from interfering with the proper administration of the tax laws.

11 **Count II: Injunction Under 26 U.S.C. § 7408 for Violation of 26 U.S.C. §§ 6700 and 6701**

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

14 43. I.R.C. § 7408 authorizes a district court to enjoin any person from, *inter alia*, engaging in  
15 conduct subject to penalty under I.R.C. § 6700 or 6701 if injunctive relief is appropriate  
16 to prevent recurrence of that conduct.

17 44. Section 6700 imposes a penalty on any person who organizes or participates in the sale of  
18 a plan or arrangement and in so doing makes a statement with respect to the allowability  
19 of any deduction or credit, the excludability of any income, or the securing of any tax  
20 benefit by participating in the plan or arrangement which that person knows or has reason  
21 to know is false or fraudulent as to any material matter.

22 45. In 2008, Marty organized and participated in the sale of a plan or arrangement and in  
23 doing so made false and fraudulent statements with respect to the tax benefits of  
24 participating in the plan or arrangement which Marty knew or had reason to know were  
25 false.

26 46. Marty falsely promised larger tax refunds from the government, which Marty knew or had  
27 reason to know was predicated on the submission of fraudulent documents to the IRS.



1 47. As a result Marty engaged in conduct subject to penalty under 26 U.S.C. § 6700.  
2 48. Section 6701 imposes a penalty on any person who aids or assists in, procures, or advises  
3 with respect to, the preparation of any portion of a return, affidavit, claim, or other  
4 document, who knows (or has reason to believe) that such portion will be used in  
5 connection with any material matter arising under the internal revenue laws, and who  
6 knows that such portion (if so used) would result in an understatement of the liability for  
7 tax of another person.

8 49. Marty prepared and aided or assisted in the preparation and filing of federal income tax  
9 returns and other documents that resulted in the understatement of her customers' tax  
10 liabilities.

11 50. As a result Marty has engaged in conduct subject to penalty under 26 U.S.C. § 6701.

12 51. Marty has shown no remorse for her actions and continues to assert that her fraudulent tax  
13 returns are correct.

14 52. Injunctive relief is appropriate to prevent recurrence of Marty's penalty conduct.

15 **Count III: Injunction Under 26 U.S.C. § 7402**

16 53. The United States incorporates by reference the allegations contained in paragraphs 1  
17 through 52.

18 54. I.R.C. § 7402(a) authorizes a court to issue injunctions as may be necessary or appropriate  
19 for the enforcement of the internal revenue laws, even if the United States has other  
20 remedies available for enforcing those laws.

21 55. Marty substantially interferes with the enforcement of the internal revenue laws by  
22 promoting her "redemption" or "commercial redemption" tax-fraud scheme and filing  
23 frivolous federal tax returns and other documents on behalf of her customers.

24 56. As a result of Marty's misconduct her customers fail to file proper tax returns, erroneous  
25 refunds for hundreds of thousands of dollars have been issued to her customers, and her  
26 customers are liable for substantial penalties, including penalties for 20 percent of the  
27

1 excessive refund claim pursuant to 26 U.S.C. § 6676, as a result of their fraudulent refund  
2 claims.

3 57. Marty's conduct results in irreparable harm to the United States and to the public for  
4 which there is no adequate remedy at law.

5 58. Marty's conduct interferes with the proper administration of the Internal Revenue Code  
6 because it results in hundreds of frivolous filings with the IRS that harass public officials  
7 and hinder the IRS's ability to determine the correct tax liabilities of Marty's customers.

8 59. Unless enjoined by this Court, Marty will continue to promote and administer her tax-  
9 fraud scheme.

10 60. The United States is entitled to injunctive relief under I.R.C. § 7402(a) to prevent the  
11 recurrence of this misconduct.

12 WHEREFORE, Plaintiff, the United States of America, prays for the following relief:

13 A. That the Court find that Marty has continually and repeatedly engaged in conduct  
14 subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, and 6701 and that injunctive relief is  
15 appropriate under 26 U.S.C. § 7402, 7407, and 7408 to bar Marty from acting as a tax return  
16 preparer and from engaging in conduct subject to penalty under 26 U.S.C. §§ 6700 and 6701;

17 B. That the Court find that Marty has engaged in conduct that substantially interferes  
18 with the enforcement and administration of the internal revenue laws, and that injunctive relief  
19 against her is appropriate to prevent the recurrence of that misconduct pursuant to 26 U.S.C. §§  
20 7407 and 7402(a);

21 C. That the Court, under 26 U.S.C. §§ 7402 and 7407, enter a permanent injunction  
22 permanently barring Marty from acting as federal tax return preparer and from preparing or filing  
23 federal tax returns or forms for others, from representing others before the IRS, and from  
24 advising anyone concerning federal tax matters;

25 D. That the Court, under 26 U.S.C. §§ 7402 and 7407, enter a permanent injunction  
26 prohibiting Marty and her representatives, agents, servants, employees, attorneys, independent  
27 contractors, anyone in active concert or participation with them, from directly or indirectly;

- 1 (1) Preparing or filing, or assisting in, or directing the preparation or filing of
- 2 any federal tax return or amended return or other related documents or
- 3 forms for any other person or entity;
- 4 (2) Engaging in activity subject to penalty under 26 U.S.C. §§ 6694 or 6695;
- 5 (3) Engaging in any other activity subject to penalty under the Internal
- 6 Revenue Code; and
- 7 (4) Engaging in other conduct that substantially interferes with the proper
- 8 administration and enforcement of the internal revenue laws;

9 E. That this Court, under 26 U.S.C. §§ 7402 and 7408, enter a permanent injunction  
10 prohibiting Marty and her representatives, agents, servants, employees, and anyone in active  
11 concert or participation with her, from directly or indirectly by means of false, deceptive, or  
12 misleading commercial speech:

- 13 (1) Organizing or selling tax shelters, plans or arrangements that advise or
- 14 assist taxpayers to attempt to evade the assessment or collection of such
- 15 taxpayers' correct federal tax;
- 16 (2) Engaging in any other activity subject to penalty under 26 U.S.C. § 6700,
- 17 including organizing or selling a plan or arrangement and making a
- 18 statement regarding the excludability of income or securing of any other
- 19 tax benefit by participating in the plan that she knows or has reason to
- 20 know is false or fraudulent as to any material matter;
- 21 (3) Engaging in any activity subject to penalty under 26 U.S.C. § 6701; and
- 22 (4) Directly or indirectly organizing, promoting, marketing, or selling any plan
- 23 or arrangement that advises or encourages taxpayers to attempt to violate
- 24 internal revenue laws or unlawfully evade the assessment or collection of
- 25 their federal tax liabilities, including promoting, selling, or advocating the
- 26 use of the "zero income" tax return and false Forms 1099-OID based on
- 27 the false claims that:

- i. Taxpayers can name the Secretary of the Treasury as their fiduciary and/or can draw on the Treasury of the United States to pay their tax debt or other debt using Forms 1099-OID, bonded promissory notes, sights drafts or other documents;
- ii. Taxpayers can issue false Forms 1099-OID to a creditor and report the amount on the false Form 1099 as income taxes withheld on their behalf; and
- iii. Taxpayers have a secret account with the Treasury Department which they can use to pay their debts or which they can draw on for refunds through a process that is often called “redemption” or “commercial redemption”;

F. That this Court under 26 U.S.C. § 7402, enter a permanent injunction prohibiting Marty from preparing her own federal income tax returns claiming false income tax withholding and refunds based on amounts shown in false Forms 1099-OID issued to her creditors;

G. That this Court under 26 U.S.C. § 7402, enter a permanent injunction prohibiting Marty from filing, providing forms for, or otherwise aiding and abetting the filing of frivolous Forms 1040 or Forms 1099 for herself or others, including the notarization or signing of certificates of service or similar documents in connection with the frivolous tax returns;

H. That this Court, under 26 U.S.C. § 7402, enter an injunction requiring Marty to contact by mail (and also by e-mail, if an address is known) all persons who have purchased any products, services or advice associated with the false or fraudulent tax scheme described in this complaint and inform those persons of the Court’s findings concerning the falsity of Marty’s prior representations and attach a copy of the permanent injunction against Marty;

I. That this Court, under 26 U.S.C. § 7402, enter an injunction requiring Marty and her representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, to remove all content from her websites and replace that content with a copy of the Court’s injunction for a period of three years.

1 J. That this Court, under 26 U.S.C. § 7402, order Marty to provide to the United  
2 States a list of all persons who have purchased any products, services or advice from her in the  
3 past three years;

4 K. That this Court allow the government full post-judgment discovery to monitor  
5 Marty's compliance with the injunction; and

6 L. That this Court grant the United States such other and further relief as the Court  
7 deems just and appropriate.

8  
9 Date: 3/4/2009

10 Respectfully submitted,

11 LAWRENCE G. BROWN  
12 Acting United States Attorney

13 /s/ John Monroe  
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