

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
HOWARD MUSIN, JILL SCHWARTZ-)	
MUSIN, SSC SERVICES, INC.,)	
M_S SERVICES, INC., SCHWARTZ'S)	
SYSTEMS CORPORATION,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION

The Plaintiff, the United States of America, alleges against Defendants as follows:

1. This action is brought under 26 U.S.C. ("26 U.S.C.") §§ 7402, 7407, and 7408 to enjoin Howard Musin and Jill Schwartz-Musin, and their business corporations, SSC Services, Inc., M_S Services, Inc., and Schwartz's Systems Corporation, and all those in active concert or participation with them, from directly or indirectly:

- a. Preparing, assisting in the preparation of, or filing others' federal income tax returns;
- b. Engaging in any activity subject to penalty under 26 U.S.C. §§ 6694, which penalizes tax preparers for filing federal income tax returns with unrealistic positions or for filing returns that understate another's federal tax liability due to the preparer's willful or reckless conduct;

- c. Engaging in any activity subject to penalty under 26 U.S.C. § 6701, which penalizes any person who assists, advises, or procures the preparation or presentation of a document; knows or has reason to know that the document will be used in connection with a matter arising under the internal revenue laws; and knows that if used, the document would result in an understatement of another's federal tax liability;
- d. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

- 2. The Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, has requested this action, and a delegate of the Attorney General of the United States commences this action pursuant to the provisions of 26 U.S.C. §§ 7402, 7407, and 7408.
- 3. This Court has jurisdiction under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407(a), and 7408(a).
- 4. Venue is proper in this court pursuant to 28 U.S.C. § 1391.

Defendants

- 5. Howard Musin resides within this judicial district in Clive, Iowa. Musin became an enrolled agent in 2003, qualifying him to sign federal income tax returns as a preparer. Since 2003, Musin has prepared and filed returns as an agent or employee of Schwartz Systems Corporation, M_S Services, Inc., and SSC Services, Inc. Musin is the sole owner and President of M_S Services, Inc. and the President of SSC Services, Inc. Recently, the IRS audited 168

returns signed by Musin as preparer for the 2003-2006 tax years. Of the 168 returns audited, 166 contained errors, many of which were substantial.

6. Jill Schwartz-Musin resides within this judicial district in Clive, Iowa. She has prepared or assisted others in the preparation of federal income-tax returns since before 1987. In 1996, the IRS assessed preparer penalties against Schwartz-Musin, which Schwartz-Musin paid in 2001. In 2000, Schwartz-Musin pled guilty to one count of interfering with administration of the internal revenue laws (26 U.S.C. § 7212(a)) after she submitted a falsified document to a Revenue Agent during an IRS audit. Also in 2000, the IRS barred Schwartz-Musin from representing taxpayers in disputes before the IRS. Since then, she has submitted a power-of-attorney form in an attempt to serve as a taxpayer's representative on at least eight occasions. Schwartz-Musin has prepared returns or aided in the preparation of returns as an agent or employee of Schwartz Systems Corporation, M_S Services, Inc., and SSC Services, Inc. Schwartz-Musin is the President of Schwartz Systems Corporation

7. Schwartz's Systems Corporation ("Schwartz's Systems") is a corporate entity that Schwartz-Musin incorporated in 1982 and that did business until 2005 or 2006. Jill Schwartz-Musin served as President of Schwartz's Systems and Schwartz-Musin's three children are shareholders in the corporation. Schwartz's Systems provided tax preparation and business consulting services between 1982 and approximately 1998; after approximately 1998 the corporation offered only business consulting services. Schwartz's Systems Corporation does business from 2190 NW 82nd Street, Suite 4, Clive, Iowa, a location within this judicial district.

8. M_S Services, Inc. ("M_S Services") is a corporation owned by Howard Musin, who also serves as the corporation's President. Schwartz-Musin and Musin formed M_S Services in

or around 1997 to take over the federal income tax return preparation formerly conducted through Schwartz's Systems. M_S Services continues to offer tax preparation services to customers. M_S Services, Inc. does business from 2190 NW 82nd Street, Suite 4, Clive, Iowa, a location within this judicial district.

9. SSC Services, Inc. ("SSC Services") is a corporation that Schwartz-Musin and Musin formed in approximately 2002, which offers tax preparation services. Howard Musin is the President of the corporation and the person primarily responsible for signing as the preparer those returns prepared through SSC Services. SSC Services does business from 2190 NW 82nd Street, Suite 4, Clive, Iowa, a location within this judicial district.

Summary of Defendants' Activities

10. Defendants are compensated federal income tax return preparers. Both individual defendants, acting as officers, agents or employees of the corporate defendants, participate in the preparation of customers' federal income tax returns. Howard Musin is an enrolled agent and, prior to filing, signs customers' federal income tax returns as the preparer. Howard Musin and Jill Schwartz-Musin obtain financial information from customers and place this information into internal documents from which they and other SSC Services employees prepare federal income tax returns.

11. The following chart describes the number of returns prepared by Schwartz-Musin, Musin, and M_S Services between 2000 and 2006:

Preparer	Type of Return	Year						
		2000	2001	2002	2003	2004	2005	2006
Jill Schwartz-Musin	Individual	2	0	851	25	2	3	4
	Business	51	79	111	7	1	3	1
Howard Musin	Individual	0	0	9	865	885	978	1019
	Business	29	2	1	107	135	183	198
M_S Services, Inc.	Individual	732	801	0	0	0	0	0
	Business	0	0	0	0	0	0	0
Total Individual Returns		734	801	860	890	887	981	1023
Total Business Returns		80	81	112	114	136	186	199
Total Returns		814	882	972	1004	1023	1167	1222

12. Defendants file the returns they prepare with the IRS electronically, but the process they use is improper. After Defendants prepare a return, they mail the customer the IRS form that the customer signs to permit Defendants to file the return electronically. But Defendants do not mail a copy of the return with this form. Only after the customer returns the signed form and Defendants file the return electronically with the IRS do Defendants mail the customer a copy of the completed return.

13. Defendants' customers are primarily self-employed individuals, some of whom conduct business through a corporate entity. The majority of Defendants' customers operate their businesses from their homes.

14. Many of Defendant's customers operate home-based Shaklee businesses. Operating a Shaklee business typically involves selling Shaklee-brand health, beauty, and nutritional products directly to customers, as well as recruiting and training new Shaklee salespeople. Shaklee is a multilevel marketing organization. Accordingly, a Shaklee business owner is compensated not only for the products she sells, but also for the products sold by salespeople she has trained and for products sold by salespeople those salespeople have trained, and so on.

15. Schwartz-Musin makes presentations to Shaklee business owners at which she promotes her own return preparation practice and describes how these business owners can purportedly claim larger business expense deductions on their federal income tax returns. Some of Schwartz-Musin's customers allow her to make presentations to the Shaklee salespeople they have trained. Typically, these presentations occur in the customer's home. Schwartz-Musin made one presentation, however, at the Shaklee Company's annual conference in August, 2002. According to Shaklee's corporate representatives, Schwartz-Musin was supposed to talk only about how Shaklee business owner can maximize their tax deductions, but instead used the opportunity to promote her return preparation practice and distributed her business card to Shaklee business owners from across the country.

16. As described in greater detail below, on the federal income tax returns Defendants prepare, they frequently claim deductions for expenses that their customer did not incur or in an amount that exceeds their customer's actual expense. Defendants both arbitrarily inflate the expenses customers incurred and fabricate expense altogether to create larger business expense deductions for their customers.

17. In addition to overstating otherwise legitimate business expenses, Defendants prepare returns for their customers' businesses that deduct as business expenses the customers' non-deductible personal expenses. Defendants also prepare federal income tax returns for individual customers on which they fail to report all the income that the customer's business's federal income tax return reports as having been paid to the customer.

18. As more fully described in paragraphs 34 through 38 below, in at least one instance during an IRS investigation of Defendants' activities, Musin created a fraudulent document and

submitted it to IRS auditors as purported substantiation for a portion of a customer's claimed salary expense.

Overstated Rent Expense Deductions

19. Because many of Defendants' customers conduct business from their homes, many of Defendants' customers are permitted by law to deduct a percentage of certain expenses associated with using their home for business purposes. Under the Internal Revenue Code, home-based business owners may claim deductions for home expenses in proportion to the percentage of the home used exclusively for business purposes, including a deduction equal to the fair rental value of the area of the home used exclusively for a business purpose. See 26 U.S.C. § 280A (2006). Corporations are allowed to deduct the expense of leasing space in the home of a corporate owner, up to the fair-market rental value of the space rented, if the corporation actually pays rent to the corporate owner. The owner must report the rent received as income.

20. Defendants willfully inflate the value of the rent deduction, or act with reckless disregard to the value of the deduction for rent or business-use-of-the-home to which their customers are legally entitled. On some returns, Defendants invent a rent expense amount or business-use-of-the-home deduction without knowing or attempting to ascertain the fair market rental value of the residence, and without knowing the percentage of the home dedicated exclusively to business use. Defendants routinely pick whole number values such as \$18,000, \$24,000, or \$36,000 for the business's rent expense or business-use-of-the-home deduction without consulting the customer or otherwise obtaining any other information to support the deduction. On other returns, the customer provides a value for the rent or business-use-of-the-

home expense, and Defendants ignore this information in favor of their own arbitrary determination of the appropriate deduction.

21. During audits of federal income tax returns Defendants prepared, the IRS discovered the following examples of fraudulently overstated rent expense and business-use-of-the-home deductions:

a. For the 2004 tax year, G&M Nelson General Partnership submitted a summary of expenses to Defendants on which the partnership claimed a rent expense of \$24,000. Defendants prepared the partnership's federal income tax return, and on the return, Defendants arbitrarily inflated this rent expense to \$36,000.

b. Doris Falk Johnson, Inc. submitted a summary of expenses to Defendants for the 2004 tax year showing the corporation incurred no rent expense. Nevertheless, Defendants prepared a federal income tax return on which Doris Falk Johnson, Inc. claimed an \$18,000 rent expense deduction.

c. For the 2003 tax year, RS Tyson Inc. submitted a summary of expenses to Defendants showing that it incurred a \$9,300 rent expense during 2003. On the 2003 federal income tax return Defendants prepared, the RS Tyson took a \$24,000 rent expense deduction.

d. For the 2004 tax year, RS Tyson submitted to Defendants a summary of expenses showing that it incurred a rent expense of \$5,200. The Defendants prepared the corporation's federal income tax returns and allowed RS Tyson to claim a \$36,000 rent deduction.

e. For the 2005 tax year, RS Tyson submitted a summary of expenses indicating the corporation incurred a rent expense of \$3,220. In fact, the summary contains a note saying, “This is the amount I actually wrote a check for office [sic].” Nevertheless, Defendants claimed a \$9,695 rent deduction on the corporation’s federal income tax return.

Other Overstated Business Expense Deductions

22. Defendants also fraudulently overstate the value of other business expense deductions.

23. In some cases, Defendants overstate customers’ business expense deductions by knowingly failing to reduce the value of the business expense deduction by the amount of the expense attributable to the customer’s personal use. In other cases, Defendants arbitrarily inflate the business expense deduction beyond the expense actually incurred by the customer.

24. During audits of federal income tax returns Defendants prepared, the IRS discovered the following examples of fraudulently overstated business expense deductions:

a. For 2004 and 2005, Defendants had Ralph and Joy Pilger deduct as a business expense a portion of the utilities they paid arising from their use of their home for their business, even though the home business showed a net loss in both years. This home business expense would only have been a permissible deduction up to the amount of the home business’s net income, which in this case was zero. See 26 U.S.C. § 280A(c)(5).

b. On Gottlieb Associates’ 2004 federal income tax return, Defendants fabricated \$1,000 in supply expense deductions and \$2,482 in travel expense deductions that the partnership did not incur, and which were not in the summary of 2004 expenses the

partners provided Defendants. On Gottlieb Associates' 2005 return, Defendants fabricated another \$1,000 in supply expense deductions and \$806 in travel expense deductions the partnership did not incur, and which was not in the summary of 2005 expenses the partners provided Defendants. On both the 2004 and 2005 returns, Defendants did not reduce the cost-of-goods-purchased deduction by the value of the products the partners consumed personally.

c. On Nolan Enterprises' 2003 federal income tax return, Defendants had the partnership deduct 100% of its food, beverage, and entertainment business expenses even though only 50% of these expenses may be deducted under 26 U.S.C. § 274(n). On the partnership's 2005 return, Defendants fabricated \$4,007 of advertising expense deductions that the corporation did not incur, and which was not in the summary of 2005 expenses the corporation provided Defendants.

d. In 2004, Defendants prepared federal income tax returns that had both Toovell Associates and its owners, the Toovells, deduct the same \$5,717 in mortgage interest. On a Toovell Associates' 2005 return, Defendants fabricated \$5,567 of advertising expenses that the corporation did not incur, and which was not in the summary of 2005 expenses the corporation provided Defendants.

e. Midwest Distribution reported to Defendants that it incurred a cost of goods sold of \$82,901 in 2004. Defendants prepared the corporation's 2004 federal income tax return, and fraudulently claimed a business expense deduction of \$113,901 for cost of goods sold.

“Image” Expenses

25. Defendants fraudulently deduct customers’ personal expenses as business expenses, including expenses for clothing, hair care, nail care, and use of tanning salons. Such expenses are not valid business expense deductions or personal deductions. See 26 U.S.C. § 262(a).

26. In 2003, the IRS audited a return Musin prepared in which the customer’s business claimed a deduction for the customer’s personal health and beauty expenses, which Defendants styled “Image expenses” on the return. Howard Musin served as the taxpayer’s representative, and in that capacity, he signed a Revenue Agent Report in which he acknowledged that these deductions for personal health and beauty expenses are not valid business expense deductions. Despite Defendants’ knowledge that these are not valid business expense deductions, Defendants continue to assure customers that they can deduct these personal expenditures as business expenses.

27. Beginning in 2004, instead of including “Image Expenses” as a separate line item deduction on returns, Musin frequently claimed deductions for items he previously called “Image” expenses by including them as advertising or supply expenses to decrease the likelihood of the IRS detecting them and auditing his customers’ returns.

28. In 2007, Defendants mailed returning customers and prospective new customers a form soliciting a summary of their business’s expenses that Defendants use to begin their tax return preparation process. The form Defendants mailed specifically requests expense information relating to the individual’s “Image – amounts spent to maintain a professional image.”

29. During audits of federal income tax returns the Defendants prepared, the IRS discovered the following examples of Defendants deducting non-deductible personal health and beauty expenses as business expense deductions on returns Defendants prepared:

a. On Gottlieb Associates' 2004 federal income tax return, Defendants claimed a \$2,125 deduction for the personal health and beauty expenses of the partners. In 2005, Defendants deducted \$2,068 of the partners' personal health and beauty expenses. On the returns for both years, Defendants included these impermissible deductions as part of the partnership's "Advertising" expense deductions.

b. On Hasselmann Inc.'s Form 1120 federal income tax return, Defendants deducted as a "Supply" expense \$1,999 that one of the corporation's owners spent on her hair, nails, and wardrobe.

c. In 2003, Defendants prepared a federal income tax return for Ulrich Associates Ltd. on which Defendants claimed an "Image" expense deduction of \$5,928 even though the corporation's 2003 general ledger only shows \$4,154.51 of "Image" expenses.

d. Similarly, Doris Falk Johnson submitted a summary of expenses to Defendants for the 2003 tax year showing \$541 in "Image" expenses. Defendants then prepared a federal income tax return for her on which they claimed an Image expense deduction of \$2,541.

Other Personal Expenses

30. Defendants improperly deduct as business expenses on their customers' returns other non-deductible personal expenditures such as golf club memberships and gifts to family members.

31. During audits of federal income tax returns Defendants prepared, the IRS discovered the following examples of this sort of preparer misconduct:

a. Defendants prepared George and Barbara Hasselmann's 2003 federal income tax return on which they deducted as a business expense amounts that George Hasselmann spent on his golf league.

b. On the 2004 and 2005 federal income tax returns Defendants prepared for the Nolan Enterprises partnership, Defendants deducted as business expenses costs associated with the partners' gifts to their friends and family members.

c. On Toovell Associates' 2004 federal income tax return, Defendants deducted as business expenses a portion of the costs the corporation's owners incurred in decorating and furnishing their vacation home. Schwartz-Musin served as the Toovell Associates' accountant in 2004 and knew that these expenditures lacked a business purpose.

d. Defendants claimed a deduction on Ulrich Associates Ltd.'s 2003 federal income tax return for travel expenses the corporation's owners incurred in taking personal trips to Sweden, Florida, and Cancun.

e. On Better Life Enterprises' 2005 federal income tax return, Defendants claimed a business expense deduction for payments the partners paid in dues for time-share real estate used for personal vacations.

f. Midwest Distribution is a corporation through which Debbie Habeck Williams sells Shaklee health and beauty products. On Midwest Distribution's 2003 federal income tax return, Defendants deducted all expenses associated with the wedding of

Williams' daughter. In attempting to justify this clearly improper deduction, Schwartz-Musin told Williams that the guests at the wedding were either past, present, or future customers of Midwest Distribution; Schwartz-Musin thus falsely assured Williams that all expenses associated with her daughter's wedding were valid business expenses. In fact, either Musin or Schwartz-Musin told Williams that they had deducted expenses for their own child's wedding for the same reason.

Failure to Report Income

32. Defendants prepare federal income tax returns for corporations that deduct as a business expense salaries, commissions, or other compensation paid to the officers or partners. But when Defendants prepare the individual federal income tax returns for the same officers or partners, Defendants fail to report these salaries, commissions, or other compensation as income to the individual.

33. During audits of federal income tax returns that Defendants prepared, the IRS discovered the following instances of Defendants' failure to report income:

a. On the 2004 federal income tax return Defendants prepared for Hasselmann, Inc., Defendants deducted \$20,000 it purportedly paid in officer compensation. But the personal 2004 federal income tax return that Defendants prepared for the corporate officers, George and Barbara Hasselmann, failed to report the income received from Hasselmann, Inc..

b. Defendants prepared the 2003 federal income tax return for Ulrich Associates Ltd., and claimed on that return a deduction for \$26,000 it allegedly paid in officer compensation. Defendants also prepared the 2003 federal income tax returns for the

corporation's officers, Lorraine Ulrich and Roger Roebke, but Defendants failed to report this \$26,000 in income.

Fabricating Documents

34. In 2000, Schwartz-Musin pled guilty to one count of interfering with administration of the internal revenue laws (26 U.S.C. § 7212(a)) after she submitted a fraudulent document to an IRS agent during an audit of a return she prepared. This Court sentenced Schwartz-Musin to 3 months at a community corrections center program, 5 months of home confinement, a \$15,000 fine, and 1 year of probation for that conduct.

35. Then, in 2007, the IRS audited Shristi, Inc., a technology consulting firm, and its owners Devlina Lahiri and Arindam Chatterjee, for the 2004 and 2005 tax years. Musin signed Shristi, Inc.'s 2004 federal income tax return as the preparer and represented Shristi, Inc. in the audit. As part of the audit, the IRS requested substantiation of certain salary expenses claimed on Shristi, Inc.'s 2004 federal income tax return. Howard Musin submitted to the IRS a Form 1099-MISC, complete with Social Security number, purportedly showing that Shristi, Inc. paid Ms. Lahiri's mother \$8,295 during 2004.

36. IRS records indicate that Shristi, Inc. did not file any Forms 1099 for the 2004 tax year. The Social Security number listed on the Form 1099-MISC that Musin gave the IRS auditor does not belong to Ms. Lahiri's mother, who is a citizen of India and does not have a Social Security number.

37. The Social Security number on that 1099-MISC belonged instead to a seven-year young child living in Nebraska. The child's father indicates that he has never heard of Schwartz-

Musin or Musin and his family has never used SSC Services to prepare their federal income tax returns.

38. The Form 1099-MISC that Musin submitted to the IRS auditor is inscribed with the letters “DXA” on the lower-left corner. The only Form 1099 vendor that inscribes this code on Forms 1099 that it sells is CFS Income Tax, also known as CFS Tax Software, Inc. CFS Tax Software, Inc. sold SSC Services a package of Forms 1099 in May, 2004. Musin or Schwartz-Musin fabricated the Form 1099-MISC submitted to the IRS in connection with Shristi, Inc.’s 2004 audit in an attempt to deceive IRS auditors, and Musin or Schwartz-Musin fabricated a Social Security number to put on the Form 1099-MISC. That number happened to belong to a young child who had no connection to the Defendants or Shristi, Inc.

Necessary to Prevent Recurrence

39. A permanent injunction is necessary to prevent Defendants from continuing to engage in fraudulent federal income tax return preparation based on, at least, the following:

- a. Despite the IRS disallowing “Image Expenses” during a 2003 audit of a return Musin prepared, Defendants continue to prepare returns on which they improperly deduct customers’ non-deductible personal health and beauty expenses as business expenses.
- b. Defendants are willing to fabricate bogus substantiation documents to justify the untenable positions they adopt on federal income tax returns.
- c. The IRS barred Schwartz-Musin from representing taxpayers in disputes before the IRS in 2000. Since then, she has submitted a power-of-attorney form in an attempt to serve as a taxpayer’s representative on at least eight occasions.

d. Defendants' disregard for accuracy in preparation of federal income tax returns is severe: The IRS audited 168 returns signed by Musin as the preparer for the 2003-2006 tax years. Of the 168 returns audited, 166 contained errors, many of which were substantial.

e. Defendants continually and repeatedly prepare federal income tax returns that they know or should know contain false information and understate their customers' federal income tax liabilities.

Harm to the Public

40. Defendants' customers have been harmed by Defendants' misconduct. While some of Defendants' customers are no doubt complicit in Defendants' fraud on the Treasury, other customers may not be, and may be misled by Defendants' false assurances. Defendants' falsifications and errors cause their customers to underpay their actual federal income tax liability, thereby subjecting those customers to possible penalties, interest, and criminal prosecution.

41. The United States is harmed because Defendants' customers are not reporting and paying their correct tax liabilities.

42. The United States is further harmed because the IRS is forced to devote scarce resources to identifying and recovering lost tax revenues from Defendants' customers. Moreover, given the IRS's limited resources, identifying and recovering all revenues lost from Defendants' preparation of false and fraudulent returns may be impossible.

43. In addition to harm caused by Defendants' preparation of tax returns that understate their customers' tax liabilities, Defendants' activities undermine public confidence in the fairness of the federal tax system and encourage noncompliance with the internal revenue laws.

44. For the 2003 through 2007 tax years, the Defendants' activities have deprived the United States of approximately \$21,000,000 in foregone tax revenue.

Count I: Injunction Under § 7407 for Conduct Subject to Penalty Under § 6694

45. The United States incorporates by reference the allegations in paragraphs 1 through 44.

46. Section 7407, 26 U.S.C., authorizes the United States to seek an injunction against any tax preparer who has engaged in any "fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws," or who has "engaged in any conduct subject to penalty under section 6694 or 6695."

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

48. Section 6694, 26 U.S.C., (both as it existed when the misconduct here occurred and in its present form) penalizes tax preparers for filing federal income tax returns with unrealistic positions or for filing returns that understate another's federal tax liability due to the preparer's willful or reckless conduct.

49. Defendants have continually and repeatedly prepared federal income tax returns that contain unreasonable positions. Defendants know that positions created by arbitrarily inflating

the value of a customer's business expense deductions beyond that expense the customer actually incurred will not be sustained on their merits.

50. Defendants have continually and repeatedly prepared federal income tax returns that intentionally understate customers' federal tax liability, and Defendants recklessly or intentionally disregard the rules and regulations governing claims for certain business expense deductions.

51. Injunctive relief is necessary to prevent this misconduct because, absent an injunction, Defendants are likely to continue preparing false federal income tax returns.

52. Defendants should be permanently enjoined under 26 U.S.C. § 7407 from acting as income tax preparers because a more limited injunction would be insufficient to stop their interference with the proper administration of the tax laws.

Count II: Injunction Under 26 U.S.C. § 7408 for Conduct Subject to Penalty Under § 6701

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

54. Section 7408, 26 U.S.C., authorizes an injunction against anyone who has engaged in conduct subject to penalty under 26 U.S.C. § 6701 if injunctive relief is necessary to prevent a recurrence of the conduct.

55. Section 6701, 26 U.S.C., penalizes any person who assists, advises, or procures the preparation or presentation of a document; knows or has reason to know that the document will be used in connection with a material matter arising under the internal revenue laws; and knows that, if used, the document would result in an understatement of tax liability.

56. Defendants prepare federal income tax returns on which they intentionally inflate their customers' business expense deductions in order to fraudulently reduce their customers' federal tax liabilities. Defendants know that when filed, these returns will understate their customers' true federal tax liability.

57. Injunctive relief is necessary to prevent this misconduct because, absent an injunction, Defendants are likely to continue preparing false federal income tax returns.

58. Defendants should be permanently enjoined under 26 U.S.C. § 7408 from acting as income tax preparers because a more limited injunction would be insufficient to stop their interference with the proper administration of the tax laws.

Count III: Injunction Under 26 U.S.C. § 7402 for Unlawful Interference with the Enforcement of the Internal Revenue Laws

59. The United States incorporates by reference the allegations in paragraphs 1 through 58.

60. Section 7402, 26 U.S.C., authorizes courts to issue injunctions "as may be necessary or appropriate for the enforcement of the internal revenue laws." The remedies available to the United States under this statute "are in addition to and not exclusive of any and all other remedies." See 26 U.S.C. § 7402(a).

61. Defendants, through the actions described above, have engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws, and are likely to continue to engage in such conduct unless enjoined. Defendants' conduct causes irreparable injury to the United States and an injunction under 26 U.S.C. § 7402(a) is necessary and appropriate.

62. Unless Defendants are enjoined, the IRS will have to continue devoting substantial time and resources to identify Defendants' customers, and then examine their customers' tax returns and liabilities. Pursuing all individual customers may be impossible give the IRS's scarce resources.

63. The Court should order injunctive relief under 26 U.S.C. § 7402(a).

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

A. That the Court find that Defendants have repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701 and that injunctive relief is appropriate under 26 U.S.C. §§ 7407 and 7408 to bar Defendants from acting as income-tax-return preparers and from engaging in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6701;

B. That the Court find that Defendants have engaged in fraudulent and deceptive conduct that substantially interferes with the enforcement of the internal revenue laws, and that injunctive relief against them is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408;

C. That the Court, under 26 U.S.C. §§ 7402 and 7407, enter a permanent injunction permanently barring Defendants from acting as federal-income-tax-return preparers and from preparing or filing federal tax returns for others, and from representing customers before the IRS;

D. That the Court, under 26 U.S.C. §§ 7402 and 7407, enter a permanent injunction prohibiting Defendants and their representatives, agents, servants, employees, attorneys,

independent contractors, and anyone in active concert or participation with them, from directly or indirectly

- (1) engaging in any conduct subject to penalty under 26 U.S.C. § 6694, including preparing any part of a return or claim for refund that includes an unrealistic, unreasonable, or willful understatement of tax;
- (2) engaging in any conduct subject to penalty under 26 U.S.C. § 6701, including preparing any part of a return or claim for refund that knowingly understates another's federal income tax liability;
- (3) acting as federal-income-tax-return preparers;
- (4) engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws;
- (5) engaging in conduct subject to penalty under any other section of the internal revenue laws; and

E. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring Defendants to contact all persons and entities for whom they 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 Defendants made on their customers' tax returns, and that a permanent injunction has been entered against them;

F. That the Court, under 26 U.S.C. § 7402, enter an injunction requiring Defendants to turn over to 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 Defendants

prepared or helped to prepare any tax-related documents, including claims for refund or tax returns since January 1, 2003;

G. That the Court order that the United States be permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and

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

Dated this 13th day of February, 2009.

Respectfully submitted,

MATTHEW G. WHITAKER
United States Attorney

s/ Robert E. Fay
ROBERT E. FAY
VA Bar No. 74871
Attorneys for Plaintiff
Trial Attorney, Tax Division
U.S. Department of Justice
PO Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-9209
Fax: (202) 514-6770
Email: Robert.E.Fay@usdoj.gov