

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 GRACE N. MACHOKO, individually and)
 doing business as FAST INCOME TAX)
 SERVICES,)
)
 Defendant.)
 _____)

Case Number: 07-CV-1874-N

DEFAULT JUDGMENT OF PERMANENT INJUNCTION

Before the Court is the United States’ Motion for Default Judgment of Permanent Injunction and Memorandum in support thereof. The Court makes the following findings of fact and conclusions of law and enters this permanent injunction against defendant Grace N. Machoko, individually and doing business as Fast Income Tax Services.

Standards for Default Judgment of Permanent Injunction

The entry of default judgment is committed to the sound discretion of this Court. *See e.g., Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). “If the court determines that defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true.” 10A Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, *Federal Practice & Procedure* § 2688 (3d ed. 1998).

In this action, the United States is seeking injunctive relief under 26 U.S.C. (I.R.C.) §§ 7402, 7407, and 7408. Because I.R.C. §§ 7407 and 7408 set forth specific criteria for injunctive relief, the United States need only meet those statutory criteria, without reference to traditional equitable factors, for this Court to issue an injunction under those sections. *United States v. Estate Pres. Servs.*, 202 F.3d 1093, 1098 (9th Cir. 2000).

To obtain an injunction under I.R.C. § 7407, the United States may show, among other things, that the defendant (1) engaged in conduct subject to penalty under I.R.C. §§ 6694 or 6695, or engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, and (2) that injunctive relief is appropriate to prevent the recurrence of such conduct. To obtain an injunction under I.R.C. § 7407 preventing defendant from acting as an income-tax-return preparer, the United States must additionally show that defendant engaged in this conduct continually or repeatedly and that a narrower injunction would be insufficient to prevent defendant from interfering with the proper administration of the internal revenue laws. *United States v. Bailey*, 789 F. Supp. 788, 816 (N.D. Tex. 1992). To obtain an injunction under I.R.C. § 7408, the United States may show, among other things, that the defendant engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief is appropriate to prevent the recurrence of such conduct. Finally, to obtain an injunction under I.R.C. § 7402(a), the United States must show that an injunction is necessary or appropriate to enforce the internal revenue laws.

Findings of Fact

Defendant failed to timely answer or otherwise respond to the complaint and the Clerk entered default on May 2, 2008. Taking the allegations in the complaint as true, the Court additionally finds as follows:

1. Grace N. Machoko was served by publication in the Dallas Morning News on February 7, 14, 21 and 28, consistent with the Court Order allowing for substituted service.
2. An affidavit of Publication was filed with the court on March 11, 2008.

3. Machoko did not file an answer within twenty days and the United States requested that the Clerk enter default.

4. The Clerk of the Court entered a default pursuant to Fed. R. Civ. P. 55(a) against Machoko on May 2, 2008.

5. Machoko prepares fraudulent federal tax returns for customers.

6. Machoko prepares tax returns through the business Fast Income Tax Services.

7. Machoko is a federal income tax return preparer engaged in the unlawful promotion of a tax scheme in which she gives customers false and fraudulent tax advice regarding the IRC § 6421 fuel tax credits and prepares fraudulent tax returns for customers to implement the scheme by improperly claiming fraudulent IRC § 6421 fuel tax credits.

8. Machoko prepares Forms 4136 for her customers falsely stating that the customer has used large amounts of gasoline for off-highway business purposes.

9. The IRS has determined that at least 45 federal tax returns that Machoko prepared for customers in 2006 claimed false fuel tax credits.

10. The IRS has identified more than \$200,000 in fraudulent fuel tax credits claimed on returns prepared by Machoko.

Conclusions of Law

Based on the above findings of fact, the Court finds that Defendant has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694, 6695, and 6701 and in fraudulent and deceptive conduct that interfered with the administration of the internal revenue laws. Moreover, the Court finds that injunctive relief is appropriate to prevent the recurrence of such conduct and that a narrow injunction only prohibiting Defendant from engaging in such

conduct would be insufficient to prevent her further interference with the administration of the internal revenue laws. The Court further finds that a permanent injunction is necessary and appropriate in this instance to enforce the internal revenue laws.

Order

Based on the above findings of fact and conclusions of law, the Court ORDERS that:

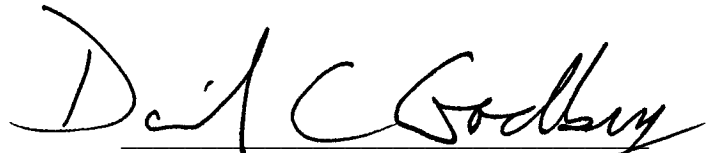
A. Pursuant to I.R.C. §§ 7402(a) and 7407, Machoko is permanently enjoined from preparing or assisting in the preparation of federal income tax returns on behalf of any person other than herself;

B. Pursuant to I.R.C. §§ 7402(a) and 7408, Machoko, individually and doing business as Fast Income Tax Services or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with her, are permanently enjoined from directly or indirectly:

1. acting as a federal income tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns or other tax forms for any person or entity other than themselves, or appearing as representatives on behalf of any person or organization whose tax liabilities are under examination by the Internal Revenue Service;
2. filing (or helping to prepare or file) federal income tax returns, amended returns, or other tax related documents or tax forms for any person or entity other than herself;
3. 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;
4. understating customers' liabilities as subject to penalty under I.R.C. § 6694;
5. engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6700, 6701, or any other penalty provision of the I.R.C.; and
6. engaging in any other conduct that substantially interferes with the proper

administration and enforcement of the internal revenue laws.

Signed May 16, 2008.


DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE