

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

| | | |
|---|---|-----------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 05-5010-CV-SW-GAF |
| |) | |
| CARRIE ANN SHAFER, individually and d/b/a TC's TAXES AND MORE, |) | |
| |) | |
| Defendant. |) | |

ORDER OF DEFAULT JUDGMENT AND PERMANENT INJUNCTION

Before the Court is the United States' Motion for Default Judgment and Permanent Injunction and suggestions in support thereof. Upon due consideration, the Court makes the following findings of fact and conclusions of law and enters this permanent injunction against Defendant, Carrie Ann Shafer, individually and d/b/a "TC's Taxes and More."

Standards for Default Judgment and Permanent Injunction

The entry of default judgment is committed to the sound discretion of this Court. United States v. Harre, 983 F.2d 128, 130 (8th Cir. 1993). "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); see Angelo Iafrate Constr., LLC v. Potashnick Constr., LLC, 370 F.3d 715, 722 (8th Cir. 2004). In this action, the United States is seeking injunctive relief under 26 U.S.C. (I.R.C.) §§ 7402, 7407, and 7408. In order to obtain relief in a statutory-injunction action such as this, the plaintiff must demonstrate that the defendant has violated a statute and that a reasonable likelihood

of future violations exists. SEC v. Comserv Corp., 908 F.2d 1407, 1412 (8th Cir. 1990); United States v. Kaun, 827 F.2d 1144, 1148 (7th Cir. 1987). 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); see SEC v. First Am. Bank & Trust Co., 481 F.2d 763, 681-82 (8th Cir. 1973).

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 the defendant from acting as an income-tax-return preparer, the United States must additionally show that the defendant engaged in this conduct continually or repeatedly and that a narrower injunction would be insufficient to prevent the defendant from interfering with the proper administration of the internal revenue laws. 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

The Court finds that Defendant has failed to answer or otherwise respond to the complaint and is therefore in default. Taking the allegations in the complaint as true, the Court additionally finds as follows:

1. Carrie Ann Shafer resides in Oronogo, Missouri.
2. “TC’s Taxes and More” is a sole proprietorship, owned and operated by Shafer from her home, through which she prepares tax returns for other persons for compensation.
3. Shafer has been preparing tax returns for other persons full-time since 2002.
4. Shafer received an associate’s degree in accounting from Missouri Southern State University in 1992.
5. Most of Shafer’s customers reside in Missouri, although she has also prepared tax returns for individuals from other states, including Kansas, Oklahoma, and Texas.
6. Since at least September 2003, Shafer has been preparing original and amended federal income tax returns for tax years 2000-2003 that claim fictitious or inflated itemized deductions for various expenses, including medical and dental expenses, charitable contributions, and unreimbursed employee business expenses.
7. On these tax returns, Shafer fabricates the amounts of her customers’ itemized deductions without (or with insufficient) input from her customers to substantiate the deductions.
8. For at least one customer, Shafer also claimed an inflated child-care expense credit based on child-care services that Shafer knew had never actually been provided to, or paid for by, the customer.

9. Shafer has also been preparing tax returns showing fabricated or inflated amounts of profit from the child-care businesses of her customers, which results in the customers receiving inflated Earned Income Tax Credit (EITC) refunds to which they are not entitled.

10. Shafer's preparation of fraudulent tax returns has resulted in her understating her customers' tax liabilities and in her customers receiving unlawful erroneous tax refunds.

11. The IRS has thus far examined the federal tax returns of 16 of Shafer's customers. All of these customers' tax returns contained fictitious or inflated itemized deductions.

12. As a result of these examinations, the IRS assessed against the customers over \$25,000 in additional taxes (not including interest and penalties) for tax year 2003.

13. The IRS also disallowed approximately \$92,000 in refund claims made on the 2000-2002 amended federal tax returns that Shafer prepared for these customers.

14. The IRS has identified over 1,000 federal income tax returns prepared by Shafer for tax year 2003. Of these, approximately 75% included a Schedule A (Itemized Deductions) and claimed a refund. The refunds claimed on these returns total over \$2 million.

15. Approximately 20% of the 2003 federal income tax returns prepared by Shafer included a Schedule C (Profit or Loss from Business (Sole Proprietorship)).

16. In addition to preparing fraudulent tax returns, Shafer has encouraged at least one of her customers to provide false information to the IRS at an examination meeting.

17. Shafer prepared federal tax returns with fictitious or inflated itemized deductions even after being notified that she was under investigation by the IRS for her tax-preparation activities. Furthermore, Shafer is currently preparing 2004 federal income tax returns for customers.

18. Absent an injunction, Shafer is likely to continue preparing false and fraudulent federal tax returns that understate her customers' tax liabilities.

19. If the Court does not enjoin Shafer, her continuing actions will pose a substantial risk of revenue loss to the United States Treasury and will require IRS employees to devote substantial resources to examining her customers and assessing and collecting their proper federal income tax liabilities.

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 substantially interferes 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), 7407, and 7408, the Defendant, Carrie Ann Shafer, individually and d/b/a "TC's Taxes and More," and her representatives, agents, servants, employees, attorneys, and any persons in active concert or participation with her, are permanently enjoined from directly or indirectly:

1. Preparing any federal tax returns or tax forms for other persons;
2. Representing other persons before the IRS in any way, including attending meetings at IRS offices on behalf of other persons or submitting documents to the IRS on behalf of other persons.
3. Engaging in any conduct subject to penalty under I.R.C. §§ 6694 or 6695; *i.e.*, preparing any part of a federal income tax return or claim for refund that includes an unrealistic and frivolous position that the preparer knows or should know is unrealistic and frivolous and that results in an understatement of tax liability, or failing to exercise due diligence with respect to determining eligibility for, or the amount of, the EITC;
4. Engaging in any conduct subject to penalty under I.R.C. § 6701; *i.e.*, preparing or assisting others in the preparation of any federal income tax return or other document to be used in connection with any material matter arising under the internal revenue laws knowing that it will (if so used) result in an understatement of tax liability; and
5. Engaging in other similar conduct that interferes with the administration and enforcement of the internal revenue laws.

B. Pursuant to I.R.C. § 7402(a), within 11 days after being served with this order, and at her own cost, Defendant shall mail a letter in the form attached hereto as Attachment A, along with a copy of this Permanent Injunction, to each person for whom she has prepared or assisted in the preparation of a federal tax return or tax form since January 1, 2002.

C. Pursuant to I.R.C. §§ 7402(a), 7407, and 7408, within 11 days after being served with this order, Defendant shall turn over to the United States a list of (or, alternatively, all records in her

possession or to which she has access that identify) the names, addresses, e-mail addresses, telephone numbers, and social security or other tax identification numbers of all persons or entities for whom she has prepared or assisted in the preparation of a federal tax return or tax form since January 1, 2002.

D. Pursuant to I.R.C. § 7402(a), within 14 days after being served with this order, Defendant shall file with the Court an affidavit certifying that she has complied with the requirements listed above in paragraphs B and C.

E. The United States is permitted to conduct discovery to monitor Defendant's compliance with this Permanent Injunction.

F. The Court retains jurisdiction over this action for purposes of implementing and enforcing the final judgment and any additional orders necessary and appropriate to guard the public interest.

IT IS SO ORDERED.

/s/ Gary A. Fenner
GARY A. FENNER, JUDGE
United States District Court

DATED: April 25, 2005

[DATE]

[NAME AND MAILING ADDRESS OF CUSTOMER]

**NOTICE TO CUSTOMERS OF CARRIE ANN SHAFER
AND "TC's TAXES AND MORE"**

The United States District Court for the Western District of Missouri has entered an order called a Permanent Injunction against Carrie Ann Shafer, who does business under the name "TC's Taxes and More." A copy of the Permanent Injunction is enclosed. You are receiving this notice because Ms. Shafer has identified you as one of her customers.

In the Permanent Injunction, the Court ordered Ms. Shafer not to prepare any more federal tax returns for anyone. The Court has also ordered Ms. Shafer to give the Government a list of her customers, which includes you. Ms. Shafer is also not permitted to accompany her customers to meetings at IRS offices or submit documents to the IRS on behalf of her customers.

The Court has found that Ms. Shafer has been preparing fraudulent federal tax returns that claim fictitious or overstated itemized deductions. If Ms. Shafer prepared a tax return for you that did not correctly report your itemized deductions or your tax liability, you may be subject to civil or criminal tax penalties, or both. You may wish to contact a licensed attorney or certified public accountant to determine whether any tax returns that Ms. Shafer prepared for you were improper and what you should do to correct any false or inaccurate returns.

If you have any questions about this Permanent Injunction, you should contact Gregory Van Hoey, Trial Attorney, U.S. Department of Justice, Tax Division, at (202) 307-6391.

Enclosure (Permanent Injunction)

ATTACHMENT A