

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	FILED: APRIL 29, 2008
v.)	08CV2432 TG
)	JUDGE HIBBLER
LASHAWN LITTRICE and DIAMOND)	MAGISTRATE JUDGE ASHMAN
ACCOUNTING & FINANCIAL SERVICES,)	
INC.,)	
)	
Defendants.)	
_____)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The plaintiff, United States of America, alleges against defendants LaShawn Littrice and Diamond Accounting & Financial Services, Inc., as follows:

1. The United States brings this complaint to enjoin LaShawn Littrice and Diamond Accounting & Financial Services, Inc. (“Diamond Accounting”), and all persons and entities in active concert or participation with either of them, from directly or indirectly:

- (a) Preparing or filing, or assisting in the preparation or filing of any federal tax return for any other person or entity;
- (b) Engaging in conduct subject to penalty under 26 U.S.C. § 6701, *i.e.*, preparing or assisting others in the preparation of any tax form or other document to be used in connection with a material matter arising under the internal revenue laws and which the defendant knows will (if so used) result in the understatement of tax liability;
- (c) Engaging in conduct subject to penalty under 26 U.S.C. § 6694 by understating taxpayers’ liabilities; and
- (d) Failing to include the correct tax identification number on the returns they prepare as prohibited by 26 U.S.C. § 6695.

Jurisdiction and Venue

2. This action has been requested by a delegate of the Secretary of the Treasury, and

commenced at the direction of a delegate of the Attorney General of the United States, pursuant to the provisions of §§ 7402, 7407 and 7408 of the Internal Revenue Code (IRC) (26 U.S.C.).

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and IRC §§ 7402(a), 7407 and 7408.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because the defendants reside or are located in this district and because a substantial part of the actions giving rise to this suit took place in this district.

Defendants

5. Littrice resides in Flossmoor, Illinois, and conducts business in the Chicago area.

6. Diamond Accounting, an Illinois corporation, conducts business at its location in South Holland, Illinois.

7. As a corporation, Diamond Accounting can only operate through its agents, officers and employees. Littrice is Diamond Accounting's sole owner and officer. She is also its registered agent.

Defendants' Tax Return Business

8. Littrice is an income tax return preparer as defined by IRC § 7701(a)(36). She prepares other people's tax returns for compensation.

9. Diamond Accounting is an income tax return preparer as defined by IRC § 7701(a)(36). It prepares other people's tax returns for compensation, and employs people who do so as well.

10. Diamond Accounting also is an "Electronic Return Originator" ("ERO"). An ERO is an entity that is authorized to initiate the electronic submission of tax returns to the IRS. That is, the ERO electronically transmits or files tax returns with the IRS.

11. The defendants mainly rely on advertising and customer referrals to bring in customers to their tax return preparation business. Their customers are mostly from Illinois, and most of those are from the Chicago area.

12. Customers visit Diamond Accounting's office and speak briefly with Littrice about their federal income tax return preparation. Littrice asks few questions of the customers and requests minimal information. Littrice concocts figures when completing customers' tax returns.

13. The defendants prepare and file false or fraudulent federal income tax returns for their customers. The defendants falsify and manufacture expenses and deductions on the returns, notably on Schedule A as charitable contributions and employee benefit expenses, Schedule C income and expenses, and education credits.

14. The defendants' conduct results in their customers obtaining larger refunds than they are properly entitled to or improperly reporting and paying less taxes.

IRS Audits

15. The following chart is a summary of the IRS's investigation of the individual federal income tax returns Littrice prepares and Diamond Accounting files with the IRS:

	2003	2004	2005	Total
Forms 1040 Prepared	1,118	1,400	1,341	3,859
Returns Examined	383	224	55	662
Examined Returns with Changes in Tax	374	219	51	644
Error Rate (% of inaccurate returns)	97.65%	97.77%	92.73%	97.28%
Tax Deficiencies from Returns with Changes	\$1,047,073	\$697,703	\$189,544	\$1,934,320
Average Deficiency Per Changed Return	\$2,800	\$3,186	\$3,717	\$3,004
Projected Tax Loss (# of returns × error rate × average deficiency per return)	\$3,056,469	\$4,360,644	\$4,621,427	\$12,038,540

16. As shown in the above chart, the IRS has examined 662 returns prepared and filed by the defendants. The examination revealed that all but eighteen of the examined returns understated the customer's tax liability. The IRS is continuing to examine returns prepared by Littrice and Diamond Accounting.

Examples of Defendants' Malfeasance

17. In preparing returns, the defendants ignore information given to them by their customers or simply fabricate tax deductions and other items on the tax returns.

18. For example, in preparing 2003, 2004 and 2005 federal income tax returns for Carolyn Rhyne-Leslie of Calumet City, Illinois, Littrice improperly claimed deductions for nonexistent employee business expenses and charitable contributions. Despite statements from Rhyne-Leslie that her 2003 expenses were minimal, if any, and that she had none for 2004 and 2005, Littrice reported employee business expenses of \$6,416, \$7,809 and \$7,495 for years 2003, 2004 and 2005, respectively. Littrice also included on the returns cash charitable contributions of \$7,789 (for tax years 2003), \$8,805 (2004) and \$7,841 (2005) even though Rhyne-Leslie did not inform Littrice of any charitable contributions. According to Rhyne-Leslie, Littrice told her that she could deduct ten percent of her wages as charitable contributions. Rhyne-Leslie paid Littrice "\$300 to \$400" a year for return preparation. Rhyne-Leslie has since entered into an installment plan arrangement with the IRS to pay her 2003 through 2005 deficiencies.

19. In preparing Des Plaines, Illinois, customer Stephanie Moore's 2003 and 2005 returns, Littrice completely fabricated medical/dental expenses, employee business expenses, and charitable contributions. For 2003 the only document Moore gave Littrice was a Form W-2. According to Moore, Littrice completed the 2003 return (which included medical/dental expenses of \$5,178, employee business expenses of \$7,213 and charitable contributions of

\$7,379) without asking further questions of Moore and without any factual basis. Moore was retired in 2005 and only provided Littrice documents associated with his retirement income for that year when he went to see her in early 2006. Without any foundation whatsoever, Littrice included medical/dental expense deductions (\$5,142) and charitable contribution deductions (\$6,953) on the 2005 return. Littrice also claimed a \$1,500 education credit on the return despite Moore not mentioning anything about incurring any costs associated with education. Moore has consented to the IRS's audit adjustments.

20. Littrice prepared the income tax returns of Juan and Teodora Gallegos, an Alsip, Illinois, couple, for the years 2003 through 2005. The Gallegoses paid Littrice \$300 each year for her services. Littrice improperly included on the returns employee expense deductions of \$6,429 (for 2003), \$6,200 (2004) and \$7,520 (2005) despite being told by the Gallegoses during the preparation of the 2003 return that the only work related expense incurred was the purchase of a pair of boots. The topic of job expenses was not discussed at all during preparation of the 2004 and 2005 returns. Littrice also improperly claimed charitable contribution deductions on each year's return (2003-\$9,072; 2004-\$8,285; 2005-\$7,851) even though contributions were not discussed between the Gallegoses and Littrice. Littrice also included a medical expense deduction of \$2,302 on the 2003 return without any basis. According to the Gallegoses, they have medical insurance and did not incur any medical expenses for that year. Lastly, Littrice improperly claimed a \$6,000 child care expense allegedly paid to a private school on the 2005 return. Until the IRS examined the Gallegoses' returns, they had never heard of this private school and had not discussed it with Littrice.

IRS Undercover Operation

21. On February 3, 2005, the IRS conducted an undercover operation of Littrice and

Diamond Accounting and their return preparation business. On that date, an IRS undercover agent went to Diamond Accounting's office, located at its previous address in South Holland, Illinois, and met with Littrice posing as a customer who wanted to have a 2004 income tax return prepared.

22. The undercover agent provided a Diamond Accounting employee a Form W-2 for 2004 and the Social Security cards for herself and one dependent. The undercover agent told the employee that she was a construction worker and did not own real estate. The employee informed the agent that he would input the customer's personal information into the computer and that Littrice would complete the tax return.

23. Later that afternoon the IRS agent met with Littrice. Littrice asked the undercover agent whether she incurred education expenses for the year 2004. The agent responded "no." Littrice asked the agent if she had taken any college courses. The agent responded, "no, I just took a class here or there, maybe two to three years ago." The return prepared by Littrice for the agent included a false claim of \$2,000 for education expenses. The return also included a false \$6,998 charitable contribution deduction although the undercover agent never told Littrice that she made charitable contributions.

24. On the return she prepared for the undercover agent, Littrice also falsely claimed unreimbursed employee expenses of \$3,546, unidentified business expenses of \$2,589, and meals and entertainment expenses of \$2,158. None of these amounts or items were supported by information given by the agent to Littrice or the Diamond Accounting employee.

25. The information the undercover agent provided Littrice and Diamond Accounting should have resulted in a tax balance due of approximately \$1,216 on the 2004 individual tax return. Instead, with the false deductions manufactured by Littrice, the tax return claimed a

refund of approximately \$800.

26. Littrice informed the IRS undercover agent that \$300 would be deducted from the refund as a return preparation fee. On February 18, 2005, the undercover agent went to Diamond Accounting's office and Littrice provided the agent with a refund check.

Defendants' Recent Activity

27. Until 2007 Littrice was the listed preparer for all tax returns electronically filed by Diamond Accounting. In 2007, after the IRS investigated the defendants, Diamond Accounting began filing returns with the IRS (for tax year 2006) that improperly contained a preparer tax identification number ("PTIN") not belonging to Littrice.

28. The PTIN on returns filed by Diamond Accounting in 2007 belongs to a retired return preparer living in Colorado. This person did not prepare any of the returns that were filed by Diamond Accounting and had no knowledge that her PTIN was being used on any returns prepared and filed by the defendants.

29. Littrice is placing an incorrect PTIN on returns that she prepares and Diamond Accounting files with the IRS. This is being done to obstruct IRS efforts to detect Littrice's fraud.

30. The defendants have knowledge of the IRS investigation into their return preparation activities, yet Littrice has continued to prepare and Diamond Accounting has continued to file federal tax returns that they know are false.

COUNT I – Injunction under IRC § 7407

31. Section 7407, IRC, authorizes a court to enjoin a tax return preparer if, *inter alia*, the court finds that the return preparer has engaged in conduct subject to penalty under IRC §§ 6694 or 6695, and that injunctive relief is appropriate to prevent the recurrence of the conduct.

32. Section 6694, IRC, imposes penalties on tax return preparers who willfully attempt to understate the tax liability of another person.

33. Section 6695(c), IRC, imposes penalties on a return preparer who fails to include her identifying number on a prepared return.

34. Littrice and through her conduct, Diamond Accounting, have engaged in conduct subject to penalty under IRC § 6694 by preparing returns that they know contain complete fabrications, such as false expenses and false charitable contributions, and understate the liabilities of the customer.

35. Littrice has engaged in conduct subject to penalty under IRC § 6695(c) by failing to place her tax identification number on returns she prepares for others and by falsely using another individual's tax identification number on those returns.

36. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, Littrice is likely to continue preparing false federal income tax returns of the type described in this complaint, and Diamond Accounting is likely to continue filing them.

37. The defendants should be permanently enjoined under IRC § 7407 from acting as income tax return preparers. Their repeated and continual conduct subject to injunction under § 7407 demonstrates that a narrower injunction prohibiting specific misconduct would be insufficient to prevent their interference with the proper administration of the internal revenue laws.

COUNT II – Injunction under IRC § 7408

38. Section 7408, IRC, authorizes courts to enjoin any person from engaging in conduct that is subject to penalty under IRC § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

39. Section 6701(a), IRC, penalizes any person who aids or assists in the preparation of any portion of a federal tax return or other document knowing that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it would result in an understatement of another person's tax liability.

40. The defendants have prepared and filed federal tax returns for customers knowing that the returns understate the customers' correct federal tax liability. Their conduct is subject to penalty under IRC § 6701.

41. Unless enjoined by the Court, the defendants are likely to continue to prepare tax returns that they know will result in the understatement of tax liability.

42. The defendants should therefore be enjoined under IRC § 7408 from engaging in conduct subject to penalty under IRC § 6701.

COUNT III – Injunction under IRC § 7402

43. Section 7402, IRC, 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 that statute "are in addition to and not exclusive of any and all other penalties." IRC § 7402(a).

44. The 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. The defendants continue to prepare and file false tax returns.

45. The defendants' conduct is causing irreparable injury to the United States and an injunction under IRC § 7402(a) is necessary and appropriate. If the defendants are not enjoined the United States will suffer irreparable injury by erroneously providing tax refunds to persons

not entitled to receive them and by taxpayers not reporting and paying the correct amount of taxes.

46. Unless the defendants are enjoined, the IRS will have to devote substantial time and resources to identify and locate their customers, and then examine their customers' tax returns and liabilities. Pursuing all individual customers may be impossible given the IRS's limited resources.

47. Enjoining the defendants is in the public interest because an injunction will stop their illegal conduct and the harm it causes the United States.

48. The Court should order injunctive relief under IRC § 7402(a).

WHEREFORE, the United States of America requests the following relief:

A. The Court find that the defendants have continually and repeatedly engaged in conduct subject to penalty under IRC §§ 6694, 6695 and 6701, and that injunctive relief limited to prohibiting such conduct would not be insufficient to prevent the defendants' interference with the proper administration of the Internal Revenue Code;

B. The Court, pursuant to IRC §§ 7407 and 7402(a), enter a permanent injunction prohibiting the defendants from preparing or filing, or assisting in the preparation or filing of federal tax returns or other related documents and forms for others;

C. The Court find that the defendants have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against them and anyone acting in concert with them is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and IRC § 7402(a);

D. The Court find that the defendants have engaged in conduct that is subject to penalty under IRC § 6701, and an injunction under IRC § 7408 is appropriate.

E. The Court, pursuant to IRC § 7402(a), enter an injunction requiring the defendants within fifteen days to contact by United States mail and e-mail all persons for whom they have prepared a federal tax return since January 1, 2000, to inform them of the Court's findings in this matter and enclose a copy of the injunction entered against them;

F. The Court authorize the United States to engage in post-judgment discovery to monitor compliance with the terms of any injunction entered against them; and

G. The Court grant the United States such other and further relief as the Court deems appropriate.

Respectfully submitted,

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