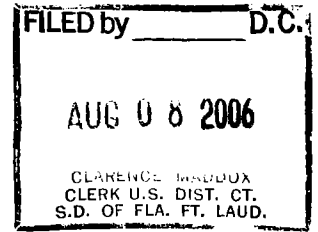


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 05-60565-CIV-ZLOCH



UNITED STATES OF AMERICA,

Plaintiff,

vs.

**FINAL SUMMARY JUDGMENT AND
PERMANENT INJUNCTION**

JEAN-MARIE BOUCICAUT, MARIE
THELEMARQUE, and TAX REVIEW
CORPORATION,

Defendants.

_____ /

THIS MATTER is before the Court upon Plaintiff United States of America's Motion For Summary Judgment And Permanent Injunction (DE 27). The Court has carefully reviewed said Motion and the entire court file and is otherwise fully advised in the premises.

In reviewing the entire court file herein, the Court has given particular consideration to the allegations of the Complaint (DE 1), the Memorandum Of Points And Authorities In Support Of United States' Motion For Summary Judgment And Permanent Injunction (DE 28), and the Statement Of Material Facts In Support Of Its Motion For Summary Judgment And Permanent Injunction (DE 29). The Court notes that the allegations contained in the aforementioned filings are supported by the Declaration (DE 4) and Second Declaration (DE 15) of Donald Townshend, as well as the Exhibits thereto. Townshend has been a Revenue Agent with the Internal Revenue Service since 1991.

The Court further notes that Defendant Jean-Marie Boucicaut filed a Motion For Consideration (DE 33), which the Court construes as Response to the instant Motion (DE 27). Said Response contains, in

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large part, blanket denials of any liability. To the extent that the Response attempts to refute the facts set forth by the United States, Jean-Marie Boucicaut disputes facts immaterial to the claims stated in the Complaint, and does not properly support his statements as to create a genuine issue of material fact. See L.S.T., Inc. v. Crow, 49 F.3d 679, 684 (11th Cir. 1995) (noting that when the moving party properly supports its motion for summary judgment, "the nonmoving party may not rest upon the mere allegations or denials of its pleadings, but must, through affidavits or as otherwise provided in FED. R. CIV. P. 56, designate specific facts showing that there is a genuine issue for trial."). The facts giving rise to the above-styled cause are set forth in the Court's prior Preliminary Injunction Order (DE 23). Accordingly, based upon its review of the record, the Court makes the following findings.

I. Findings of Fact

1. The Court has subject matter jurisdiction over the above-styled cause pursuant to 28 U.S.C. § 1331.

2. Defendants Jean-Marie Boucicaut (hereinafter "Boucicaut") and Marie Thelemarque (hereinafter "Thelemarque"), operating through the Tax Review Corporation (hereinafter the "Corporation" and collectively as "Defendants"), and formerly through the Leadership Network Corporation, provide tax-preparation services to customers to prepare original and amended individual tax returns.

3. Defendants have prepared and filed amended tax returns that claim credits and deductions for which their customers are not eligible and to which those customers have not claimed eligibility.

4. Defendants knew that the false credits and deductions would result in understatements of their customers' tax liabilities.

5. Defendants filed amended returns for customers who did not authorize them to file returns, and who were not aware that Defendants were filing returns.

6. Defendants did not provide customers copies of the returns they prepared and filed for the customers.

7. Defendants filed returns that listed Defendants' post office box as the address for their customers.

8. Defendants received at their post office box refund checks from the Internal Revenue Service (hereinafter the "IRS") made out to their customers. These checks were issued based on the false and fraudulent amended income tax returns filed by Defendants.

9. Defendants endorsed and deposited these erroneous refund checks into their bank accounts. Defendants retained all or part of the refund amount of each check for themselves.

10. The IRS has issued at least 593 refund checks totaling \$772,449 to Defendants' customers that were received and deposited by Defendants into their own bank accounts.

11. The IRS issued these refund checks based on false and fraudulent amended tax returns submitted by Defendants on which they forged the taxpayers' signatures. These returns requested refunds from the IRS and requested that the IRS mail the refund checks to their address.

12. Defendants induced the IRS to issue refund checks by fraud.

13. The IRS issued said refund checks based on amended income tax

returns submitted by Defendants that overstated amounts spent by their customers on higher education, charity, and other expenses. These overstatements caused the returns to understate tax liability and, thus, caused the issuance of tax refunds. Defendants knew that their statements were misrepresentations because they did not interview the customers in question and, thus, could not have possessed any means of knowing whether their statements were correct. Defendants fabricated these expenses and, thus, knew or should have known that their position for the understatement of tax liability - that the expenses were incurred - was frivolous and had no realistic possibility of being sustained.

14. Defendants induced the IRS to issue refund checks by misrepresentation of a material fact.

15. By preparing returns for their customers, Defendants have aided or assisted in the preparation of tax returns. Defendants knew or had reason to know that the returns would be used in connection with the determination of their customers' tax liabilities, a material matter, and that the returns would result in an understatement of their customers' tax liabilities.

16. Defendants have prepared and submitted tax returns without providing their names, or the names of their firms as the return preparer and without including their identifying numbers on the tax returns.

17. Defendants' activities substantially interfere with the administration of the tax laws.

18. Defendants' activities undermine public confidence in the

fairness of the federal tax system and incite violations of the internal revenue law. They cause the Government irreparable harm. The Government's remedies at law are inadequate.

19. Injunctive relief is appropriate and necessary to prevent Defendants from promoting services that interfere with tax enforcement and from future occurrences of this conduct.

II. Conclusions of Law

1. Based upon the factual findings and evidence presented, the Court also finds that Boucicaut, Thelemarque, and the Corporation continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695 and continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws. The Court also finds that a narrower injunction prohibiting only this specific misconduct would be insufficient.

2. Accordingly, the Court finds that Defendants, and all those in active concert or participation with them, should be permanently enjoined from acting as income tax return preparers under I.R.C. § 7407.

3. The Court also finds that Defendants engaged in conduct violative of I.R.C. § 6701, and that injunctive relief is appropriate to prevent the recurrence of that conduct.

4. Accordingly, the Court finds that Defendants, and all those in active concert or participation with them, should be permanently enjoined under I.R.C. § 7408.

5. The Court further finds that Defendants engaged in conduct

that interferes with the enforcement of the internal revenue law, and that the United States and the public will suffer irreparable harm in the absence of a permanent injunction. The public interest will be served by granting a permanent injunction.

6. Based upon the evidence presented, the Court further finds that Defendants will continue to violate the Internal Revenue Code absent an injunction.

7. The Court therefore finds that Defendants, and all those in active concert or participation with them, should be permanently enjoined under I.R.C. § 7402(a).

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED that Plaintiff United States of America's Motion For Summary Judgment And Permanent Injunction (DE 27) be and the same is hereby **GRANTED** as follows:

1. Final Summary Judgment is hereby **ENTERED** in favor of the United States of America and against Defendants Jean-Marie Boucicaut, Marie Thelemarque, and the Tax Review Corporation;

2. The United States of America does have and recover from Defendants Jean-Marie Boucicaut, Marie Thelemarque, and the Tax Review Corporation the amount of \$772,449.00, together with interest thereon through July 1, 2005 in the amount of \$95,953.00, for a total of \$868,402.00, and together with interest thereon from the date of this Judgment at the rate provided for in 26 U.S.C. §§ 6602, 6621, and 28 U.S.C. § 1961(c)(1), for all of which let execution issue. The aforementioned Defendants are jointly liable for the amount recoverable by the this paragraph;

3. Defendants Jean-Marie Boucicaut, Marie Thelemarque, and the Tax Review Corporation, and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, are hereby permanently **ENJOINED** from directly or indirectly:

A. Acting as federal tax return preparers or requesting, assisting in, or directing the preparation and/or filing of federal tax returns for any person or entity other than themselves, or appearing as a representative on behalf of any person or organization whose tax liabilities are under examination or investigation by the IRS;

B. Understating customers' tax liabilities as penalized by I.R.C. § 6694;

C. Engaging in activity subject to penalty under I.R.C. § 6695, including failing to furnish tax returns to customers, failing to sign returns as the paid tax-return preparer, failing to list a tax identification number, and endorsing or otherwise negotiating tax refund checks;

D. Engaging in activity subject to penalty under I.R.C. § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue law that includes a position that they know would result in an understatement of another person's tax liability;

E. Engaging in any other conduct subject to any penalty under the Internal Revenue Code or that interferes with the administration and enforcement of the internal revenue law; and

F. Obtaining, using, or retaining any other person's Social Security number or other federal tax identification number or federal tax return information in any way for any purpose without that person's express written consent;

4. The United States of America shall be permitted to engage in post-judgment discovery to ensure compliance with this Order;

5. The Court shall retain jurisdiction over this matter for purposes of implementing and enforcing this Order and any additional orders necessary and appropriate to the public interest; and

6. To the extent not otherwise disposed of herein, all pending Motions be and the same are hereby **DENIED** as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida this 8th day of August, 2006.



WILLIAM J. ZLOCH
Chief United States District Judge

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