

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	1:18-cv-00943-RLY-TAB
)	
ANTONIO CHAPPELL, G & A TAX)	
SERVICE, LLC)	
)	
Defendants.)	

ENTRY ON MOTION FOR DEFAULT JUDGMENT

Antonio Chappell prepares individual tax returns, but he fabricates his customers’ expenses and misrepresents their information to secure larger returns. The government discovered Chappell’s practices and filed this action seeking to enjoin him and his business from preparing future returns. The clerk entered default against both Defendants, and the government now seeks a default judgment. For the reasons set forth below, the court **GRANTS** the government’s motion.

I. Background

Chappell owns G & A Tax Service, LLC, a tax preparation company in Indianapolis, Indiana. (Filing No. 1, Complaint at 1 – 2 ¶¶ 3 – 6).¹ He formed G & A in 2013 with George Mosley, who is now deceased. (*Id.* at 2 ¶ 9). Chappell and others

¹ The court accepts all well-pleaded facts as true since an entry of default has been entered against Defendants. *VLM Food Trading Intern., Inc. v. Illinois Trading Co.*, 811 F.3d 247, 255 (7th Cir. 2016) (citation omitted).

under his supervision, prepare federal income tax returns for a fee of up to seven hundred dollars per return. (*Id.* ¶ 8). Chappell and G & A do not struggle to generate business: between 2014 and 2017, they prepared nearly 3,000 federal income tax returns. (*Id.* ¶ 11). In the first two months of 2018, they prepared close to 300 federal income tax returns. (*Id.* at 2 ¶ 14).

G & A and Chappell typically secure a large refund for their customers because they deceive the IRS. (*See id.* at 3 – 4 ¶¶ 15 – 26). They falsify reported income or losses to take advantage of the Earned Income Credit (“EIC”), which is a complex tax credit available for people with low to moderate income. (*Id.* at 3 ¶ 16); *see also Sherbo v. Comm’r of Internal Revenue*, 255 F.3d 650, 651 (8th Cir. 2001). They fabricate education expenses to allow their customers to obtain the American Opportunity Credit (“AOC”), which is a tax credit that covers certain educational expenses. (Complaint at 3 ¶ 17); *see also United States v. Stinson*, 239 F.Supp.3d 1299, 1306 n. 17 (M.D. Fla. 2017). They also misrepresent a taxpayer’s or dependent’s filing status: they report that certain individuals are single or qualify for head of household status despite knowledge to the contrary, and they report non-qualifying dependents to take advantage of the Additional Child Tax Credit. (Complaint at 3 ¶¶ 18, 19).

The IRS began investigating Chappell in 2011. (*Id.* at 5 ¶ 27). On November 11, 2011, the IRS met with Chappell and other tax preparers at his former place of employment to ensure that they were complying with requirements of the Internal

Revenue Code—specifically the due diligence requirement imposed on preparers who prepare returns claiming the EIC. (*Id.*).

The IRS continued investigating Chappell even after he left his former employer and formed G & A with Mosely. (*See id.* ¶¶ 29, 30). The IRS's Lead Development Center analyzed three hundred and forty (340) income tax returns prepared by Chappell and Mosley between 2011 and 2014. (*Id.*). The IRS concluded two hundred and fifty-seven returns underreported income and adjusted the returns by a combined total of \$958,417. (*Id.*). With these results, the IRS launched a civil investigation into their tax return practices, auditing an additional one hundred and fifteen (115) tax returns prepared between 2012 and 2015. (*Id.* ¶ 31). All but three resulted in adjustments in favor of the government by a combined total of \$523,503. (*Id.* at 5 – 6 ¶¶ 32, 33).

The IRS then assigned a revenue agent to further investigate Chappell and Mosely. (*Id.* at 6 ¶ 35). The agent interviewed ten of their former customers, and many of them confirmed that Chappell and Mosley fabricated and misrepresented their information. (*Id.* ¶ 36). Many of the former customers also confirmed Chappell had submitted false or exaggerated schedules with their returns and that he failed to furnish them a copy of their return. (*Id.* ¶¶ 37, 38).

The government filed a complaint against Defendants on March 22, 2018 and served them on May 23, 2018. (Filing Nos. 1, 5, 6). The clerk entered default against Defendants on July 20, 2018 after they failed to defend or otherwise respond. (Filing No.

8). On September 18, 2018, the government filed a motion for a default judgment. (Filing No. 9). Defendants again did not respond.

II. Legal Standard

Obtaining a default judgment involves two separate steps. *VLM Food Trading*, 811 F.3d at 255. First, the plaintiff must obtain an entry of default from the clerk. *Id.* This establishes the liability of the defendant and requires the court to accept all well-pleaded allegations in the complaint as true. *Id.* (citing *Dundee Cement Co. v. Howard Pipe & Concrete Prods., Inc.*, 722 F.2d 1319, 1323 (7th Cir. 1983)). Second, the plaintiff must obtain a default judgment. *VLM Food Trading*, 811 F.3d at 255. This establishes that the plaintiff is entitled to the relief it seeks against the defendant. *See id.* (noting a default judgment determines the rights of the parties).

III. Discussion

The government seeks to permanently enjoin Chappell and G & A from preparing taxes under three sections in the Internal Revenue Code: (A) 26 U.S.C. § 7407, (B) 26 U.S.C. § 7408, and (C) 26 U.S.C. 7402(a). All three provide an independent basis to award an injunction. *See United States v. Stinson*, 729 F. App'x 891, 895 – 98 (11th Cir. 2018) (affirming injunction issued under all three sections).

A. 26 U.S.C. § 7407

Section 7407 authorizes the court to enjoin tax preparers who knowingly or recklessly prepare misleading returns. *See* 26 U.S.C. § 7407; *see also United States v. Burgess*, No. 18-1571, 2018 WL 6040268, at *2 (D. N.J. Nov. 19, 2018). Under Section

7407, the government must show that (1) the defendants are tax return preparers, (2) their conduct is prohibited; and (3) an injunction is necessary to prevent their conduct. *See id.* (citing § 7407(b)(1)(A) – (D)). Prohibited conduct includes misrepresentations related to the preparers eligibility, experience, or education as a tax return preparer; promises related to the receiving of a tax refund or any tax credit; deceptive conduct that substantially interferes with the proper administration of the internal revenue laws; or any conduct subject to penalty under 26 U.S.C. § 6694 or § 6695. *See* § 7407(b).

Here, Chappell and G & A have engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws. They have intentionally and recklessly understated their customers' tax liabilities and overstated their refunds in violation of 26 U.S.C. § 6694. (Complaint at 8 – 9 ¶¶ 51 – 56). They have violated § 6695(a), (b), and (c) by, at least on one occasion, failing to furnish a copy of the return to their customers, failing to properly sign the return, and failing to provide the correct tax preparer identification number. (Complaint at 9 – 10 ¶¶ 57 – 62). They also failed to comply with the due diligence requirements with respect to determining certain tax credits. (*Id.* ¶¶ 63 – 66); *see* § 6695(g). This conduct substantially interferes with the government's enforcement of the internal revenue laws and has caused significant losses to the government. (Complaint at 7 ¶ 45). Chappell and G & A continue to prepare returns despite knowing they are being investigated by the IRS, and an injunction is the only way to prevent them from preparing future returns. (Complaint at 6 – 7 ¶¶ 40 – 42; 10 ¶ 70); *see United States v. Brown*, 274 F.Supp.3d 794,

805 – 06 (N.D. Ill. 2017) (enjoining tax preparer who understated customers’ liabilities and improperly claimed tax credits and deductions); *Burgess*, 2018 WL 6040268, at *2 (enjoining tax preparer under Section 7407 because she willfully understated her customers’ tax liability and failed to exercise due diligence when calculating her customers’ eligibility for the American Opportunity Tax Credit). Accordingly, the court will issue an injunction pursuant to § 7407.

B. 26 U.S.C. § 7408

Section 7408 permits the court to enjoin an individual from engaging in any conduct subject to penalty under 26 U.S.C. § 6701. *Brown*, 274 F.Supp.3d at 805; *see also Stinson*, 729 F. App’x at 896. That section—§ 6701—penalizes, among other things, any person who procures a return with the knowledge that the return will be “used in connection with any material matter arising under the internal revenue laws” and, if used, would “result in an understatement of the liability for tax of another person.” 26 U.S.C. § 6701; *see also Stinson* 729 F. App’x at 896 – 97.

For many of the same reasons already given, an injunction is appropriate under § 7408. Chappell and G & A prepared many tax returns that they knew understated the individual’s tax liability. (Complaint at 8 – 9 ¶¶ 51 – 56). They manipulated their customers’ filing statuses, wage income, business income and expenses, and dependents’ statuses—all to secure lower tax liability for their customers. (*Id.* at 9 ¶ 56). They also misrepresented certain information to take advantage of the AIC, EOC, and additional

child tax credit. (*Id.* at 9 – 10 ¶ 63). This conduct violates Section 6701, and so the court will issue an injunction under Section 7408. *See Brown*, 274 F.Supp.3d at 805.

C. 26 U.S.C. 7402(a)

Section 7402(a) enables the court to enjoin any individual when it is necessary for the enforcement of the internal revenue laws. *Stinson*, 729 F. App'x at 897. However, the court may only do so after the government makes a sufficient showing of the traditional equitable factors for a permanent injunction: (1) irreparable injury, (2) inadequate remedy, (3) balance of hardships favors the moving party, and (4) public interest would not be disserved by an injunction. *Id.* (citations omitted); *see also eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006) (citations omitted) (listing the four equitable factors).

The government has easily satisfied all four factors. With respect to irreparable injury, Chappell and G & A have caused a significant amount of harm to the government—over one-million dollars in losses. (Complaint at 7 ¶¶ 44 – 46). Since they continue to prepare returns, the government will continue to lose money and will have to devote resources to monitoring Defendants. (*Id.*) Likewise, there is no adequate remedy at law because the harm is so widespread, and Defendants continue to fraudulently prepare returns despite being investigated by the IRS. Any monetary judgment would not thwart their business. *See Burgess*, 2018 WL 6040268, at * 3.

Additionally, both balancing tests weigh in favor of the government. Any harm suffered by Defendants pales in comparison to the harm suffered by the government—

again, the government has already suffered a loss that exceeds one million dollars due to fraudulent tax preparation. The public interest is also served by an injunction because Defendants' practices undermine the tax system and cause harm to their customers, who may now owe a tax deficiency. *Brown*, 274 F.Supp.3d at 806; *Burgess*, 2018 WL 6040268, at *3. Thus, an injunction is appropriate under Section 7402(a) because the government has satisfied the four equitable factors for a permanent injunction.

IV. Conclusion

For the reasons set forth above, the government's motion for default judgment (Filing No. 9) is **GRANTED**.

It is **ORDERED**:

1. The court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, enters a permanent injunction prohibiting Defendants from engaging in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701 and from engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws;

2. The court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, enters a permanent injunction enjoining Chappell and G & A Tax, their officers, agents, servants, employees, and attorneys, and anyone in active concert or participation with them, from directly or indirectly:

a. Preparing or assisting in the preparation of federal tax returns, amended returns, and other related documents and forms for others;

b. Advising, counseling, or instructing anyone about the preparation of

- a federal tax return;
- c. Filing or assisting in the filing of a federal tax return for others;
- d. Owning, managing, controlling, working for, or volunteering for a tax-return preparation business;
- e. Advertising tax return preparation services through any medium, including the internet and social media;
- f. Maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
- g. Representing customers in connection with any matter before the IRS;
- h. Employing any person to work as a federal income tax return preparer;
- i. Referring any customer to a tax preparation firm or a tax return preparer, or otherwise suggesting that a customer use any particular tax preparation firm or tax return preparer; and/or
- j. Engaging in any conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

3. The court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, enters a permanent injunction enjoining Chappell and G & A Tax, their officers, agents, servants, employees, and attorneys, and anyone in active concert or participation with him or with them, from directly or indirectly operating a business that prepares federal tax returns;

4. The court orders Chappell to prominently post a copy of this order with dimensions of at least 12 by 24 inches at all locations where G & A Tax conducts business;

5. The court, pursuant to I.R.C. §§ 7402, 7407, and 7408, orders Chappell to produce to counsel for the United States, within 30 days of this order, a list that identifies by name, social security number, address, email address, and telephone number and tax period(s) all persons for whom he and G & A Tax prepared federal tax returns or claims for a refund, for processing years beginning in 2013 and continuing through this litigation;

6. The court, pursuant to I.R.C. §§ 7402, 7407, and 7408, orders Chappell, within 30 days of receiving this order, to contact by U.S. mail and, if an email address is known, by email, all persons for whom Chappell and G & A Tax have prepared federal tax returns, amended tax returns, or claims for refund since January 2013, as well as all employees or independent contractors he or G & A Tax has had since January 2013, and to inform them of the permanent injunction entered against him and G & A Tax by sending each of them a copy of the order of permanent injunction, with no other enclosures unless approved by the Department of Justice;

7. The court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, hereby orders Defendant Chappell within 45 days of receiving the Court's order, to file a declaration, signed under penalty of perjury, confirming that he has received a copy of the Court's order and complied with the terms described in Paragraphs 4 and 6 of this order.

8. The court authorizes the United States to engage in post-judgment discovery to monitor Defendants' compliance with the terms of this injunction;

9. The court retains jurisdiction over this civil action for the purpose of enforcing the terms of the injunction entered against Defendants.

SO ORDERED this 4th day of January 2019.


RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

Distributed Electronically to Registered Counsel of Record.

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