

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO: 1:22-cv-21740-JLK

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
TUPS TAX, LLC; CINDY ODIGE;)
RUDY ALY; and RHONDA HUDGE,)
)
Defendants.)
)

ORDER AND JUDGMENT OF PERMANENT INJUNCTION

Before the Court is a Motion for Partial Default Judgment on Counts I, II, and III of the Complaint Against Rudy Aly. DE 14. For the reasons stated below, the motion is granted, and judgment is entered in favor of the United States and against Rudy Aly on Counts I, II, and III of the Complaint.

FINDINGS OF FACT

On June 6, 2022, the United States filed suit against TUPS Tax LLC, Cindy Odige, Rudy Aly, and Rhonda Hudge, seeking to permanently enjoin them from preparing tax returns for others and to disgorge the ill-gotten gains from fraudulently prepared returns. DE 1.

Although he waived service, DE 6, Mr. Aly has neither filed a response to the Complaint nor entered his appearance in this case. Mr. Aly is not in military service of the United States or detailed to any branch of the United States' armed forces. *See* DE 10-1, *Declaration of Christina T. Lanier*, ¶ 6; 10-2, *Status Report Pursuant to Servicemembers Civil Relief Act*. Mr. Aly is also neither a minor nor is he incompetent. DE 10-1, ¶ 7. The United States sent to Mr. Aly via

Federal Express a request for waiver of personal service of the summons and complaint. Along with this request, the United States sent notice of the lawsuit, a copy of the complaint, and a confidential customer key. After he failed to file a responsive pleading, the United States applied for an entry of default (DE 10), and the Clerk of the Court entered default against Mr. Aly on August 25, 2022 (DE 11). Consequently, Mr. Aly is deemed to have admitted all well-pled allegations of the complaint. *See Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1307 (11th Cir. 2009); *see also* Fed. R. Civ. P. 8 (b)(6).

On October 19, 2022, the Court granted the United States' motion (a) to seek partial default against Mr. Aly as to Counts I-III within fourteen days of that Order, (b) to conduct discovery about disgorgement Mr. Aly owes to the United States, and then (c) to file a second motion for partial default judgment as to Count IV within 90 days of that Order. DE 13 (Order); 12 (Motion).

The United States seeks an order to end Mr. Aly's fraudulent conduct and to prevent future harm to the United States and the public by permanently enjoining him from preparing or filing federal tax returns for others. Through this filing, the United States seeks a permanent injunction against Mr. Aly under 26 U.S.C. §§ 7407 (Count I), 7408 (Count II), and 7402 (Count III). DE 1, ¶ 62–80.

Rudy Aly has prepared taxes since at least 2011. *Id.* ¶ 8. He obtained a Personal Tax Identification Number ("PTIN") from the IRS that he uses to identify himself on returns he prepares for customers. *Id.* Mr. Aly resides in Miami, Florida. *Id.* Each TUPS preparer, including Mr. Aly, uses their own PTIN, but tax returns prepared by all TUPS's preparers are e-filed using the Electronic Filing Identification Number ("EFIN") assigned to TUPS. *Id.* ¶ 10. At the same

time, Mr. Aly filed returns with PTINs not assigned or affiliated with him. *Id.* ¶ 11. Mr. Aly misused another individual's PTIN to file tax returns in 2020. *Id.*

TUPS and its return preparers, including Mr. Aly, prepare thousands of returns every year. *Id.* ¶ 12, 17. From 2016 to 2021, TUPS preparers submitted 8,256 federal income tax returns. *Id.* ¶ 17. Mr. Aly prepares hundreds of tax returns each year. *Id.* ¶ 14. Between 2016 and 2021, he prepared 5,557 returns. *Id.* Of those returns prepared by Mr. Aly, 99.8% claimed refunds, and 65.7% claimed the Earned Income Tax Credit ("EITC"). *Id.* Mr. Aly and his Co-Defendants typically charge between \$50 and \$800 per return, purportedly based on the complexity of the returns. *Id.* ¶ 18. These fees are, in some cases, deducted from the refund claimed so that the customer only receives the refund net of Defendants' fees. *Id.* In other cases, customers paid cash directly to the preparer or TUPS. *Id.*

Along with preparing returns, Mr. Aly reviewed all returns prepared and filed by other TUPS return preparers. *Id.* ¶ 15. Mr. Aly also trains other TUPS return preparers and reviews tax information and updates annually. *Id.* ¶ 15.

Mr. Aly actively participated in each fraudulent scheme described in the Complaint. *See* DE 1. Since at least 2017, Mr. Aly has falsified information on returns, often without his clients' knowledge, to claim several credits to which these clients were not entitled. He has used bogus Schedule C losses and falsified household help income to make clients eligible for Earned Income Tax Credits ("EITCs") when they were either entitled to none or significantly lower amounts of that credit. He has also claimed credits for off-highway fuel use, residential solar energy, qualified and family sick leave, and education expenses either without his clients' permission or their knowledge. These extensive fraudulent schemes are recounted in the United States' Complaint. *See* DE 1.

Mr. Aly and his Co-Defendants' pattern of preparing fraudulent returns has resulted in a significant loss in federal tax revenue. DE 1, ¶ 56. In many instances, Mr. Aly's fraudulent overstatements of their customers' refunds and credits caused the United States to issue refunds that the customers were not entitled to receive. *Id.* ¶ 57. Based on the returns that it has examined, the United States has likely lost millions of dollars in tax revenue each year from Defendants' consistent understatement of liabilities and overstatement of refunds. *Id.* ¶ 58. Solely for the 85 fraudulent 2019 and 2020 returns selected for examination (*see* DE 1, ¶ 20), the understated tax or overstated refunds totaled \$613,096. *Id.* The United States has had to bear the substantial cost of examining the returns Mr. Aly have prepared and collecting the understated liabilities from his and his Co-Defendants' customers. *Id.* ¶ 59.

Along with the direct harm caused by preparing tax returns that fraudulently understate customers' tax liabilities or overstate their refunds, Mr. Aly's activities encourage customers' noncompliance with internal revenue laws by preparing returns that did not honestly and accurately reflect the information the customers provided. *Id.* ¶ 60. Similarly, his fraudulent use of the Earned Income Tax Credit undermines public confidence in a statutory credit meant to encourage low-income workers with young children to maintain employment. *Id.* ¶ 61.

CONCLUSIONS OF LAW

For the reasons stated above, the Court concludes that Mr. Aly is an income tax return preparer who has repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695 and is subject to injunctive relief under 26 U.S.C § 7407. Mr. Aly has also repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. § 6701 and is subject to injunctive relief under 26 U.S.C § 7408. A permanent injunction is necessary to prevent such conduct in the future. A permanent injunction is also necessary or appropriate under

26 U.S.C. § 7402 to enforce the internal revenue laws. *See, e.g., United States v. Stinson*, 239 F. Supp. 3d 1299 (M.D. Fla. 2017).

ORDER OF PERMANENT INJUNCTION

Pursuant to 26 U.S.C. §§ 7407, 7408, and 7402, and Fed. R. Civ. P. 65:

IT IS HEREBY ORDERED that Rudy Aly, and all those acting on his behalf, is, effective from the date of this Order, permanently enjoined pursuant to Internal Revenue Code (26 U.S.C.) §§ 7407, 7408, and 7402(a) from:

- (1) Preparing, assisting in the preparation of, or directing the preparation of federal tax returns, amended returns, or other tax-related documents and forms, including any electronically submitted tax returns or tax-related documents, for any entity or person other than himself.
- (2) Filing, assisting in the filing of, or directing the filing of federal tax returns, amended returns, or other tax-related documents or forms, including any electronically submitted tax returns or tax-related documents, for any entity or person other than himself.
- (3) Using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN or EFIN, including those assigned to others and misused by him.
- (4) Owning, managing, assisting, working for, profiting from, or volunteering for any individual, business, or entity that prepares or assists in the preparation of tax returns, amended returns, or other tax-related documents or forms, including any electronically submitted tax returns or tax-related documents.
- (5) Transferring, selling, or assigning his customer lists and/or other customer information.

(6) Engaging in activity subject to penalty under any provision of the Internal Revenue Code (Title 26 of the U.S. Code).

(7) Engaging in conduct that substantially interferes with the proper administration and enforcement of tax laws.

IT IS FURTHER ORDERED that Mr. Aly is prohibited from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to any tax return preparation business to which he or any entity under his control is a party. He may not undertake any of those activities himself or through an entity.

IT IS FURTHER ORDERED that Mr. Aly is barred from doing any of the following, directly or through an entity:

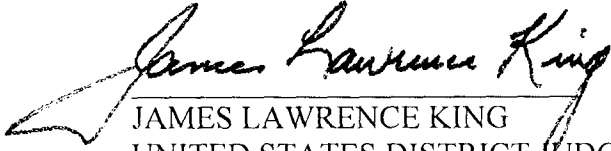
- (1) Transferring to any individual or entity (except a governmental tax authority) any information about customers for whom Mr. Aly or any associated person or entity has prepared a tax return at any time since January 1, 2013.
- (2) Selling to any individual or entity any proprietary information pertaining to any business or name through which Mr. Aly, or those acting at his direction, have at any time since January 1, 2013, prepared a tax return.

IT IS FURTHER ORDERED that within 15 days of the Court's Order, Mr. Aly must provide a copy of the Court's Order to any tax preparation business or store where he worked since January 1, 2018. Within 30 days of the Court's Order, he must provide to counsel for the United States a signed and dated acknowledgment of receipt of the Court's Order for each person or entity to whom he provided a copy of the Court's Order.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over Mr. Aly and over this action to enforce the permanent injunction entered against him.

IT IS FURTHER ORDERED that the United States may conduct discovery to monitor Mr. Aly's compliance with the terms of the permanent injunction entered against him.

DONE AND ORDERED in Chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 25th day of October, 2022.


JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

cc: All counsel of record