

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

|                           |   |                            |
|---------------------------|---|----------------------------|
| UNITED STATES OF AMERICA, | ) |                            |
|                           | ) |                            |
| Plaintiff,                | ) |                            |
|                           | ) |                            |
| vs.                       | ) | Case No. 4:19-cv-00073-JAR |
|                           | ) |                            |
| MARK TONY BAKER, SR,      | ) |                            |
| d/b/a MARK BAKER TAX and  | ) |                            |
| TAXES BY MARK, et al.,    | ) |                            |
|                           | ) |                            |
| Defendants.               | ) |                            |
|                           | ) |                            |

**DEFAULT JUDGMENT AND  
ORDER OF PERMANENT INJUNCTION**

This matter is before the Court on Plaintiff United States of America’s Motion for Default Judgment of Permanent Injunction. (Doc. 9.)

In its complaint, the United States alleges the following (Doc. 1): For a number of years, Defendants Mark Tony Baker, Sr., and Brook James Askew, each doing business under multiple names, offered federal tax preparation services as “ghost preparers”—an illicit practice in which they are paid to fill out tax forms without signing their names or otherwise identifying their involvement. By tracing online returns filed using IP addresses associated with Defendants, the IRS estimates that they prepared more than 1,500 tax documents, claiming fraudulent credits, fabricating business income and expenses, and falsifying itemized deductions, thereby inflating the taxpayers’ refunds.

The United States sought a permanent injunction barring Defendants from participating in the preparation of tax documents and ordering them to produce a list of all taxpayers for whom they provided services. (Doc. 1.) By February 7, 2019, both Askew and Baker had been served.

(Doc. 5.) On March 20, 2019, three weeks after the time to file an answer had expired, the United States filed a Motion for Entry of Clerk's Default. (Docs. 6, 7.) On March 25, default was entered against both defendants. (Doc. 8.) The United States now moves for default judgment and entry of the injunctions sought in its complaint. (Doc. 9.)

### **Legal Standard**

District Courts are authorized to enter judgments and grant relief when “necessary or appropriate for the enforcement of the internal revenue laws.” 26 U.S.C. § 7402(a). A Court is specifically authorized to enter a permanent injunction against a tax return preparer if it finds:

(1) that a tax return preparer has—

(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as a tax return preparer,

(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

(D) engaged in any other fraudulent or deceptive conduct which 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,

26 U.S.C. § 7407; *see also* § 7408.

### **Findings of Fact<sup>1</sup>**

1. Defendants fabricated Schedule C business income and expenses to understate customers' income and generate false refunds. Specifically, Defendants reported non-

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<sup>1</sup> The Court's findings of fact are based on the United States' unchallenged allegations as set forth in its Complaint (Doc. 1), and Memorandum Supporting Motion for Default Judgment (Doc. 10).

- existent businesses and fabricated income and expenses for legitimate businesses, reducing tax liability or increasing refund amounts.
2. Defendants claimed false Schedule A deductions to fraudulently reduce their customers' tax liabilities. Specifically, Defendants falsified itemized deductions, claimed fictitious charitable contributions, and invented unreimbursed employee business expenses.
  3. Defendants manipulated income and expenses to maximize the Earned Income Tax Credit ("EITC"). The EITC is a refundable credit which amount is based on the intersection of the taxpayer's income and number of dependents. Defendants inflated or fabricated business income or claimed fictitious expenses to reduce income so that the customer would be eligible for the greatest EITC available.
  4. Defendants falsely claimed American Opportunity Tax Credits ("AOTC") for customers who were not eligible. The AOTC is a refundable credit for taxpayers who attended college and had qualifying expenses. Defendants listed taxpayers as enrolled in college and fabricated expenses to trigger the \$1,000 credit, thereby reducing tax liability or generating a bogus refund.
  5. Defendants' illicit conduct leaves their customers to face deficiency assessments, interest, and/or penalties.
  6. Defendants' illicit conduct diverts the IRS's resources and undermines public confidence in the administration of the federal tax system.

### **Discussion**

Based on the affidavits and supporting documentation submitted by the United States, the Court finds that Defendants engaged in conduct subject to penalty under the Internal Revenue

Code by engaging in fraudulent or deceptive conduct that substantially interfered with the proper administration of the tax code. Specifically, Defendants intentionally manipulated income, fabricated deductions, claimed bogus credits, and falsified expenses.

Further, given the extensive course of past misconduct—thousands of tax documents over several years—the Court believes that a permanent injunction barring Defendants from tax preparation services is appropriate and necessary to prevent future misconduct.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff United States of America's Motion for Default Judgment of Permanent Injunction (Doc. 9), is **GRANTED**.

**IT IS FURTHER ORDERED** that Defendants Mark Tony Baker, Sr., and Brook James Askew, as well as any current or former d/b/a or business entity under their control, are **PERMANENTLY ENJOINED** from:

1. Acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
2. Owning, operating, managing, working in, investing in, providing capital or loans to, receiving fees or remuneration from, controlling, licensing, consulting with, or franchising a tax return preparation business;
3. Maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
4. Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6701, or any other penalty provision in the Internal Revenue Code;

5. Training, advising, counselling, instructing, or teaching anyone about the preparation of federal tax returns;
6. Appearing as a representative on behalf of any person or entity before the IRS; and
7. Engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

**IT IS FURTHER ORDERED** that Defendants Mark Tony Baker, Sr., and Brook James Askew, **SHALL**, at their own expense:

1. **Immediately and permanently** close all tax return preparation operations that Baker and Askew own or operate individually and through any entity, whether those operations do business as Mark Baker Tax, Taxes by Mark, Brook Tax Man, or under any other name;
2. Produce to counsel for the United States, **within thirty (30) days of the Court's order**, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) for all persons for whom they prepared federal tax returns or claims for a refund for tax years beginning with January 1, 2014 and continuing through this litigation;
3. **Between March 13, 2020 and March 27, 2020**, send by U.S. mail or email a copy of the final injunction entered against Baker and Askew in this action to each person for whom Baker and Askew prepared federal tax returns or any other federal tax forms since January 1, 2014; and
4. **Within thirty (30) days of the Court's order**, each file with the Court and serve on counsel for the United States certifications signed under penalty of perjury by Baker and Askew, respectively, stating that each has received the executed copy of this order;

**IT IS FURTHER ORDERED** that the IRS may immediately revoke any EFIN and PTIN held by, assigned to, or used by Baker and Askew;

**IT IS FURTHER ORDERED** that the United States may engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure in order to monitor compliance with the Court's injunction;

**IT IS FINALLY ORDERED** that the Court shall retain jurisdiction over this action to enforce the terms of the permanent injunction against Baker and Askew.

Dated this 3rd day of March, 2020.

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE