

RECEIVED

AUG 13 2004

ROBERT H. SHEMPELL, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED

AUG 19 2004

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARLENE GILBERT,

Defendant.

ROBERT H. SHEMPELL, CLERK
BY mlf DEPUTY

Civil Action No. **CV04-1702**
JUDGE DRELL

A

MAGISTRATE JUDGE KIRK

FINAL JUDGMENT OF PERMANENT INJUNCTION

Plaintiff United States of America commenced this action by filing a Complaint for Permanent Injunction and Other Relief (the "Complaint"). The Complaint seeks injunctive and other relief against the defendant, Darlene Gilbert ("Gilbert").

The United States alleges that Gilbert prepared or assisted in preparing federal income tax returns on which individual taxpayers who worked as mariners aboard their employers' vessels claimed daily (per diem) incidental expense deductions that exceeded the allowable deduction by amounts between approximately \$30 and \$70 per day, in violation of the Internal Revenue Code.

Gilbert does not admit or deny the allegations in the Complaint, except Gilbert admits (i) that she resides in Olla, Louisiana, (ii) that she does business as a federal income tax preparer with an office in Columbia, Louisiana, and (iii) that the Court has jurisdiction over her and over the subject matter of this action.

By her Consent, affixed hereto, Gilbert has waived the entry or making of findings of fact and conclusions of law, and consents to the entry of this Final Judgment of Permanent Injunction without admitting or denying that grounds exist for imposition of an injunction.

NOW, THEREFORE, it is accordingly **ORDERED, ADJUDGED, AND DECREED** that:

1. The Court has jurisdiction over this action pursuant to Sections 1340 and 1345 of Title 28 of the United States Code, and Sections 7402, 7407, and 7408 of the Internal Revenue Code of 1986, as amended (26 U.S.C.) (the "Code").

2. The Court finds that Gilbert has neither admitted nor denied the United States' allegations that she has engaged in conduct that is subject to penalty under Sections 6694 and 6701 of the Code, or that otherwise interferes with the enforcement of the internal revenue laws of the United States.

3. The Court finds that Gilbert has consented to the entry of a final judgment for injunctive relief pursuant to Code Sections 7402, 7407, and 7408 to prevent her from engaging in conduct subject to penalty under Sections 6694 and 6701 of the Code.

4. Pursuant to Code Section 7407, it is further **ORDERED, ADJUDGED, AND DECREED** that Gilbert, individually and doing business as or through any other entity, and anyone in active concert or participation with her, including any agent, servant, or employee, is permanently enjoined and restrained from, directly or indirectly, by the use of any means or instrumentalities:

- a. engaging in any conduct subject to penalty under Code Section 6694, *i.e.*, preparing any part of a return, amended return, or claim for refund that includes an unrealistic position, including, without limitation, inflated

- claims for the deduction of business or employee expenses;
- b. assisting or aiding others to evade the payment of taxes or to prepare false or fraudulent federal income tax returns;
- c. engaging in conduct that substantially interferes with the administration or enforcement of the internal revenue laws.

5. Pursuant to Code Sections 7402 and 7408, it is further **ORDERED, ADJUDGED, AND DECREED** that Gilbert, individually and doing business as or through any other entity, and anyone in active concert or participation with her, including any agent, servant, or employee, is permanently enjoined and restrained from, directly or indirectly, by the use of any means or instrumentalities:

- a. engaging in conduct subject to penalty under Code Section 6701, *i.e.*, preparing or assisting others in preparing any document (i) that is to be used in connection with any material matter arising under the internal revenue laws and (ii) that Gilbert knows will (if so used) result in understating the income tax liability of another person;
- b. engaging in conduct that interferes with the administration or enforcement of the internal revenue laws, including preparing or assisting in preparing any return, amended return, refund claim, or other document to be filed with the IRS and that claims deduction for amounts in excess of those allowed by the Internal Revenue Code.

6. It is further **ORDERED, ADJUDGED, AND DECREED** that Gilbert shall provide to counsel for the United States, within fourteen (14) days after entry of this Final Judgment, a complete list of the persons for whom she has prepared any federal income tax return, amended return, or refund claim containing or including deductions for per diem employee expenses that exceed the amount of deductible expenses allowed by the Internal Revenue Code, from January 1, 2000 through the present, such list to include for each such person the name, address, phone number, e-mail address (if known), social security number or

employer identification number, and the tax period(s) to which or for which such return, amended return, or refund claim relates.

7. It is further **ORDERED, ADJUDGED, AND DECREED** that, within twenty-one (21) days after entry of this Final Judgment, Gilbert shall file with the Clerk of this Court, with a copy provided to counsel for the United States, a sworn certificate of compliance, stating that she has complied with paragraph 6 of this Final Judgment.

8. It is further **ORDERED, ADJUDGED, AND DECREED** that Gilbert, at her own expense, shall contact all persons for whom she prepared a federal income tax return, amended return, or claim for refund that contained excessive per diem employee expense deductions or excessive per diem business expense deductions, from January 1, 2000 through the present, and inform each such person of (i) the entry of this Final Judgment, (ii) the possibility of the imposition of penalties against them, and (iii) the possibility that the United States may seek to collect additional federal income taxes, penalties, and interest that they may owe.

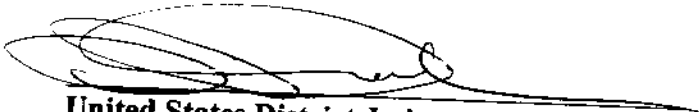
9. It is further **ORDERED, ADJUDGED, AND DECREED** that this Court shall retain jurisdiction of this action for the purpose of implementing and enforcing this Final Judgment and any and all additional decrees and orders necessary and appropriate to the public interest.

10. It is further **ORDERED, ADJUDGED, AND DECREED** that, to monitor the Defendant's compliance with this Final Judgment, the Government may engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure.

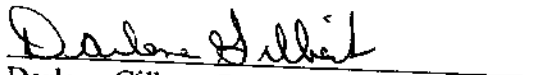
There being no just reason for delay, the Clerk is directed to enter this Final Judgment forthwith.

Each party shall bear its own costs, fees, and expenses of this action.


SO ORDERED this 18th day of August, 2004.


United States District Judge

Approved and Agreed:


Darlene Gilbert, Pro Se
2470 College Avenue
Olla, LA 71465
Tel: (318) 495-7993

Dated: Aug 4, 2004


Gerald B. Leedom, D.C. Bar # 912675
Attorney, Tax Division, U.S. Department of Justice
P.O. Box 7238
Washington, D.C. 20044
Tel: (202) 514-6544
Fax: (202) 514-6770
Attorney for the United States of America

Dated: 8/9, 2004