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Discussion

The United States seeks a permanent injunction pursuant to 26 U.S.C. §§ 7402, 7407 and 7408. Section 7402 gives the district courts “jurisdiction to make and issue in civil actions . . . orders of injunction . . . and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. 26 U.S.C. § 7402(a).

Sections 7407 and 7408 set forth specific criteria for injunctive relief. Therefore the United States need only meet those statutory criteria, without reference to the “traditional requirements for equitable relief,” for the Court to issue an injunction under those sections. United States v. Estate Pres. Servs., 202 F.3d 1093, 1098 (9th Cir. 2000). To obtain an injunction under section 7407 the United States may show that the defendant “engaged in any conduct subject to penalty under [26 U.S.C. § 6695] or subject to any criminal penalty provided by [the Internal Revenue Code]” and “that injunctive relief is appropriate to prevent the recurrence of such conduct.” 26 U.S.C. § 7407(b)(1).

To obtain an injunction preventing the defendant from acting as an income tax return preparer, the United States must additionally show that defendant engaged in such conduct “continually or repeatedly” and that “an injunction prohibiting such conduct would not be sufficient to prevent such person’s interference with the proper administration of” the Internal Revenue Code. 26 U.S.C. § 7407(b)(2). To obtain an injunction pursuant to section 7408, the United States may show that the defendant engaged in conduct subject to penalty under 26 U.S.C. 6701 (aiding and abetting understatement of tax liability) and “that injunctive relief is appropriate to prevent recurrence of such conduct.” 26 U.S.C. § 7408.

Findings of Fact

“If the court determines that the defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true.” 10A Charles A. Wright, Arthur R. Miller & Mary K. Kane, Federal Practice & Procedure § 2688 (3d ed. 1998). Accordingly, the Court makes the following findings of fact:

1. Susan O’Brien was personally served with a summons and a copy of the

1 complaint on July 10, 2007.

2 2. She did not file an answer within twenty days and the United States requested
3 that the Clerk enter default.

4 3. The Clerk of the Court entered a default pursuant to Fed. R. Civ. P. 55(a)
5 against O'Brien on October 12, 2007.

6 4. O'Brien prepares fraudulent federal tax returns for customers.

7 5. O'Brien prepares tax returns through the business The O'Brien Group.

8 6. O'Brien is a federal income tax return preparer engaged in the unlawful
9 promotion of a tax scheme in which she gives customers false and fraudulent tax advice
10 regarding the I.R.C. § 197 Amortization Tax Deduction and prepares fraudulent tax returns
11 for customers to implement the scheme.

12 7. O'Brien prepares customers' federal income tax returns consistent with her
13 scheme by improperly claiming fraudulent IRC § 197 Amortization Deductions.

14 8. The IRS has identified more than \$6.5 million in fraudulent amortization
15 deductions claimed on returns prepared by The O'Brien Group.

16 **Conclusions of Law**

17 Based on the above findings of fact, the Court concludes that O'Brien has
18 continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694,
19 6695 and 6701 and in fraudulent and deceptive conduct that interfered with the
20 administration of the internal revenue laws. The Court concludes that injunctive relief is
21 appropriate to prevent the recurrence of such conduct and that a narrow injunction only
22 prohibiting O'Brien from engaging in such conduct would be insufficient to prevent
23 O'Brien's further interference with the administration of the internal revenue laws.
24 Accordingly, the Court concludes that a permanent injunction is necessary and appropriate
25 in this instance to enforce the internal revenue laws.

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Order

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2 Based on the above findings of fact and conclusions of law, the Court grants the
3 United States' motion for default judgment against defendant Susan Ellen O'Brien and
4 orders that:

5 A. Pursuant to 26 U.S.C. §§ 7402(a) and 7407, Susan Ellen O'Brien is
6 permanently enjoined from preparing or assisting in the preparation of federal income tax
7 returns on behalf of any person other than herself;

8 B. Pursuant to 26 U.S.C. §§ 7402(a) and 7408, O'Brien, individually and doing
9 business as The O'Brien Group or under any other name or using any other entity, is
10 permanently enjoined from directly or indirectly:

11 (1) acting as a federal income tax return preparer or requesting, assisting in,
12 or directing the preparation or filing of federal tax returns or other tax forms for any person
13 or entity other than themselves, or appearing as representatives on behalf of any person or
14 organization whose tax liabilities are under examination by the Internal Revenue Service;

15 (2) filing or helping to prepare or file federal income tax returns, amended
16 returns, or other tax related documents or tax forms for any person or entity other than
17 herself;

18 (3) organizing or selling tax shelters, plans, or arrangements that advise or
19 assist taxpayers to attempt to understate their federal tax liabilities or evade the assessment
20 or collection of their correct federal tax;

21 (4) understating customers' liabilities as subject to penalty under 26 U.S.C.
22 § 6694;

23 (5) engaging in any activity subject to penalty under 26 U.S.C. §§ 6694,
24 6695, 6700, 6701 or any other penalty provision of the Internal Revenue Code; and

25 (6) engaging in any other conduct that substantially interferes with the proper
26 administration and enforcement of the internal revenue laws.

27 C. Pursuant to 26 U.S.C. § 7402, that O'Brien shall within 30 days of this
28 order inform all persons or entities for whom she has prepared a federal tax return or form

1 since January 1, 2004, of the Court's entry of default judgment and permanent injunction
2 against her.

3 D. Pursuant to 26 U.S.C. § 7402, that O'Brien shall within 30 days of this order
4 file with the Court and serve upon plaintiff's counsel a list of persons or entities who have
5 had returns prepared by or received tax advice from O'Brien since January 1, 2004.

6 The United States shall personally serve a copy of this order on defendant O'Brien
7 and shall file with the Court proof of such service within 30 days of this order.

8 IT IS SO ORDERED

9 DATED: November 5, 2007

10 
11 MARILYN L. HUFF, District Judge
12 UNITED STATES DISTRICT COURT
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14 COPIES TO:
15 All parties of record.
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