

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

THE UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
LARRY J. HEATH, d/b/a	)	
HEATH’S INCOME TAX, and/or	)	
HEATH & HAMES INCOME	)	
TAX, and/or	)	
HEATH’S INCOME TAX II	)	
and	)	
ANDREW R. HEATH, d/b/a	)	
EXCELLENT TAX SERVICE	)	
	)	
Defendants.	)	

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

Plaintiff, United States of America, for its complaint against Defendants  
Larry J. Heath d/b/a Heath’s Income Tax and/or Heath & Hames Income Tax  
and/or Heath’s Income Tax II, and Andrew R. Heath d/b/a Excellent Tax Service,  
states as follows:

### **Nature of the Action**

1. Larry J. Heath and Andrew R. Heath are brothers who have prepared and filed, and continue to prepare and file, a tremendous number of fraudulent federal income tax returns for their customers. Larry Heath's and Andy Heath's fraudulent conduct is brazen. Their tax-fraud schemes include manufacturing expenses, deductions, credits and other adjustments for their customers to illegally inflate the tax refunds that their customers receive from the IRS.

2. Larry Heath first implemented these fraudulent return preparation practices at his tax preparation business. Andy Heath subsequently went to work for Larry and learned the fraudulent practices from Larry. Although they worked together and prepared fraudulent tax returns out of the same office for many years, the Heaths have expanded their reach and currently file fraudulent tax returns for customers through two separate tax preparation businesses, Heath's Income Tax II (Larry Heath) and Excellent Tax Service (Andy Heath). Larry Heath and Andy Heath continue to manipulate their customers' deductions, losses, expenses and/or charitable contributions with no justification to fraudulently obtain tax refunds for their customers. The resulting harm to the government collectively caused by the

Heaths is massive, and could be more than \$108 million. The United States brings this action to prevent future harm to the U.S. Treasury.

3. The United States brings this complaint pursuant to 26 U.S.C. (the Internal Revenue Code (“I.R.C.”)) §§ 7401, 7402(a), 7407 and 7408 to enjoin Larry J. Heath d/b/a Heath’s Income Tax and/or Heath & Hames Income Tax and/or Heath’s Income Tax II, and Andrew R. Heath d/b/a Excellent Tax Service, and all those in active concert or participation with them, from directly or indirectly:

- a. Acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns or amended returns (or other related tax forms or documents) for any person or entity other than preparing their own personal tax return(s);
- b. Appearing as a representative on behalf of any person or entity before the IRS;
- c. Owning, managing, controlling, working for, or volunteering for a tax-return-preparation business;
- d. Seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS Preparer Tax Identification Number (“PTIN”) and/or IRS Electronic Filing Identification Number (“EFIN”), or any other IRS service or program by which one prepares or files tax returns;

- e. Engaging in conduct subject to penalty under I.R.C. § 6701, including preparing or assisting in the preparation of, or advising with respect to, a document related to a material matter under the internal revenue laws that includes a position that Larry J. Heath d/b/a Heath's Income Tax II and Andrew R. Heath d/b/a Excellent Tax Service knows will, if used, result in an understatement of tax liability;
- f. Engaging in conduct subject to penalty under any provision of the Internal Revenue Code;
- g. Engaging in conduct designed or intended to, or having the effect of, obstructing or delaying an IRS investigation or audit; and
- h. Engaging in any other conduct that interferes with the proper administration and enforcement of the internal revenue laws.

#### **Authorization**

4. This action for injunctive relief is brought at the request of the Chief Counsel of the Internal Revenue Service ("IRS"), a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to 26 U.S.C. §§ 7401, 7402, 7407 and 7408.

#### **Jurisdiction and Venue**

5. Jurisdiction exists under 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402(a).

6. Venue is proper in this Court under 28 U.S.C. § 1391 because Larry Heath and Andy Heath reside in this judicial district and a substantial portion of the events giving rise to this action took place in this judicial district. In addition, Larry Heath d/b/a Heath's Income Tax and/or Heath & Hames Income Tax and/or Heath's Income Tax II conducts business in this judicial district at 278 Nelson Street, Cartersville, Georgia 30120, and Andy Heath d/b/a Excellent Tax Service conducts business in this judicial district at 5104 Cherokee Street, Acworth, Georgia 30101.

**The Defendants**

**a. Larry J. Heath**

7. Larry J. Heath is a paid tax return preparer who currently prepares and files federal tax returns for customers in Cartersville, Georgia. Larry Heath has been preparing tax returns since the early 1990s, and also has employed, trained, managed and directed several other tax return preparers at his tax return preparation businesses over the years. Larry Heath is not an attorney, Certified Public Accountant or enrolled agent, nor does he hold any other professional licenses or certifications.

8. Larry Heath purportedly graduated from Bakersfield Junior College with an associate's degree in criminology in 1975. He claims to have worked at H&R Block and attended a tax course there in approximately 1975. Subsequently, Larry Heath says that he worked as a police officer for the Shafter Police Department for five years, and then as an armored car driver until he began preparing tax returns full-time in 1991 or 1992. Larry Heath claims to have attended a Tax Wise seminar in 2005.

9. In approximately 1991 or 1992, Larry Heath claims to have started preparing tax returns out of his apartment at 34 Hannon Way, Cartersville, Georgia. Shortly thereafter, Heath started doing business as "Heath's Income Tax" and he obtained an Employer Identification Number ("EIN") for his tax return business in 1992. Heath continued to prepare tax returns as Heath's Income Tax when he moved to 416G Grassdale Road in Cartersville, Georgia, and then subsequently at his current business location at 278 Nelson St., Cartersville, Georgia 30120.

10. Until August of 2009, Larry Heath purportedly operated Heath's Income Tax as a sole proprietorship. On August 18, 2009, Heath filed a certificate of

incorporation with the State of Georgia and formed Heath's Income Tax, Inc., which was located at 278 Nelson St. in Cartersville.

11. At all relevant times, Larry Heath managed, controlled, supervised and directed all aspects of Heath's Income Tax, Inc., including training its employees and directing and supervising all aspects of the preparation and filing of his customers' tax returns.

12. In April 2010, the IRS suspended Larry Heath's Electronic Filing Identification Number ("EFIN") because of the large number of erroneous tax returns that he was preparing and filing with the IRS. The suspension of Heath's EFIN prevented him from e-filing tax returns for customers using his own personal EFIN. In response, and in order to further his tax-fraud scheme and in an attempt to hide his fraudulent activities and to obstruct the IRS's ongoing investigation of him, Larry Heath purportedly sold his tax return preparation business to Alicia Hames in late 2010. During the subsequent 2011 tax filing season the business was operated as Heath and Hames Income Tax at the same 278 Nelson St. location in Cartersville.

13. Although the name and supposed ownership of the business changed, the substance of Larry Heath's tax-fraud scheme did not. The same tax-fraud scheme

was perpetrated by Larry Heath under the business's new name, except that he was e-filing tax returns with the IRS using an EFIN obtained by Alicia Hames. Additionally, Heath continued to manage, control, supervise and direct all aspects of Heath and Hames Income Tax, including training its employees and directing and supervising all aspects of the preparation and filing of his customers' tax returns even though the business was supposedly sold to Alicia Hames. Indeed, it was understood prior to the supposed sale of the business to Ms. Hames that Larry Heath would remain in charge of the tax preparation business despite the supposed sale to Hames.

14. In late 2011, after Alicia Hames supposedly failed to pay Larry Heath the sale price for his tax return business, Heath again purportedly restructured the business in order to further his tax-fraud scheme and in an attempt to hide his fraudulent activities and to obstruct the IRS's ongoing investigation of him. This time, Larry Heath purportedly sold his business to Angela Bramlett. During the 2012 tax filing season the business was operated as Heath's Income Tax II at the same 278 Nelson St. in location in Cartersville.

15. Once again, although the name and supposed ownership of the business changed, the substance of Heath's tax-fraud scheme did not. The same tax-fraud



schemes were perpetrated by Larry Heath under the business's new name, and Larry Heath continued to e-file tax returns with the IRS using an EFIN obtained by Angela Bramlett. As before, Heath continued to manage, control, supervise and direct all aspects of Heath's Income Tax II, including training its employees and directing and supervising all aspects of the preparation and filing of his customers' tax returns. It was understood prior to the supposed sale of the business to Ms. Bramlett that Larry Heath would remain in charge of the tax preparation business despite the supposed sale to Bramlett.

**b. Andrew R. Heath**

16. Andrew R. Heath is Larry Heath's brother, and is a paid tax return preparer who currently prepares and files federal tax returns for customers in Acworth, Georgia. Andy Heath has been preparing tax returns since at least 2007. Like his brother Larry, Andy Heath is not an attorney, Certified Public Accountant or enrolled agent, nor does he hold any other professional licenses or certifications.

17. Andy Heath has no formal education in the preparation of tax returns. He learned to prepare tax returns through his brother, Larry Heath, while working at Heath's Income Tax from 2007 through 2010. Andy Heath claims to have attended a Tax Wise seminar on individual return preparation in Roswell, Georgia

in December of 2007, as well as a Tax Wise seminar on corporate return preparation in December of 2010.

18. Andy Heath worked for his brother Larry Heath at Heath's Income Tax from 2007 until 2010. Other than the brief seminars he purportedly attended, Andy Heath claims that he was trained in tax return preparation exclusively by his brother Larry Heath, and that he supposedly prepared returns under Larry Heath's direction and control while he was employed at Heath's Income Tax from 2007 until 2010.

19. In 2011, Andy Heath opened his own tax return preparation business and began doing business as Excellent Tax Service at 5194 Cherokee Street, Acworth, Georgia 30101. Andy Heath continues to prepare tax returns at this location today. Andy Heath perpetrates the same tax-fraud schemes that he learned from his brother Larry Heath.

20. As detailed more fully below, since at least 2007, Larry Heath and Andy Heath have employed several blatantly fraudulent tax schemes to understate their customers' true tax liability, and to obtain significantly inflated refunds for their customers. These fraudulent schemes include, but are not limited to, fabricating, among other things, losses, expenses, education credits, employee business

expenses and charitable contributions. These frivolous claims have resulted in substantially understated tax liabilities on their customers' tax returns.

### **The Defendants' Fraudulent Tax Preparation Activities**

21. From 2007 through 2010, Larry Heath and Andy Heath worked together at Heath's Income Tax where they prepared thousands of federal income tax returns per year. Of these returns, 94% contained a request for a refund. The number of tax returns prepared per year and the percentage requesting a refund are as follows:

<b>Processing Year</b>	<b>Returns Prepared</b>	<b>% Claiming Refunds</b>	<b>Larry and Andy Heath d/b/a</b>
2007	2,677	94%	Heath's Income Tax
2008	5,352	93%	Heath's Income Tax
2009	10,041	95%	Heath's Income Tax
2010	10,399	95%	Heath's Income Tax

22. For example, in 2009 over \$34 million in tax refunds were claimed and issued to customers of Heath's Income Tax.

23. The percentage of returns requesting a refund after Larry Heath's EFIN was suspended and he changed the name of his business remained unusually high.

The number of tax returns prepared per year by the supposed “new” businesses and the percentage requesting a refund are as follows:

<b>Processing Year</b>	<b>Returns Prepared</b>	<b>% Claiming Refunds</b>	<b>Larry Heath d/b/a</b>
2011	1,393	89%	Heath and Hames Income Tax
2012	1,267	86%	Heath’s Income Tax II

24. The tax returns that Andy Heath has prepared since opening his own tax return preparation business in 2011 have similar problems. In the past two years, Andy Heath has prepared at least 5,091 tax returns. Of these returns, 93% contained a request for a refund. The number of tax returns prepared per year and the percentage requesting a refund are as follows:

<b>Processing Year</b>	<b>Returns Prepared</b>	<b>% Claiming Refunds</b>	<b>Andy Heath d/b/a</b>
2011	3,429	94%	Excellent Tax Service
2012	1,662	92%	Excellent Tax Service

25. The IRS examined over 2,600 federal tax returns prepared by Larry Heath, Andy Heath and their respective businesses from 2007 through 2012. The examination revealed that Larry and Andy Heath are engaged in a pattern and

practice of filing federal tax returns containing patently false information. This false information includes, among other things, bogus losses, expenses, education credits, employee business expenses and charitable contributions. Of the returns examined for these years, 94.5% required IRS adjustments. The IRS calculated the average tax deficiency per return for the returns prepared by Larry Heath and Andy Heath to be approximately \$2,806 per tax return.

26. Larry Heath, as the owner and/or manager of Heath's Income Tax and/or Heath and Hames Income Tax and/or Heath Income Tax II, is responsible for this illegal activity. He hires, trains, supervises directs and manages his tax return preparing employees, as well as transmits all of the tax returns to the IRS. Larry Heath encourages his employees to illegally create bogus education credits, create or inflate charitable contributions, fabricate bogus "expenses" and manufacture false "losses," all to illegally obtain a refund for his customers, sometimes without his customers' full knowledge and understanding.

27. Likewise, Andy Heath, both as an employee of Heath's Income Tax, and as the owner and manager of Excellent Tax Service is responsible for the fraudulent tax returns that he prepared. Despite the fact that Andy no longer works alongside his brother Larry Heath, he has continued to illegally create bogus

education credits, create or inflate charitable contributions, fabricate bogus “expenses” and manufacture false “losses” to illegally obtain a refund for his customers, sometimes without his customers’ full knowledge and understanding. Currently, the only other employee of Andy Heath’s new business, Excellent Tax Service, is Joshua Heath, Andy Heath’s son. Andy Heath hired, supervises and directs Joshua Heath. Andy Heath’s EFIN now also has been suspended by the IRS, and he currently uses an EFIN obtained by Joshua Heath to transmit all of the tax returns he prepares to the IRS.

28. Larry Heath and Andy Heath and their businesses repeatedly prepared and filed, and continue to prepare and file, including as recently as the 2012 filing season, federal tax returns on behalf of their customers claiming false deductions and illegally manipulated losses and expenses, even though Larry Heath and Andy Heath are aware that: (a) many of their customers were being audited by the IRS; and (b) their businesses were under investigation by the IRS.

29. Larry Heath and Andy Heath direct and coordinate all aspects of the preparation and filing of their customers’ tax returns and ultimately are responsible for the fraudulent schemes described in this complaint.

### **The Mechanics of the Defendants' Tax-Fraud Schemes**

30. The goal of Larry Heath's and Andy Heath's tax-fraud scheme is to generate a tax refund for their customers that their customers would not otherwise be legally entitled to receive and, concomitantly, to increase their customer base and the amount of fees that the Heaths can collect for preparing their customers' tax returns.

31. Additionally, since both Larry Heath and Andy Heath rely almost exclusively on word-of-mouth advertising to bring in customers to their businesses, obtaining large tax refunds for customers spreads the word in the local community and results in long lines of customers at their businesses. Most of the Heaths customers are referred by co-workers, friends, neighbors and colleagues. The Heaths have become known in their communities for being able to obtain a tax refund for nearly all of their customers. Larry Heath and Andy Heath falsely tell their customers that the tax refunds that they obtain for them are legal and supported by the Internal Revenue Code.

32. To implement their tax-fraud scheme, Larry Heath and Andy Heath prepare tax returns for customers claiming false Schedule A deductions, bogus Schedule C expenses, improper tax credits and fictitious or grossly inflated

charitable contributions. The scheme is carried out by telling their customers to “bring in all their paperwork,” including receipts, bills and expenses, and then engaging in small-talk with their customers to elicit information from customers that can be used to gin up bogus expenses, deductions and credits in order to obtain a tax refund for their customers.

33. For example, when preparing a tax return, Larry Heath and Andy Heath (or someone working at their direction and control) ask questions about personal vehicle expenses, charitable contributions and business expenses. Some of these questions include variations of the following:

- a. “How many miles is it from your residence to your job?”
- b. “Do you have any vehicle expenses such as repairs?”
- c. “Did you incur any expenses for your job?”
- d. “Do you buy your lunch when you are at work?”
- e. “Do you perform any side-jobs or have any hobbies?”
- f. “Do you donate money or furniture?”

34. The Heaths or their employees use customers’ answers to these vague questions to invent bogus deductions for business mileage, business travel, entertainment expenses and charitable contributions, among other items. For



example, if a customer states that she drives 25 miles each way to her job at a local bank, Larry Heath and Andy Heath will invent numerous improper deductions for business mileage and fictitious vehicle maintenance costs to generate a tax refund. Larry Heath and Andy Heath know that miles traveled to an employee's job and personal vehicle maintenance costs are not deductible, but they routinely place these fraudulent items on their customers' tax returns to illegally generate a tax refund for their customers.

35. In other instances, Larry Heath and Andy Heath have almost no interaction with their customers before, during or after preparing their tax returns other than to collect their customer's "paperwork." Numerous customers reported to the IRS during interviews that they simply dropped off their Quick Books and/or bills, expenses and receipts to Larry Heath and/or Andy Heath, and then returned at a later date to sign and obtain a copy of their federal tax return. IRS audits of these customers show that the amounts that Larry Heath and Andy Heath reported on the customers' tax returns bore almost no relationship to the actual information that the customer gave to the Heaths. For example, Larry Heath and Andy Heath routinely inflate charitable contributions – in some cases by thousands of dollars – sometimes without their customers' knowledge and contrary to what is shown on

the customers' receipts presented to the Heaths. In addition, Larry Heath and Andy Heath routinely fabricate or grossly inflate education credits without asking their customers questions to determine if they actually qualify for an education credit. The Heaths blatantly inflate or completely concoct the deductions solely to reduce their customers' taxable income and obtain a tax refund.

36. Additionally, Larry Heath and Andy Heath improperly deduct non-existent, unsubstantiated or purely personal (i.e., non-business) expenses as Schedule C business expenses or unreimbursed employee business expenses. Typical bogus claims include false deductions for the use of personal vehicles, personal meals and supposed "office expenses." Larry Heath and Andy Heath also routinely deduct as purported business expenses: (1) improper personal travel-related costs; and (2) personal vehicle expenses and mileage.

37. As noted above, Larry Heath and Andy Heath also routinely deduct non-existing or unsubstantiated charitable contributions without consulting their customers, and the Heaths (and/or their employees) regularly deduct substantially more than the amount of cash or property actually donated by the customer.

38. Stated simply, the crux of Larry Heath's and Andy Heath's tax-fraud scheme is to obtain a tax refund for their customers without regard for the tax laws.

To do this, Larry Heath and Andy Heat illegally fabricate bogus expenses, manufacture false losses, and concoct inflated charitable contributions and education credits. Some specific examples of the Defendants' fraudulent tax preparation activities are as follows:

**J.L. and G.L.**

39. Larry Heath prepared the 2007 and 2008 federal income tax returns for J.L. and G.L. of Rydal, Georgia. J.L. and G.L. were referred to Larry Heath by a friend.

- a. Although J.L. was retired during these years, when preparing J.L.'s and G.L.'s 2007 and 2008 tax returns, Larry Heath falsely claimed that J.L. suffered substantial losses from a painting business. In fact, Larry Heath fabricated bogus Schedule C losses of \$33,918 in 2007 and \$33,123 in 2008 supposedly incurred by J.L.'s painting business so that the J.L. and G.L. would receive a tax refund. J.L. did not own or operate a painting business in 2007 or 2008 and the losses on his Schedule C were fabricated entirely by Larry Heath.

- b. Additionally, Larry Heath falsely claimed charitable contributions of \$9,200 in 2007 and \$19,220 in 2008 without any documentation and without J.L.'s and G.L.'s knowledge. J.L. and G.L. only contributed about \$360 per year to their church and had no other contributions. The excessive contribution amounts claimed on their 2007 and 2008 tax returns were manufactured entirely by Larry Heath.
- c. Larry Heath did not review these tax returns with J.L. and G.L. before he submitted them to the IRS. The IRS disallowed the bogus Schedule C losses and charitable contributions and J.L. and G.L. were required to pay the government \$25,835 in tax deficiencies.

**K.A. and L.A.**

40. Larry Heath prepared the 2007 and 2008 federal income tax returns for K.A. and L.A. of Canton, Georgia. K.A. and L.A. were referred to Larry Heath by a co-worker.

- a. Although K.A. was employed as a car salesman and received W-2 wages from a local car dealership, Larry Heath falsely claimed

that K.A. incurred substantial “business expenses” when preparing K.A.’s and L.A.’s 2007 and 2008 tax returns. In fact, Larry Heath fabricated bogus Schedule C expenses of \$12,951 in 2007 and \$25,078 in 2008 supposedly incurred by K.A.’s “business” so that K.A. and L.A. would receive a tax refund. K.A. did not own or operate a business in 2007 or 2008. The expenses on the Schedule C were fabricated entirely by Larry Heath.

- b. Additionally, Larry Heath falsely claimed unreimbursed employee business expenses for K.A., including a substantial amount of business miles and a large amount of meals and entertainment. Although K.A. incurred no such expenses in connection with his job as a car salesman, Larry Heath prepared a bogus Schedule A that contained unreimbursed employee business expenses of \$26,209 in 2007 and \$19,526 in 2008 so that K.A. and L.A. would receive a larger tax refund. The expenses on the Schedule A were fabricated entirely by Larry Heath.
- c. Larry Heath also falsely claimed charitable contributions of \$21,250 in 2007 and \$16,700 in 2008 without any documentation

and without K.A.'s and L.A.'s knowledge. K.A. and L.A. donated a modest amount to their mosque and had no other contributions. The fabricated contribution amounts claimed on their 2007 and 2008 tax returns were manufactured entirely by Larry Heath.

- d. Larry Heath did not review – or even discuss – any portion of these tax returns with K.A. and L.A. before he submitted the returns to the IRS. The IRS disallowed the bogus Schedule A and Schedule C expenses and charitable contributions and K.A. and L.A. were required to pay the government \$40,142 in tax deficiencies.

**D.M. and C.M.**

41. Larry Heath prepared the 2009, 2010 and 2011 federal income tax returns for D.M. and C.M. of Cartersville, Georgia. D.M. and C.M. were referred to Larry Heath by a friend.

- a. When preparing D.M.'s and C.M.'s federal tax returns, Larry Heath fabricated a substantial amount of supposed "office expenses" so that D.M. and C.M. could obtain a tax refund. Indeed, Larry Heath fabricated Schedule C deductions for office

expenses of \$26,463 in 2009, \$19,031 in 2010 and \$13,922 in 2011. C.M. was employed as a Loan Assistant at a local bank and D.M. was a Route Salesman and Independent Distributor of bread products and did not incur any such “office expenses” in these years. The expenses were concocted entirely by Larry Heath.

- b. Larry Heath also fabricated “donations” on D.M.’s and C.M.’s tax returns. Specifically, Larry Heath concocted \$4,144 in 2009 and \$4,500 in 2010 without any documentation and without D.M.’s and C.M.’s knowledge.
- c. Additionally, Larry Heath inflated deductions for, among other things, the amount of deductible vehicle expenses for D.M. and completely fabricated travel and entertainment expenses supposedly incurred by C.M. For example, in 2009 Larry Heath inflated D.M.’s vehicle expenses by \$16,661 and completely fabricated \$9,106 of travel and entertainment expenses for C.M. The expenses were exaggerated and/or concocted entirely by Larry Heath.

- d. Larry Heath did not review any portion of these tax returns with D.M. and C.M. before he submitted the returns to the IRS. The IRS disallowed the bogus Schedule C expenses and charitable contributions (among other items) and D.M. and C.M. were required to pay the government \$10,941 in tax deficiencies for the fraudulent 2009, 2010 and 2011 tax returns that Larry Heath prepared.

**M.H. and A.H.**

42. Andy Heath prepared the 2009, 2010 and 2011 federal tax returns for M.H. and A.H. of Cartersville, Georgia.

- a. On M.H.'s and A.H.'s tax returns, Andy Heath manufactured a substantial amount of bogus Schedule C business expenses. Specifically, Andy Heath fabricated vehicle expenses, business expenses and expenses for meals and entertainment for \$22,743 in 2009, \$7,192 in 2010 and \$11,602 in 2011 to offset other income and illegally generate a tax refund. In those years, M.H. was employed as a crane operator and A.H. was a principal at a local elementary school and they did not incur any deductible business



expenses in these years. M.H. and A.H. did not provide Andy Heath with any information indicating that they had incurred supposed business expenses and the expenses were concocted entirely by Andy Heath.

- b. Andy Heath also concocted bogus education credits that he used to further offset M.H.'s and A.H.'s income and generate a larger tax refund. Andy Heath entered bogus amounts of \$4,000 in 2009, \$3,500 in 2010 and \$4,000 in 2011. M.H. and A.H. had no qualifying education expenses in these years and the education credits were made up entirely by Andy Heath.
- c. Andy Heath did not review these tax returns with M.H. and A.H. before he submitted them to the IRS. The IRS disallowed the bogus Schedule C expenses and education credits and M.H. and A.H. were required to pay the government \$17,735 in tax deficiencies for the fraudulent 2009, 2010 and 2011 tax returns that Andy Heath prepared.

**B.P.**

43. Andy Heath prepared the 2010 federal tax return for B.P. of Cartersville, Georgia.

- a. When preparing B.P.'s 2010 return, Andy Heath falsely claimed that B.P. was entitled to a \$4,000 education credit. However, B.P. did not incur any education-related expenses in 2010 as he only attended work-related classes that were paid for by his employer. The education credits were made up entirely by Andy Heath.
- b. Additionally, Andy Heath fabricated vehicle maintenance expenses and equipment maintenance expenses supposedly associated with a part-time landscaping business run by B.P. However, B.P. did not incur any such expenses and the \$2,736 expense amount was completely concocted by Andy Heath.
- c. Andy Heath did not review this tax return with B.P. before he submitted the return to the IRS. The IRS disallowed the bogus Schedule C expenses and education credits and B.P. was required to pay the government \$2,912 in tax deficiencies for the fraudulent 2010 tax return that Andy Heath prepared.

**J.N. and D.N.**

44. Andy Heath prepared the 2010 federal tax return for J.N. and D.N. of Adairsville, Georgia. Both J.N. and D.N. are employed by the local county government.

- a. When preparing J.N.'s and D.N.'s 2010 returns, Andy Heath fabricated and grossly inflated Schedule C expenses purportedly incurred by J.N. and D.N. Although J.N. and D.N. are both full-time employees of the local county government, Andy Heath fabricated thousands of dollars of Schedule C expenses for utilities, insurance, vehicles and business travel and entertainment supposedly incurred by J.N. and D.N. on the weekends when they were attempting to sell a waterless carwash product. While J.N. and D.N. did have a small amount of legitimate vehicle expenditures, over \$3,000 of the Schedule C expenses were grossly inflated by Andy Heath.
- b. Andy Heath did not review these tax returns with the J.N. and D.N. before he submitted them to the IRS. The IRS disallowed

the bogus Schedule C expenses and J.N. and D.N. were required to pay the government \$3,375 in tax deficiencies.

45. Because Larry Heath and Andy Heath are responsible for preparing and filing all aspects of their customers' tax returns, they are able to, among other things, fabricate bogus "expenses," manufacture false "losses," concoct "education credits," and make-up or inflate charitable contributions to obtain a tax refund for their customers.

#### **Continual and Repeated Nature of the Defendants' Fraudulent Conduct**

46. The scope of Larry Heath's and Andy Heath's brazen misconduct is longstanding, wide-ranging and pervasive. The IRS conservatively estimates that since 2007, Larry Heath and Andy Heath have filed over 38,000 tax returns on behalf of their customers. Indeed, Larry Heath's and Andy Heath's fraudulent conduct has continued unabated despite the IRS's investigation of their businesses, as well as thousands of IRS audits of their customers.

47. Moreover, Larry Heath and Andy Heath have not meaningfully curtailed their improper conduct, even with increased IRS scrutiny of their activities in the past few years. Larry Heath and Andy Heath were aware of the IRS's investigation of their fraudulent activities as early as March 2010. Yet, Larry

Heath and Andy Heath continued to falsely insist that their tax-fraud schemes were a legal way to generate tax refunds for their customers. Indeed, after Larry Heath and Andy Heath learned they were under investigation by the IRS and that their EFINs had been suspended, they simply recruited other individuals to obtain an EFIN that Larry Heath and Andy Heath could use to circumvent the IRS and continue to electronically transmit fraudulent tax returns to the IRS.

#### **Harm to the United States**

48. Larry Heath has been preparing tax returns for approximately two decades. Andy Heath has been preparing tax returns for at least the last five years.

49. The fraudulent returns prepared and filed by Larry Heath and Andy Heath have caused and continue to cause substantial harm to the Government by fraudulently reducing customers' reported tax liabilities, helping taxpayers to evade taxes, and by obstructing the IRS's efforts to administer the federal tax laws.

50. The magnitude of lost tax revenue caused by Larry and Andy Heath's fraudulent conduct is massive. The IRS calculated an average tax deficiency of \$2,806 per tax return for the over 2,600 tax returns that the IRS was able to review for tax years 2007 through 2011. If the average deficiency can be applied across all returns they prepared, the tax loss to the government could exceed \$108 million.

51. The United States also is harmed because the IRS must devote limited resources to detecting and examining inaccurate returns filed by Larry Heath and Andy Heath, and to attempting to assess and collect unpaid taxes, and to investigating the Heath's conduct.

52. The Defendants' conduct described in this complaint establishes that: (1) Larry Heath's and Andy Heath's fraudulent returns have caused and continue to cause harm to the public fisc; (2) Larry Heath and Andy Heath are responsible for the preparation and filing of their customers' tax returns; (3) Larry Heath and Andy Heath prepare, procure, or advise with respect to the preparation of documents knowing (or having reason to believe) that they will be used in connection with material tax matters, and knowing that if they are so used they will result in understatement of customers' federal tax liabilities; (4) Larry Heath's and Andy Heath's fraudulent deductions, exemptions and credits continue despite the IRS's investigation of their improper conduct; (5) Larry Heath and Andy Heath falsely insist that they are doing nothing wrong; and (6) Larry Heath and Andy Heath are likely to continue the fraudulent conduct described in this complaint or other similar conduction unless they are permanently enjoined from preparing tax returns.

53. Larry Heath and Andy Heath have profited from preparing fraudulent tax returns by claiming fabricated deductions, exemptions and/or credits, and thereby reducing their customers' tax liabilities and/or increasing their refunds, essentially stealing from the U.S. Treasury.

54. Larry Heath's and Andy Heath's customers have been harmed because they paid Larry Heath and Andy Heath fees to prepare tax returns, and they now face large tax deficiencies and may be liable for sizeable penalties and interest as a result.

55. In addition to the direct monetary harm caused by preparing tax returns that understate customers' liabilities, Larry Heath's and Andy Heath's illegal activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

56. Larry Heath's and Andy Heath's conduct results in the IRS having to devote scarce resources to identifying their customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting any additional taxes and penalties.

**COUNT I: Injunction Under I.R.C. § 7407 For Violation of I.R.C. § 6694**

57. The United States incorporates by reference the allegations contained in paragraphs 1 through 56.

58. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from specified misconduct (which is described in I.R.C. §§ 6694 and 6695, and I.R.C. § 7407 itself) if the court finds that the preparer has engaged in such conduct and injunctive relief is appropriate to prevent the recurrence of such conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court finds that a narrower injunction (i.e., prohibiting only specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from acting as a federal tax return preparer.

59. I.R.C. § 6694(a) provides that a tax return preparer is subject to penalty if he prepares a return or claim for refund understating a customer's tax liability based on a position for which there was not a reasonable belief that the position



would more likely than not be sustained on the merits, and the preparer knew or should have known of the position.

60. I.R.C. § 6694(b) penalizes a tax return preparer for a willful attempt in any manner to understate the liability for tax on the return or claim, and for a reckless or intentional disregard of internal revenue rules or regulations.

61. I.R.C. § 6695(b) penalizes a tax return preparer for failing to sign tax returns he prepared.

62. I.R.C. § 6695(c) penalizes a tax return preparer for failing to furnish his identifying number on tax returns pursuant to I.R.C. § 6109(a)(4).

63. I.R.C. § 6695(d) penalizes a tax return preparer for failing to retain and provide a copy of his customer list upon request of the IRS pursuant to I.R.C. § 6107(b).

64. I.R.C. § 7701(a)(36) defines a “tax return preparer” as a person who prepares for compensation or who employs one or more persons to prepare for compensation, any return or a substantial portion thereof.

65. Larry Heath and Andy Heath are tax return preparers.

66. Larry Heath and Andy Heath willfully prepared tax returns for customers that they knew contained false deductions, losses, credits and expenses. Larry

Heath and Andy Heath knew that these false deductions, losses, credits and expenses would understate their customers' tax liabilities.

67. Larry Heath and Andy Heath knew or should have known that the returns they prepared for customers contained claims for which they could not have reasonably believed that the position would more likely than not be sustained on the merits. Larry Heath and Andy Heath fabricated these claims and their supporting documentation. There could be no possibility that these false deductions, losses, credits and expenses would be sustained on the merits because they were fabricated.

68. Preparing federal tax returns that willfully understate the taxpayer's liability and that contain unrealistic or unreasonable and frivolous positions subjects Larry Heath and Andy Heath to penalties under I.R.C. § 6694.

69. Anything less than a permanent and complete bar on the preparation of tax returns is unlikely to stop Larry Heath and Andy Heath from preparing fraudulent tax returns. Larry Heath's and Andy Heath's long record of deceit, fraud and no remorse shows there is a high likelihood that they will continue their schemes if they are merely barred from filing improper returns.

**COUNT II: Injunction Under I.R.C. § 7408 For Engaging in Conduct Subject to Penalty Under I.R.C. § 6701**

70. The United States incorporates by reference the allegations contained in paragraphs 1 through 69.

71. I.R.C. § 7408(a) authorizes a district court to enjoin persons who have engaged in conduct subject to penalty under I.R.C. § 6701.

72. Section 6701 imposes a penalty: (1) on a person who aids, assists, procures, or advises with respect to the preparation or presentation of any portion of a tax return, claim, or other document ("portion"); (2) when that person knows or has reason to know that such portion will be used in connection with a material matter arising under federal tax law; and (3) that person knows that such portion (if used) would result in an understatement of the liability for the tax of another person.

73. Larry Heath's and Andy Heath's conduct is subject to penalty under I.R.C. § 6701. Larry Heath and Andy Heath prepare and file fraudulent tax returns on behalf of customers who obtain unwarranted refunds as a result.

74. As tax return preparers, Larry Heath and Andy Heath knew or had reason to know that the tax returns that they prepared would be used as to material matters

under federal tax law. Additionally, as tax return preparers, Larry Heath and Andy Heath knew that the returns they prepared would result in understatements of customers' tax liability because Larry Heath and Andy Heath knew that the deductions, losses, credits and expenses on the returns they prepared were overstated or fabricated.

75. Accordingly, Larry Heath's and Andy Heath's conduct in connection with their preparation and filing of false tax returns is subject to penalty under I.R.C. § 6701.

76. These schemes have caused and continue to cause substantial harm to the Government by fraudulently reducing customers' reported tax liabilities, obtaining fraudulent refunds, and by obstructing the IRS's efforts to administer the federal tax laws.

77. The magnitude of lost tax revenue caused by Larry Heath's and Andy Heath's fraudulent conduct is massive. The IRS estimates that the harm to the government could exceed \$108 million.

78. The United States also is harmed because the IRS must continually devote limited resources to detecting and examining inaccurate returns filed by Larry Heath and Andy Heath, and to attempting to assess and collect unpaid taxes.

79. An injunction against Larry Heath and Andy Heath is necessary and appropriate to prevent the recurrence of their conduct, subjecting them to penalty under I.R.C. § 6701, and for engaging in any other conduct subject to penalty under the Internal Revenue Code.

**COUNT III: Injunction Under I.R.C. § 7402 for Unlawful Interference  
with the Enforcement of the Internal Revenue Law**

80. The United States incorporates by reference the allegations contained in paragraphs 1 through 79.

81. I.R.C. §7402(a) authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

82. Larry Heath's and Andy Heath's activities described above substantially interfere with the enforcement of the internal revenue laws because their preparation and filing of numerous fraudulent tax returns resulted in customers not paying their true federal tax liabilities.

83. An injunction prohibiting Larry Heath and Andy Heath from preparing or assisting in the preparation of tax returns is needed to stop them from preparing or

filing fraudulent tax returns and to prohibit them from otherwise interfering with the proper administration and enforcement of the internal revenue laws now and in the future.

84. Given the continual, repeated, broad and brazen nature of Larry Heath's and Andy Heath's misconduct and their lack of remorse, unless enjoined by this Court, Larry Heath and Andy Heath are likely to continue to engage in illegal conduct in the future.

85. If Larry Heath and Andy Heath are not enjoined, the United States will suffer irreparable harm from the underpayment of taxes, the exhaustion of resources to enforce the internal revenue laws, and the losses caused by Larry Heath's and Andy Heath's conduct.

86. While the United States will suffer substantial, irreparable injury if Larry Heath and Andy Heath are not enjoined, Larry Heath and Andy Heath will not be harmed by being compelled to obey the law.

87. The public interest would be advanced by enjoining Larry Heath and Andy Heath because an injunction will stop their illegal conduct and the harm that conduct is causing the United States Treasury and the public.

88. An injunction under I.R.C. § 7402 is necessary and appropriate, and the United States is entitled to injunctive relief under I.R.C. § 7402. The injunction, as detailed below, should bar Larry Heath and Andy Heath, and anyone acting in concert with them, from preparing or filing tax returns for others, representing customers before the IRS, and from otherwise engaging in conduct that interferes with the proper administration of the internal revenue laws.

### **Relief Sought**

WHEREFORE, plaintiff, the United States of America, respectfully prays the following:

A. That this Court find that Larry Heath and Andy Heath engaged in conduct subject to penalty under 26 U.S.C. § 6701 and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct.

B. That this Court find that Larry Heath and Andy Heath continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694, and that injunctive relief under 26 U.S.C. § 7407 is appropriate to prevent recurrence of that conduct.

C. That this Court find that Larry Heath and Andy Heath engaged in conduct substantially interfering with the administration and enforcement of the

internal revenue laws and that injunctive relief under 26 U.S.C. § 7402(a) is appropriate to prevent a recurrence of that conduct.

D. That this Court, pursuant to 26 U.S.C. §§ 7402, 7407 and 7408, enter a permanent injunction prohibiting Larry Heath and Andy Heath, individually and through any other name or entity, and their representatives, agents, servants, employees, attorneys, accountants and those persons in active concert or participation with them, from directly or indirectly:

- a. Acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns or amended returns (or other related tax forms or documents) for any person or entity other than preparing their own personal tax return(s);
- b. Appearing as a representative on behalf of any person or entity before the IRS;
- c. Owning, managing, controlling, working for, or volunteering for a tax-return-preparation business;
- d. Seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS Preparer Tax Identification Number (“PTIN”) and/or IRS Electronic Filing Identification Number (“EFIN”), or any other IRS service or program by which one prepares or files tax returns;
- e. Engaging in conduct subject to penalty under I.R.C. § 6701,



including preparing or assisting in the preparation of, or advising with respect to, a document related to a material matter under the internal revenue laws that includes a position that Larry Heath and Andy Heath knows will, if used, result in an understatement of tax liability;

- f. Engaging in conduct subject to penalty under any provision of the Internal Revenue Code;
- g. Engaging in conduct designed or intended to, or having the effect of, obstructing or delaying an IRS investigation or audit; and
- h. Engaging in any other conduct that interferes with the proper administration and enforcement of the internal revenue laws.

E. That the Court, pursuant to I.R.C. § 7402, enter an injunction requiring Larry Heath and Andy Heath to produce to counsel for the United States a list identifying (by name, address, e-mail address, phone number, and Social Security or other tax identification number) all of the customers who, for any of the tax years 2007 to the present, have used the services of Larry Heath and Andy Heath or their businesses as they are known under any of their names, including *but not limited to* Heath's Income Tax, Heath and Hames Income Tax, Heath's Income Tax II and Excellent Tax Service;

F. That the Court, pursuant to I.R.C. § 7402, enter an injunction requiring Larry Heath and Andy Heath at their own expense to contact by mail all of their

customers related to any of their tax preparation services and inform those individuals of the Court's findings concerning the falsity of the returns that they prepared and attach a copy of the permanent injunction, and to file with the Court, within 20 days of the date on which the permanent injunction is entered, a certification signed under penalty of perjury that they have done so, and that any enclosure or cover letter be approved by counsel for the United States;

G. That the Court allow the United States full post-judgment discovery to monitor compliance with the injunction;

H. That the Court retain jurisdiction over this action for purpose of implementing and enforcing the final judgment and any additional orders necessary and appropriate to the public interest; and

I. That the Court grant the United States such other and further relief as the Court deems appropriate.

Dated this 20th day of December, 2012.

Respectfully submitted,

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