

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Civil No.
)	
GEORGE B. CALVERT d/b/a CALVERT)	
AND ASSOCIATES, INC.; GREGORY)	
GUIDO; RONALD FONTENOT; LOUIS)	
POWELL; ELIZABETH POWELL;)	
ROBERT H. ANDERSON;)	
ANTHONY BURRELL;)	
WILLIAM G. NEEL; RALPH D.)	
JOHNSON; MARK D. JOHNSON;)	
DAVID J. GEIGER; JOHN L.)	
ENGELSMAN; SALLY HAND -)	
BOSTICK; CARL MARTIN STEWART;)	
EDWARD W. ADAMS; TIMOTHY W.)	
ADAMS; DAVID M. BERGER;)	
ELIZABETH SPINELLI; VINSON)	
STANPHILL; SILAS ANDERSON; URSA)	
BOOKMAN; CLEVON HARPER; CRAIG)	
JOHNSON; JACQUELINE LEVIAS;)	
JACKIE MAYFIELD; CARLOS)	
METOYER; YUSEF MUHAMMED;)	
JOANN SPOONER; GLORIA TOREN;)	
EDWARD TROTTY; DENISE WHITE;)	
and WALTER DRAKEFORD, SR.,)	
d/b/a DRAKEFORD & DRAKEFORD PA,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America makes the following allegations against the above-named defendants:

1. This is a civil action brought by the United States pursuant to §§ 7402(a), 7407,

and 7408 of the Internal Revenue Code of 1986 (26 U.S.C.) (“IRC”) to enjoin defendants and anyone in active concert or participation with them, from:

- a. organizing, promoting, or selling any tax shelter, plan, or other arrangement, that advises or assists customers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
 - b. making or furnishing false statements, in connection with such organization, promoting, or selling, about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by the reason of participating in any such tax shelter, plan or other arrangement;
 - c. making or furnishing gross valuation overstatements (within the meaning of IRC § 6700) in connection with such organization, promoting, or selling;
 - d. preparing or assisting in the preparation of federal tax returns relating to any abusive tax shelter, plan or arrangement;
 - e. engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6700, 6701, or any other penalty provision in the Internal Revenue Code;
 - f. engaging in conduct designed or intended to, or having the effect of, obstructing or delaying any Internal Revenue Service investigation or audit;
- and

- g. engaging in any other conduct that interferes with the proper administration and enforcement of the internal revenue laws.

Additionally the United States seeks to enjoin defendants George B. Calvert, Sally Hand-Bostick, Louis Powell, Elizabeth Powell, Anthony Burrell, Ronald Fontenot, and Walter Drakeford from preparing or filing federal tax returns for anyone other than themselves and from advising or assisting anyone with respect to any federal tax matter.

Jurisdiction

2. This civil action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States.
3. Jurisdiction is conferred upon this Court by I.R.C §§ 7402(a), 7407 and 7408, and 28 U.S.C. §§ 1340 and 1345.
4. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396 because defendants are subject to personal jurisdiction in this judicial district and a substantial part of the conduct described in this complaint occurred in this judicial district.
5. Defendants are subject to personal jurisdiction in this judicial district because they were involved in a fraudulent business venture in Hernando County, Florida which is the subject of this complaint during the years in issue. Fla. Stat. § 48.193(1)(a).

Overview of Scheme

6. Producers of fuel from nonconventional sources ("FNS") are allowed to claim a federal income tax credit for the production and sale of the fuel. I.R.C. § 45K (formerly I.R.C. § 29).
7. Since at least 2001, George Calvert and Gregory Guido have promoted a tax-fraud scheme that is designed to enable customers to claim false or fraudulent federal income tax credits for the purported sale of FNS.
8. Under the scheme, customers purportedly purchase an interest in a nonconventional energy production facility through partnerships created by Calvert and Guido.
9. Calvert and Guido falsely claim that the production facilities produce and sell methane fuel from landfill biomass (i.e. rotting trash) which qualifies customers for FNS tax credits under the Internal Revenue Code.
10. Calvert and Guido provide customers with false documentation, including false production statements, to substantiate their claim that the production facilities are producing qualified fuel from landfill biomass.
11. The production facilities are purportedly located on landfills located in Puerto Rico, Illinois, New York, Ohio, and Connecticut. However, in most instances there is no energy production facility in place on the landfill and even when such an entity exists, there is no infrastructure in place to produce energy.

12. In all instances, Calvert's and Guido's partnerships had no ownership in the energy production facility (if one existed) or the landfill for the tax years for which they sold interests to customers.
13. In addition, customers do not pay for their interest in the sham facility until the year after they claim FNS credits purportedly related to their sham interest. Their payment is funded by the tax refund they receive as a result of claiming the bogus FNS credits.
14. Calvert and Guido falsely represent to customers that their sham interest qualifies them for FNS credits, and Calvert prepares federal income tax returns for some customers which claim the false FNS credits. This leads to an understatement of the customers' tax liabilities.
15. Guido and Calvert have established at least four sham businesses to sell the FNS credits in an effort to divert attention from themselves and to hide the true identity, location, and ownership of the landfills involved in the scheme.
16. In addition, there are numerous subpromoters of the scheme, who sell and/or assist Guido and Calvert in selling fraudulent interests in Guido's and Calvert's sham partnerships to customers.
17. Most of the subpromoters also prepare fraudulent income tax returns for customers claiming the purportedly related false FNS credits. Thirty of the subpromoters are named in this complaint.
18. Through the use of subpromoters, the FNS credit scheme has spread across at least

fourteen states.

19. In total, between 2001 and 2006, defendants have prepared over 6000 fraudulent federal income tax returns for thousands of customers claiming over \$30 million worth of false FNS credits.

Defendants

20. George Calvert currently resides in Hernando Beach, Florida. He has an extensive background in both tax and the energy industry. Calvert was previously a CPA and a partner with the accounting firm Arthur Andersen & Co., for over twenty years. Calvert has also consulted with Power Management Company, located in Plymouth, Massachusetts, which specializes in tax-advantaged financing for alternative fuel projects. After his employment with Arthur Andersen, Calvert allowed his CPA license to lapse and is no longer a CPA.
21. Calvert currently runs a tax-preparation business named Calvert and Associates, Inc., located in Hernando Beach, Florida. He has used this business to prepare fraudulent federal income tax returns for some customers involved in the FNS credit scheme.
22. Calvert has been involved in the energy industry since the early 1980s. In 1984, he became involved with Allied Energy Corporation, a privately funded oil and gas exploration company located in New York, New York. In 1992, Calvert incorporated Resource Technology Corporation (“RTC”), a development firm located in Chicago, Illinois specializing in landfill maintenance and natural gas

production. In 2001, Calvert became the president and chief operating officer of Extractech, Inc., located in Tampa, Florida. Extractech provides natural gas processing services to landfills and other natural gas reserves.

23. In the late 1990s, Calvert began selling fraudulent interests in sham energy production facilities purportedly owned by RTC. He then prepared fraudulent federal income tax returns for his customers claiming false FNS credits for purported fuel sales related to the fraudulent interests.
24. Gregory Guido became involved in the FNS credit tax scam in 2001 when Calvert joined Extractech. Guido is a co-founder and the chief financial officer of Extractech. He resides in Lithia, Florida, is a CPA, and has held positions in numerous companies in the power generation industry. Guido began his tax career in 1981 at KPMG Peat Marwick, LLP, an international network of firms offering audit, tax and advisory services, where he designed energy ventures for investors involving oil and gas wells.
25. In 2003, Calvert and Guido began promoting the FNS credit scheme through various sham partnerships located in Florida, using tax return preparers located in Michigan and Texas, including John Larry Engelsman and Louis Powell, to help sell the scheme.
26. Engelsman resides in Wyoming, Michigan, and has been in the tax preparation business since 1962. He currently works as an accountant at an accounting firm named Hiestand and Company, located in Grand Rapids, Michigan.

27. Between 2001 and 2004, Engelsman sold interests in Calvert's and Guido's sham partnerships to his clients at Hiestand and Company. Calvert prepared federal income tax returns for Engelsman's clients who bought into the scheme; the returns claimed at least \$1,137,654 of false FNS credits purportedly related to the sham partnership interests.
28. Louis Powell resides in Carthage, Texas. He is an enrolled agent and a certified fund specialist.
29. Elizabeth Powell also resides in Carthage, Texas and is married to Louis Powell. Elizabeth and Louis Powell owned The Income Tax Office, a tax preparation business in Carthage, Texas between 1993 and 2005.
30. Beginning in 2003, the Powells set up over 51 partnerships including U.S. Energy Credits in Carthage, Texas, to sell fraudulent interests in Calvert's and Guido's sham partnerships to over 1800 customers. The Powells also prepared federal income tax returns for these customers claiming \$7,822,583 of false FNS credits purportedly related to the sham interests.
31. Carl Martin Stewart, Elizabeth Powell's brother, is the owner and president of Virtual Professional Education ("VPE") in Carthage, Texas. Through VPE, Stewart managed the numerous partnerships created by the Powells, provided software support, and assisted with the creation of promotional materials issued to other preparers and customers promoting the FNS credit scheme. Stewart also collected and processed payments for the fraudulent interests on behalf of the

Powells' partnerships.

32. Between 2003 and 2006, Louis and Elizabeth Powell promoted the FNS scheme to at least four other tax return preparers who then sold interests in Calvert's and Guido's sham partnerships to their clients and prepared federal income tax returns claiming false FNS credits purportedly related to the sham interests. The four subpromoters are as follows:

Subpromoter	Business	Location	False FNS Credits claimed on customer returns between 2003 & 2006
Edward W. Adams (enrolled agent)	Mr. Tax of America (tax preparation since 1969)	Dallas, TX	\$815,562
Timothy W. Adams (enrolled agent)	Federal USTAXCO, Inc. (over 20 years of tax preparation)	Irving, TX	\$1,767,814
Sally Hand-Bostick	National Express Tax	Plano, Texas	\$2,491,639
Ronald Fontenot	Compro-Tax, Inc.	Lake Charles, LA	\$1,547,225

33. Sally Hand-Bostick operates her own return preparation business, National Express Tax, located in Carrollton, Texas. Between 2003 and 2006, Hand-Bostick sold interests in Calvert's and Guido's sham partnerships to her clients at National Express Tax. She also prepared federal income tax returns for her clients claiming \$2,491,639 of false FNS credits purportedly related to the sham interests.

34. Hand-Bostick is also a representative for Drake Software, based in Franklin, North Carolina, which provides accounting and tax preparation software to tax preparers in all 50 states.
35. Between 2003 and 2005, Hand-Bostick promoted the FNS credit scheme to at least seven tax preparers who were her Drake Software customers. The tax preparers in turn sold fraudulent interests in Calvert's and Guido's sham partnerships to their clients and prepared federal income tax returns claiming false FNS credits purportedly related to their customers' sham interests.
36. The seven tax preparer subpromoters are as follows:

Subpromoter	Business	Location	False FNS Credits claimed on customer returns between 2003 & 2005
David M. Berger (CPA)	David M. Berger, An Accountancy Corp.	Studio City, CA	\$369,558
David J. Geiger (enrolled agent)	EK Williams and Co., (professional accounting services since 1972)	St. Charles, MO	\$362,476
Mark D. Johnson	MDJ Business Services	Mansfield, TX	\$705,876
Ralph D. Johnson (enrolled agent)	Complete Accounting Solutions (accounting and payroll services since 1975)	Alton, IL	\$1,003,082

Subpromoter	Business	Location	False FNS Credits claimed on customer returns between 2003 & 2005
William G. Neel (CPA, enrolled agent)	Comprehensive Accounting Services; TA Neelco Inc.	Clayton, MO	\$588,715
Elizabeth Spinelli (CPA)	sole-proprietor	Plano, TX	\$485,543
Vinson Stanphill	Accurate Business Services	Mesquite, TX	\$954,635

37. Ronald Fontenot, is the president and CEO of, as well as a return preparer for, Compro-Tax, Inc., a tax preparation service with over 100 stores throughout the eastern and southern United States. Compro-Tax maintains a website at <http://www.comprotax.net>.
38. Fontenot sold fraudulent interests in Calvert's and Guido's sham entities to his clients at Compro-Tax between 2004 and 2006. Fontenot also prepared fraudulent federal income tax returns for his clients claiming over \$1.5 million worth of false FNS credits purportedly related to the sham interests.
39. In addition, Fontenot promoted the FNS credit scheme to all Compro-Tax store operators in early 2004. At least 54 of these Compro-Tax store operators sold fraudulent interests in Calvert's and Guido's sham entities to their clients and prepared federal income tax returns for these clients claiming the purportedly related false FNS credits.

40. Thirteen of the Compro-Tax subpromoters who are named as defendants are as follows:

Subpromoter	Location	False FNS Credits claimed on customer returns for tax years 2003 through 2006
Anthony Burrell	Corrigan, TX	\$1,380,129
Silas Anderson	San Antonio, TX	\$993,375
Ursa Bookman	Camden, TX	\$303,426
Clevon Harper	Lufkin, TX	\$302,310
Craig D. Johnson	Beaumont, TX	\$2,114,880
Jacqueline Levias	Orange, TX	\$203,572
Jackie E. Mayfield	Orange, TX	\$136,293
Carlos Metoyer	Lake Charles, LA	\$277,552
Yusef A. Muhammed	Beaumont, TX	\$212,945
Joann Spooner	Port Arthur, TX	\$812,807
Gloria Toren	Lufkin, TX	\$211,493
Edward Trotty	Lufkin, TX	\$239,536
Denise White	Beaumont, TX	\$466,120

41. Walter Drakeford Sr. is the owner of Drakeford and Drakeford, P.A., a public accounting firm with offices located in Tampa, Florida and Fredericksburg, Virginia. He claims to represent Gregory Guido, George Calvert, Ronald Fontenot, as well as the other Compro-Tax store operators and Compro-Tax's FNS credit scheme customers. Drakeford has misrepresented himself to the IRS as an

enrolled agent and has interfered with IRS audits related to the FNS credit scheme on numerous occasions, described in detail throughout this complaint.

42. Robert Anderson resides in Bloomington, Illinois and is co-owner of A&N Energy Systems, Inc., an engineering company also located in Bloomington, Illinois, which purportedly builds energy production facilities. Anderson has known Calvert since at least 1980. Anderson assisted in selling interests in Calvert's and Guido's sham partnerships by producing false engineering reports which were used by the promoters of the FNS credit scheme to substantiate the false FNS credits claimed on customers' federal income tax returns.

Alternative Fuel Source Credits, 26 IRC § 45K

43. Section 45K of the Internal Revenue Code allows a credit for the production of methane fuel from non-conventional sources ("FNS credits"), including biomass from landfills, i.e. rotting trash. IRC § 45K(c)(3).
44. There are various restrictions on the FNS credit. For example, the fuel must be produced by the taxpayer and sold by the taxpayer to an unrelated person during the taxable year for which the credit is claimed. IRC § 45K(a)(2).
45. The credit applies to qualified fuels sold before January 1, 2003 which are produced in a facility placed in service before July 1, 1998 pursuant to a binding written contract in effect before January 1, 1997. IRC § 45K(f).
46. The credit also applies to qualified fuels sold before January 1, 2008, if the facility is placed in service after December 31, 1992. IRC § 45K(f).

47. An owner of a qualified property or energy producing facility who is not able to take full advantage of the tax credit will sometimes sell an economic interest in the property or facility to someone who is able to take full advantage of the tax credit.
48. The purchase price of the property or facility may include a mark-up amount that reflects the value of the FNS credit to be generated by future production and sale of qualified fuel. This is referred to as a “monetization” of the FNS credit.
49. The amount of FNS credit allowed in a given year is based on the amount of fuel the taxpayer produces and sells that year. The taxpayer is entitled to the FNS credit in proportion to his or her ownership interest in the gross sales from the property or facility. IRC § 45K(d)(3).
50. The taxpayer must acquire economic benefits and burdens related to the property or facility including the potential to receive additional economic benefit from the sale of fuel after the credit expires.
51. In addition, the taxpayer must report income from the sale of the qualified fuel related to the FNS credits on his or her federal income tax return.
52. Assignment and/or sale of FNS credits is not allowed under the statute. When FNS credits are transferred, the title to the property or facility must also be transferred, and the amount of credit transferred must be tied to the taxpayer’s share of revenue from the sale of the fuel.

Mechanics of the Scheme

I. The Sham Energy Production Facilities.

53. In 1992, Calvert incorporated Resource Technology Corporation (“RTC”), a development firm purportedly specializing in landfill maintenance and natural gas production in Chicago, IL.
54. In the late 1990s, RTC purportedly leased the rights to extract methane from biomass at landfills owned by third parties and located in Puerto Rico, Illinois, New York, Ohio, and Connecticut.
55. RTC purportedly constructed energy producing facilities on these landfills to produce qualified fuel under § 45K. RTC would then purportedly sell the qualified fuel it produced to an unrelated third party, entitling RTC to FNS credits.
56. In the late 1990s, Calvert began selling fraudulent interests in RTC’s energy production facilities and preparing federal income tax returns for his customers claiming false FNS credits for purported fuel sales related to the fraudulent interests.
57. RTC was forced into involuntary bankruptcy in November 1999 and assigned its purported rights in the sham energy production facilities to Gas Recovery Partners 2 (“GRP2”), a business owned and managed by Calvert and Guido in Hernando Beach, Florida.
58. In addition to RTC’s purported gas rights, GRP2 claims to have also obtained gas

rights from at least one other company named Allied Waste, located in Scottsdale, Arizona.

59. In actuality, RTC failed to construct functioning energy production facilities on any of the landfills involved in the FNS credit scheme. Moreover, RTC never even obtained contract rights to the biomass to the majority of the landfills involved in the scheme.
60. While it appears that RTC obtained contract rights to the biomass in a few of the landfills involved in the scheme, RTC failed to perform on the contracts at those landfills and lost its rights to the landfill biomass without producing or selling any FNS.
61. Further, Allied Waste never assigned any of its gas rights to GRP2 or any of Calvert's and Guido's other entities because Allied Waste keeps its gas rights and claims the related FNS credits for itself. In fact, for at least four of Allied Waste's landfills involved in the scheme, an energy production facility was never even built.
62. In total, there were at least 20 landfills involved in the FNS scheme. For at least nine of the landfills involved in the scheme, no energy production facility was ever built. For the eleven other landfills involved in the scheme, an energy production facility was built but it either did not qualify for FNS credits because it was not placed in service until after 1998 or was not owned by GRP2 or any of Calvert's or Guido's other entities during the years involved in the scheme.

63. The landfill information is summarized below:

Landfill Name	City, State	County	Production Facility	Promoters gas rights' in facility
2360 Toa Alta	Toa Alta, PR	Toa Alta	None.	N/A.
481 Clinton LF #2	Clinton, IL	DeWitt	Not operational until 2007.	None.
501 Veolia Valley View	Decatur, IL	Macon	Shut down in 2004.	None.
1934 San Juan LF	San Juan, PR	San Juan	None.	N/A.
514 Modern Landfill	Belleville, IL	St. Clair	None.	N/A
1856 Belleville	Belleville, IL	St. Clair	None.	N/A
500 ADS McLean Co.	Bloomington, IL	McClellan	None.	N/A
1861 McClellan County LF	Bloomington, IL	McClellan	Not operational until 2005.	None.
2345 Carolina LF	Carolina, PR	Carolina	None.	N/A
975 Blydenburg Rd SLF	Hauppauge, NY	Suffolk	Shutdown.	None.
1864 Brickyard LF	Danville, IL	Vermillion	Operational in 1999.	None.
510 Quad Cities LF	Milan, IL	Rock Island	Operational in 2000. Shut down 2008.	None.

Landfill Name	City, State	County	Production Facility	Promoters gas rights' in facility
1866 Maryville LF	Des Plaines, IL	Cook	Not operational until 2005.	RTC obtained rights but failed to perform on the contract.
1869 Taylor Ridge LF	Taylor Ridge, IL	Rock Island	In place but not producing FNS.	RTC obtained rights but has not paid royalties since 1998.
1187 Carbon Limestone LF	Lowellville, OH	Mahoning	Operational.	None.
1185 Lorain County LF #1	Oberlin, OH	Lorain	Operational.	None.
2429 Lorain County LF #2	Oberlin, OH	Lorain	Operational.	None.
1191 Willow Creek LF	Atwater, OH	Portage	None.	N/A
363 E. Windsor LF	Broadbrook, CT	Hartford	None.	N/A
981 Seneca Meadows LF	Waterloo, NY	Seneca	Operational.	None.

64. Calvert, Guido, and their various sham entities, including GRP2, thus never produced or sold any qualified fuel under IRC § 45K at the landfill sites involved

in the scheme or for the years involved in the scheme and, therefore, none of the sham entities involved in the scheme have ever been entitled to FNS credits.

II. Defendants' Sham Entities

65. Calvert and Guido have created and used numerous entities to promote the FNS credit scheme.
66. For tax years prior to 2004, Calvert and Guido sold fraudulent interests in non-existent or non-qualifying production facilities to customers as partnership interests in various businesses located in Hernando County, Florida, including GRP2, Green Earth Land General Partnership ("Green Earth") and CH4 Florida Partners ("CH4").
67. For tax years 2004 and after, Calvert and Guido began selling the fraudulent interests as "working interests" in the non-existent or non-qualifying production facilities through either GRP2 or National Tax, Inc, another entity owned and managed by Calvert and Guido and located in Hernando County, Florida.
68. All of Calvert's and Guido's entities involved in the scheme are shams. Their only purpose is to facilitate the sale of fraudulent interests in sham production facilities, while hiding Calvert's and Guido's direct involvement as well as the true identity, location, and ownership of the landfills involved in the scheme.
69. The entities have no source of gross receipts because no FNS was ever produced or sold by any of the entities. In fact, for the 2003 and 2004 tax years, while Calvert

reported FNS credits on customers' federal income tax returns, he failed to report any income for the customers' purported FNS sales related to the credits, confirming that there were no FNS sales to report.

70. Calvert's and Guido's entities have failed to file tax returns for all of the years they were involved in the scheme, and Calvert has provided customers with fraudulent handwritten Forms K-1 that were never filed with the IRS.
71. For example, Calvert prepared amended individual income tax returns in 2003 for tax years 2000, 2001, and 2002 for Donald and Charlene Schrimpf of Godfrey, Illinois, for their purported partnerships interests in Green Earth in 2000, 2001, and 2002. Calvert included a K-1 from Green Earth for the 2002 tax year, yet Green Earth did not file a partnership income tax return for the 2002 tax year. Green Earth filed a purported amended return for the 2002 tax year in August 2003 that reported no income or expenses in 2002. Handwritten on the purported amended return was "See Original Return," though no original return had been filed.
72. Calvert also prepared individual income tax returns reporting customers' purported partnership interests in GRP2 for tax years 2002 and prior. In addition, payments for customers' interests for tax years 2005 and 2006 were made out to GRP2. GRP2 only filed partnership returns for the 2003 and 2004 tax years.
73. National Tax has never filed federal tax returns.
74. Defendants have also sold partnership interests in partnerships long after the

partnership tax year ended and for years in which the partnership did not exist.

75. For example, in 2005, Calvert began preparing amended tax returns for numerous customers, including Thomas and Carol Canfield of Jamestown, Michigan, for the 2001 tax year that included FNS credits purportedly related to customers' partnership interests in GRP2. Calvert included a fraudulent Form K-1 from GRP2 for the 2001 tax year reflecting the FNS credits. The Canfields' fraudulent K-1 stated that the Canfields owned a 5.1% interest in GRP2 and reported a credit of \$47,068. GRP2 did not exist in 2001; therefore, the Canfields could not have been partners in GRP2 in 2001.

III. The Fraudulent Interests

76. Under the scheme, Calvert and Guido use a "Tax Calculator" program to assign each customer an interest in a specific sham energy production facility purportedly located at a specific landfill.
77. The Tax Calculator prepares and prints a sham promissory note, a sham assignment agreement, a sham support statement and a sham production report for each customer.
78. The promissory note is for the stated amount of the purchase price and is to be paid by the customer from the tax refund he or she expects to receive from the false FNS credit.
79. Customers purchase an interest large enough to provide sufficient FNS credits to

significantly reduce or eliminate their taxes completely, which more than offsets the amount of the customers' later payment to Calvert and Guido for their sham interest.

80. The purchase price of the fraudulent interest is usually at least half, and sometimes more than half, of the customer's expected tax refund for the false FNS credits. For example, in 2006, one customer, Maxine Davis of Lake Jackson, Texas, received a \$4,481 refund from false FNS credits and paid \$3,094 of that total to National Tax, Inc. for her fraudulent interest.
81. FNS scheme customers are not personally liable on the promissory notes. For example, Calvert stated to customers Jeff and Vickie Conrad of Wyoming, Michigan that the promissory note is a "nonbinding contract and the amounts due are only to be paid when received from the IRS." Calvert also told Thomas and Carol Canfield that they could claim substantial tax credits without any capital outlay for their sham working interest. In addition, Calvert and Guido have never pursued collection against any scheme customers who defaulted on their promissory notes.
82. Stated simply, the promissory notes are shams, designed to make it appear that customers own an interest in Calvert's and Guido's sham entities for the tax years that they claim the sham FNS credits.
83. Some customers never sign the promissory note. Instead, they simply agree orally

- to pay for the working interest after receiving a tax refund for the FNS credits.
84. Other customers make their payments for the sham interest in the form of checks, which the defendants do not deposit until after the customers file their federal tax returns and reap the tax savings from the scheme. Accordingly, the customers' payments are paid in the year following their purported investment year.
 85. Customers' payments for their interest are thus funded from the tax savings, and customers do not own their interest in the year as to which they claim the FNS credit purportedly related to their interest.
 86. Calvert and Guido also sell interests to customers related to purported fuel sales from prior years and provide backdated promissory notes, production statements, and support statements to make it appear that the customer owned the interest in the prior years. Calvert then prepares amended returns for customers claiming that the customer is entitled to a refund for tax credits purportedly earned in the prior year for the production of FNS related to their interest.
 87. For example, Calvert prepared an amended 2002 tax return in 2006 for Rick Kruit of Loveland, Colorado, claiming FNS credits for purported fuel sales in 2002; the supporting documents were signed by Kruit in 2006 and backdated to January 2003. Kruit never paid Calvert for his purported interest because the IRS disallowed the claimed credits, and Kruit never received his refund. Kruit told the IRS that partners only pay if they receive their refund.

88. Calvert and Guido falsely represent to scheme customers that they are entitled to FNS credits for their interest in the energy production facilities under IRC § 45K, even though customers are not eligible for this credit.
89. IRC § 45K allows a credit only for qualified fuel that the customer produces and sells, and the credit must be claimed for the year in which the qualified fuel is sold by the customer.
90. The customers are not entitled to the FNS credits because they never sold any fuel produced from a nonconventional source. Customers purchase an interest in an energy production facility that is either non-productive, non-existent, or not owned by Calvert's and Guido's entities for the years involved in the scheme.
91. Calvert and Guido falsely tell customers that they do not have to own an interest in an energy production facility during the year for which the FNS credit is claimed.
92. A customer is only eligible for the FNS credit in the year that the customer produces and sells FNS; accordingly, the customer must own an interest in an energy production facility in the year for which the credit is claimed.
93. Calvert and Guido falsely tell customers that they can buy FNS credits without buying an interest in an energy production facility or qualified property under section 45K.
94. FNS credits cannot be separated from the sale of qualified fuel. The customer must acquire an economic interest in the FNS producing property or facility before

he or she can claim tax credits for the sale of FNS. When FNS credits are transferred, the title to the property or facility which produces FNS must also be transferred.

The Subpromoters

95. In 2003, Calvert and Guido began selling the FNS credit scheme through various subpromoters located in Texas, Illinois, Louisiana, Missouri, Michigan and California.
96. The majority of the subpromoters are tax return preparers who sell interests in Calvert's and Guido's sham entities to their clients and then prepare fraudulent tax returns for their clients claiming sham FNS credits purportedly related to the fraudulent interests.
97. As an incentive to subpromoters for selling the sham interests, Calvert and Guido pay the subpromoters between five and fifteen percent of the purchase price of the sham interests sold to customers. The Powells tout the scheme as purportedly increasing the subpromoters revenue by 30% to 50% and promise subpromoters that they can "earn more than \$400 per hour." The Powells also offered a Caribbean Cruise to US Energy Credits's top FNS credit sellers for tax years 2003 and 2004.
98. In addition, Fontenot and the other Compro-Tax subpromoters also charge their customers extra for preparing returns which claim the FNS credits.

99. Calvert and Guido provide the subpromoters with false documentation, including false engineering reports, false gas rights agreements, and false sales documents.
100. The fraudulent documents make it appear that Calvert's and Guido's sham entities own the energy production facilities involved in the scheme, that Calvert's and Guido's sham entities have rights to methane gas purportedly produced from landfill biomass and that the purported fuel was sold to an independent (unrelated) third party.
101. Robert Anderson prepared at least two of the false engineering reports described above on behalf of a sham company named Earth Tech, LLC, located in Rosemont, Illinois. Earth Tech, LLC's name and logo are similar to that of Earth Tech, Inc., a well known environmental consulting firm that is not involved in this scheme.
102. Attached to Anderson's reports are Anderson's resume and the resume of Lawrence J. Murphy, an engineer at Earth Tech, Inc. Lawrence Murphy has never seen the engineering reports that Anderson prepared for the FNS credit scheme and was unaware until notified by the IRS that his resume had been attached to them.
103. In the engineering reports, Anderson falsely states that the energy production facilities purportedly located at various landfills involved in the scheme are owned by Calvert and Guido's sham entities and meet the criteria to qualify for FNS credits through 2007. His report includes a facility fact sheet, a schedule of

construction, a report of purported quarterly methane flows, a gas rights agreement, a gas purchase agreement, and purported pictures of the facilities, all of which are complete fabrications.

104. Calvert and Guido's sham entities never owned a functioning energy production facility on any of the landfills involved in the scheme during any of the years involved in the scheme.
105. Anderson's reports contain various other false information. For example, in his engineering report for the 1861 McClean County Landfill located in Bloomington, Illinois, created on January 22, 2004, Anderson states that the energy production facility in place on the landfill produced fuel in 2003, qualifies for FNS credits, and sold its gas rights to RTC in 1995 who assigned these rights to GRP2 in 2003.
106. In actuality, the 1861 McClean County landfill did not have a functioning energy production facility until 2005 and neither RTC nor GRP2 ever obtained any gas rights associated with the facility.
107. In Anderson's engineering report for 1187 Carbon Limestone landfill, located in Lowellville, Ohio, Anderson claims that Allied Waste, the owners of the landfill, assigned their FNS credits to GRP2 in 2003. However, Allied Waste did not assign any gas rights or FNS credits to GRP2 or anyone else, but claimed the FNS credits for itself.
108. Allied Waste compared Anderson's fabricated engineering report for the 1187

Carbon Limestone landfill with Allied Waste's records of the landfill. Allied Waste discovered that Anderson's report contained false calculations regarding the amount of waste, incorrect gas collection system installation dates, an incorrect number of wells installed and an overstated amount of landfill gas.

109. The engineering reports provided by Anderson, as well as other documentation subpromoters received from Calvert and Guido, contained the name and location of the landfill site assigned to each customer.
110. The Environmental Protection Agency (EPA) identifies all landfills and whether they are candidates for an energy production facility, have a current energy production facility, or are in the process of building one. This information is posted at <http://epa.gov/lmop/proj/index.htm>. The website includes the landfill name, county, and city, the landfill owner, the energy project status and start date, and the name of the company who is producing the fuel.
111. Therefore, the subpromoters could have easily discovered whether the interests they were selling were valid, *i.e.* if there was a production facility in place on the landfill, when it was put in to place, and whether it was functional.
112. In addition, the Powells note in their promotional materials provided to other subpromoters that “[t]he American Petroleum Industry (API) regulates the production of the gas and credits” and that “production statements are produced each month and verifiable through several sources.” This further indicates that the

subpromoters were aware that they could check the validity of the landfills and the gas sales purportedly involved in the FNS credit scheme.

113. Accordingly, the subpromoters either knew the interests they were selling to customers were shams or never attempted to verify that the interests existed. In fact, David Geiger told the IRS he did not even know which landfill site was associated with the energy production facility interests he sold to his customers and had never reviewed any of GRP2's or CH4's financials or tax returns even though he sold partnership interests in CH4 and GRP2 to his customers.
114. At least one subpromoter was not even aware that he was selling interests in energy production facilities. Larry Engelsman told his customers, including Jeff and Vickie Conrad, that the customers were buying FNS credits. When questioned by the IRS, Engelsman said he was transferring unused FNS credits to customers, not selling interests in energy production facilities or landfills. The Conrads never paid any money for the credits because they were subsequently audited by the IRS and never received their refund.
115. Louis and Elizabeth Powell either lied to other subpromoters or were aware that the interests in Calvert's and Guido's purported energy production facilities were shams. The Powells told several of the subpromoters, including Sally Hand-Bostick, Ralph Johnson, and Elizabeth Spinelli, that the Powells had visited all of the landfill sites involved in the scheme and that they had verified that the FNS

credits were legitimate. If the Powells had actually visited the sites, they would have discovered that the interests they were selling were fraudulent and that the FNS credits were not valid.

116. The subpromoters sell the fraudulent interests in the same manner as Calvert and Guido. Calvert and Guido provide each subpromoter with an updated copy of the “Tax Calculator” program every tax year which assigns the fraudulent interests to each customer and prepares and prints a sham promissory note, a sham assignment agreement, a sham support statement and a sham production report for each customer.
117. Many customers never sign the promissory note but instead agree orally to pay for their interest from the tax refund they expect to receive for their FNS credit.
118. Other customers make their payments for the sham interest in the form of checks which the subpromoters do not deposit until after the customers file their federal tax returns and reap the tax savings from the scheme. For example, Sally Hand, Elizabeth Spinelli, and Mark Johnson told the IRS that they required their customers to make a check out to GRP2 or CH4 for the purchase price of their interest and would then hold their customers’ checks until their customers received their related tax refund. In addition, Fontenot and Vinson Staphill told the IRS that their customers would not even write a check for their interest until after the customers received their tax refund related to the interest.

119. Further, the Powells, through U.S. Energy Credits, tell customers and other subpromoters that customers are not required to pay their promissory note until April 15 in the year their income tax return is due so that the customer can “test the use of the credits before paying for them.”
120. Accordingly, the customers’ payments are funded from the tax savings, and customers do not own their interest in the year they claim the FNS credit purportedly related to their interest.
121. FNS scheme participants are not personally liable on the promissory notes. For example, the Powells and Stewart, have told customers they did not have to pay the note at all if the customers did not receive their expected tax refund from the IRS.
122. Stated simply, the promissory notes are shams, designed to make it appear that customers own an interest in the sham energy production facilities in the year they claim the FNS credits.
123. The purchase price of the fraudulent interest is at least half of the customer’s expected tax refund generated from the FNS credit. In fact, Fontenot’s and other Compro-Tax operators’ customers have paid Calvert’s and Guido’s entities up to 80% of their refund related to the FNS credits. For example, Purvis Jones of Beaumont, Texas, a customer of Joann Spooner at Compro-Tax, received a refund of \$10,042 for tax years 2005 and 2006, paying over \$8000 of that total to GRP2.

124. Because the subpromoters do not require customers to pay for the credit until after they receive their tax refund, the subpromoters used several different tactics to ensure that they received payment for the credits.
125. For example, Fontenot required that his customers' refund checks be sent to one specific bank. Fontenot then only released the refund check after the customer provided him with a cashier's check in payment for the credits.
126. In addition, several Compro-Tax subpromoters, including Anthony Burrell and Craig Johnson, required customers to obtain a refund anticipation loan to cover the purchase price of the credits. This way, Burrell and Johnson were able to take their cut from the customers' refund right away. At least two of Compro-Tax's scheme customers, Jason and Felicia Davis of Garrison, Texas, were not even aware that they were obtaining a loan which included a bank fee, thus reducing the refund that the customers received. Also, a return preparer typically receives a fee from the bank that is offering the refund anticipation loans, yet another way in which subpromoters swindled a portion of their customers' improper tax refund.
127. Further, Anthony Burrell told the IRS that his clients signed their refund checks over to Burrell; he then wrote them checks for the amount of their tax refund, reduced by the amount of the cost of participating in the FNS credit scheme. Burrell did this even though under the Internal Revenue Code tax return preparers are not allowed to endorse checks or otherwise negotiate any check made in

respect of income taxes which is issued to a taxpayer.

128. Moreover, Burrell put FNS credits on at least two of his customers' federal income tax returns after the customers told him they did not want the FNS credits. For example, Vivian Overshine of Pollok, Texas told Burrell she did not want the FNS credit, but Burrell put it on her 2004 tax return anyway. Overshine then refused to sign her refund check over to Burrell since she did not want the credits in the first place.
129. The subpromoters also sell interests to customers related to purported fuel sales from prior years and provide customers with backdated promissory notes, production statements, and support statements to make it appear that the customer owned the interest in the prior years. The subpromoters or Calvert then prepare amended returns for customers claiming that the customer is entitled to a refund for tax credits purportedly earned in the prior year for the production of FNS related to their interest.
130. For example, David Geiger stated to the IRS that he had sold partnership interests in 2004 in CH4 to his customers, including his parents Emil and Anne Geiger in Maryland Heights, Missouri, for tax year 2003, using January 2, 2003 as the signing date for the partnership agreement, the assignment agreement, and the promissory note. Geiger then prepared amended returns for his customers for tax year 2003 claiming that the customers were entitled to a refund for related FNS

credits. Geiger told the IRS that Sally Hand-Bostick stated it was okay to sell partnership interests for tax year 2003 in 2004 and to claim related FNS credits on customers' 2003 federal income tax returns.

131. Also, Louis Powell and Hand-Bostick told subpromoters and customers that customers could buy interests for tax year 2002 in 2003 and claim related FNS credits on their 2002 tax return. Louis Powell told subpromoter Timothy Adams that a customer could purchase a partnership interest for prior years because parties can agree on an "effective" date to an agreement at any point in time.
132. For tax years 2003 and 2004, the subpromoters claimed FNS credits on customers' tax returns but all of the subpromoters, except the Powells, failed to report any income from purported gas sales corresponding to the credits on customers' tax returns, confirming that the subpromoters were aware there were no fuel sales to report.
133. Fontenot requested a legal opinion from a law firm in January 2005 regarding the validity of the FNS credits. The law firm issued a letter to Fontenot on April 8, 2005 warning Fontenot that there is no authority that allows a taxpayer to take an FNS credit for a tax year in which the taxpayer did not own the qualified property.
134. After Fontenot received this information in 2005, Compro-Tax return preparers still sold purported interests in Guido's and Calvert's sham entities for tax years 2003 and 2004, and prepared amended federal income tax returns for customers

- that claimed over \$1.9 million of false FNS credits.
135. The subpromoters falsely tell their customers that they are entitled to FNS credits for their investment in the energy production facilities under IRC § 45K, even though customers are not eligible for this credit.
 136. The subpromoters falsely tell customers that they do not have to own an interest in an energy production facility during the year for which the FNS credit is claimed.
 137. A customer is only eligible for the credit for the year that the customer produces and sells FNS; accordingly, the customer must own an interest in an energy production facility in the year for which the credit is claimed.
 138. Subpromoters falsely tell customers that they can buy FNS credits without buying an interest in an energy production facility or qualified property under section 45K. For example, the Powells state in their US Energy Credits brochure to other subpromoters and customers that “[t]he IRS allows the reassignment of these credits separate from the production of the gas.”
 139. FNS credits cannot be separated from the sale of qualified fuel. The customer must acquire an economic interest in the FNS-producing property or facility before he or she can claim tax credits for the sale of FNS. When FNS credits are transferred, the title to the property or facility which produces FNS must also be transferred.

Ongoing Activities

140. After FNS scheme customers came under IRS audits, and after IRS agents started disallowing the false FNS credits, defendants have continued to sell the FNS scheme, but have taken various steps to make the scheme appear legitimate, to hide their involvement in the scheme, or to obstruct and thwart the IRS investigation of the scheme.
141. For example, when asked by the IRS to provide substantiation to support the fact that there has never been a production facility in place at the landfill claimed by a customer under audit, Calvert stated that he was reassigning the customer to a different landfill, alleging an administrative error had occurred when initially assigning and allocating the sites to customers.
142. For instance, in 2006, after the IRS disallowed FNS credits claimed on customers' 2004 and 2005 federal income tax returns and purportedly related to the Willow Creek Landfill in Atwater, Ohio, Calvert sent a memo to the subpromoters, including David Geiger and Vinson Stanphill, that stated that there was an administrative error when assigning sites to customers and the customers should have been assigned to a landfill in Bloomington, IL. Calvert provided customers backup documents for the change including an assignment statement, support statement for FNS Tax Credits, a promissory note, and a production report.

143. The information provided by Calvert purports to refer to one landfill site but actually refers to two separate and distinct landfills owned by two separate entities, unrelated to Calvert and Guido. One of the sites, 500 ADS McLean Co., has never had an active energy production facility. The other site, 1861 McClean County, has produced energy but never assigned its rights to Calvert or Guido or their sham entities. In addition, the 1861 McClean County site would not qualify for FNS credits because the facility was not placed into service until 2005.
144. Calvert has also provided customers under IRS audit with other false documentation, including backdated promissory notes, to purportedly substantiate their fraudulent ownership interest in the sham energy facilities.
145. For example, Calvert and Associates, Inc. sent a letter dated October 16, 2006 to Jeff and Vickie Conrad of Wyoming, Michigan who were being audited for their 2004 refund claim for FNS credits. The letter states “I have also sent you a promissory note... Since I show 2004 as the first year you were involved in purchasing tax credits, I have dated this January 2, 2004 as the date you acquired ownership. We understand that this is a nonbinding contract and the amounts due are only to be paid when received from the IRS. You may sign this and present this [to the IRS] as an ownership interest.” Included with the letter was a promissory note dated January 2, 2004. The Conrads had never seen this promissory note before it was sent to them by Calvert and Associates in October

2006 and never paid any money on the note.

146. In addition, Calvert and Guido have attempted to shift the blame for the sham nature of the interests to others. For example, on December 28, 2007, CH4 and GRP2, two of the sham entities used by Calvert and Guido to sell the FNS credits, filed a federal lawsuit against Robert Anderson, the engineer who signed various false engineering reports used by the defendants to substantiate the FNS credits.
147. CH4 and GRP2 claimed in the lawsuit that Anderson misled them in regard to the validity of \$4 million worth of interests in energy production facilities related to FNS credits for the 2004, 2005 and 2006 tax years. However, CH4 and GRP2 have sold sham interests purportedly related to over \$27 million of FNS credits and have been in business since long before 2004. So, even if Anderson had misled CH4 and GRP2 as to \$4 million worth of the FNS credits, that would not explain why Calvert and Guido sold interests related to the other \$23 million in sham FNS credits. On February 22, 2008, CH4 and GRP-2 voluntarily dismissed the lawsuit against Anderson.
148. The Powells attempted to hide their involvement in the scheme by selling their return preparation business in July 2005 to Janice Ford of Deberry, Texas. The Powells did not make Ford aware of any of the problems with the FNS credits, and Ford continued to prepare returns with the FNS credits until the tax year 2006 when she became aware that the IRS was disallowing the FNS credits.

149. In 2005, the Powells purportedly stopped selling the fraudulent interests in Calvert's and Guido's sham entities that they had promoted to other subpromoters. The subpromoters then began working directly with Guido and Calvert and were told to have their clients make the checks payable to GRP2 instead of US Energy Credits.
150. Even though the Powells have purportedly stopped selling the fraudulent interests, Elizabeth Powell is still litigating the validity of the sham credits in United States Tax Court, arguing that the Powells properly transferred valid working interests in landfill gas wells which gave rise to FNS credits and that they met all of the requirements under § 45K for claiming the FNS credits.
151. A common tactic promoters use with abusive tax schemes with sham transactions is to have the promoters (or persons closely affiliated with the promoters) represent customers who are being audited by the IRS. This enables the promoters to control the IRS's access to the customers and can help the promoters keep customers from learning the truth about the sham nature of the scheme transactions. It also enables the promoters to monitor the IRS investigation and take steps to interfere to thwart it.
152. Walter Drakeford claims to represent Gregory Guido, George Calvert, Ronald Fontenot, as well as the other Compro-Tax store operators and Compro-Tax's FNS credit scheme customers under audit before the IRS. In fact, Compro-Tax has

directed all of its return preparers to contact Drakeford with any questions they have related to the FNS credits.

153. However, Drakeford is not an attorney, a CPA, or an enrolled agent. He therefore cannot represent any of the scheme participants before the IRS. Even though the IRS has informed Drakeford that he is not allowed to represent the scheme participants, Drakeford has continued to claim he is qualified to represent scheme participants and continues to send information to the IRS on behalf of FNS credit scheme customers.
154. Drakeford's attempt at representation has had the effect of hampering the IRS investigation and preventing customers from receiving sound independent advice regarding the sham nature of the scheme transactions.
155. For instance, Drakeford attempted to persuade the IRS to allow customers to substitute other types of fraudulent and invalid credits for their disallowed FNS credits, and Drakeford has prepared hundreds of fraudulent amended returns which attempt to replace the disallowed FNS credits with other invalid credits.
156. Drakeford has also prepared amended returns for scheme customers under audit which claim bogus dry hole costs. But despite numerous requests from the IRS, Drakeford has failed to provide any documentation to substantiate the dry hole costs.
157. One customer, David Sahaida of St. Louis, Missouri, contacted Drakeford when

- his FNS credits were disallowed on his 2004 and 2005 federal income tax returns. Drakeford told Sahaida that GRP2 had been “duped” by Allied Waste and had sued Allied Waste over the rightful ownership to the energy production sites.
158. Sahaida proposed a lawsuit against GRP2 to recover the money he paid to GRP2, which he now owed to the IRS. Drakeford threatened to add Sahaida to the Allied Waste lawsuit and told Sahaida he would have to share in the legal fees for the Allied Waste lawsuit.
159. Allied Waste is not aware of the purported lawsuit, and the government has been unable to find any such lawsuit.
160. In addition, Drakeford has been involved in other fraudulent conduct before the IRS, including signing scheme customers’ names to power-of-attorney forms and amended tax returns submitted to the IRS, and impersonating another man, John Della-Donna, an enrolled agent in Atlanta Georgia, in May 2008, in an effort to represent customers before the IRS.
161. Further, Drakeford has failed to produce a list of customers for whom he prepared returns related to the FNS credit scheme, pursuant to IRC § 6107, when requested to do so by the IRS.
162. The IRS has also requested § 6107 customer information from Fontenot and Compro-Tax. Fontenot and Compro-Tax were given until December 12, 2008 to respond, and both have failed to do so.

163. Finally, at least one defendant, Sally Hand-Bostick, has continued to offer the FNS credit scheme to customers, as recently as March 2009, even after her credit scheme customers were audited by the IRS, and she was told during an interview with the IRS that Calvert's and Guido's entities are shams and, therefore, the FNS credits are invalid.

Harm to Public

164. The United States is harmed by defendants' scheme because defendants' customers are claiming tax credits to which they are not entitled. The IRS estimates that the promotion has caused revenue losses of over \$30 million over a six year period from 2001 to 2006.
165. Minimal information is known about the tax years prior to 2003, therefore, the harm to the government could very well be higher.
166. This estimated loss does not include the administrative costs to the government of detecting and correcting the incorrect tax returns resulting from defendants' scheme.
167. Additional tax revenue losses have occurred for later years, which the IRS has not yet quantified. Some of the tax deductions for which defendants are responsible may never be collected, resulting in a permanent loss to the Treasury.
168. The Internal Revenue Service is harmed because it must dedicate scarce resources to detect and examine inaccurate returns filed by defendants' customers and to

attempt to assess and collect unpaid taxes.

169. In addition to the harm caused by their advice, statements and services, defendants' activities undermine public confidence in the fairness of the federal tax system and incite non-compliance with the internal revenue laws.

Count I

Injunction under IRC § 7408

170. Plaintiff incorporates by reference the allegations in paragraphs 1-169, above.
171. I.R.C. § 7408(a) authorizes a district court to enjoin any person from engaging in conduct subject to penalty under I.R.C. §§ 6701 and 6700, if injunctive relief is appropriate to prevent recurrence of that conduct.
172. I.R.C. § 6700 imposes a civil penalty on any person who, in connection with organizing, promoting, or selling a plan or arrangement, or assisting in organizing, promoting or selling a plan or arrangement (a) knowingly makes a false or fraudulent statement as to the allowability of a deduction or credit, because of an interest held in the entity or because of participation in the plan, or (b) makes a gross valuation overstatement as to any material matter.
173. A gross valuation overstatement is any statement as to the value of property or services if the value stated exceeds 200 percent of the amount determined to be the correct valuation, and the value of such property or services is directly related to the amount of any deduction or credit for federal income tax purposes.

174. Defendants have organized and promoted, or assisted in organizing and promoting a tax shelter or plan or arrangement that is devoid of economic substance and has the sole purpose of generating a federal income tax credit for customers. In promoting and selling this tax shelter, defendants (except Robert Anderson) made gross valuation overstatements and materially false or fraudulent statements to customers regarding the allowability of income-tax credits with respect to their purported investments under I.R.C. § 45K.
175. Defendants (except Robert Anderson) falsely told customers that they could claim FNS credits pursuant to I.R.C. § 45K when defendants knew or had reason to know that customers did not qualify for the credit.
176. I.R.C. § 45K permits a taxpayer to claim credits related to qualified fuel created and sold by the taxpayer during the tax year in which the credit is claimed. The defendants failed to inform customers that they were selling interests in energy production facilities that either did not exist or that never created qualified fuel.
177. Based on these false statements, customers claimed improper credits on their federal income tax returns, therefore understating their federal income liabilities.
178. The defendants knew or had reason to know that they were making false or fraudulent statements (within the meaning of I.R.C. § 6700) in connection with promoting the FNS credit scheme and that such false or fraudulent statements were material.

179. In addition, under I.R.C. § 45K, FNS credits are to be claimed in the year the qualified fuel is produced and sold from landfill biomass by a taxpayer who has an ownership interest in the energy production facility.
180. Defendants (except Robert Anderson) falsely tell customers they can take the credits years before the customers actually pay for their interest in the energy production facility.
181. Further, defendants (except Robert Anderson) attempted to make it appear that the customers had paid for their interest for the tax year they claimed the FNS credits by having customers submit checks payable to the defendants/partnerships in the earlier year, but with defendants not negotiating those checks until the following year after customers had claimed the improper tax benefits on their income tax returns. This deceptive conduct shows that the defendants knew they were making false statements to scheme customers about when the credits could be claimed.
182. Based on defendants' false statements, customers claimed improper credits on their federal income tax returns, therefore understating their federal income liabilities.
183. Defendants knew or had reason to know that they were making false or fraudulent statements (within the meaning of I.R.C. § 6700) in connection with promoting the FNS credit scheme and that such false or fraudulent statements were material.
184. In addition to misrepresentations about customers' eligibility for the tax deductions, defendants (except Robert Anderson) also made gross valuation overstatements in

promoting the FNS credit scheme.

185. Defendants greatly overstate the value of the working interests they sell to customers as well as the fuel sales purportedly related to the working interests. Indeed, defendants sell customers purported working interests in energy production facilities which have no value because they either never existed or because they existed but never produced qualified fuel. The actual value of the purported working interests, as well as the related gas sales, is zero. Accordingly, defendants (except Robert Anderson) have told customers their working interests and the related fuel sales were worth more than 200% of their actual value.
186. Defendants (except Robert Anderson) have engaged in conduct subject to penalty under I.R.C. §§ 6700 and they are subject to an injunction under I.R.C. § 7408.
187. I.R.C. § 6701 imposes a civil penalty on any person who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, claim or other document, who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and who knows that such portion would result in an understatement of the liability for tax of another person.
188. By preparing income tax returns for customers that improperly understated their federal income tax liabilities and/or providing customers with false documentation, including false production statements, defendants (except Gregory Guido, Robert

Anderson, and Carl Stewart) have engaged in preparing or presenting a portion of a tax return or other document, knowing that such portion will be used in connection with a material matter arising under the internal revenue laws, and knowing that such portion (if so used) would result in understating the tax liability of another person. These defendants' conduct, therefore, is subject to penalty under I.R.C. § 6701.

189. By preparing false engineering reports to be used in the scheme and distributed to customers, Robert Anderson also engaged in preparing or presenting a portion of a document, knowing that such portion will be used in connection with a material matter arising under the internal revenue laws, and knowing that such portion (if so used) would result in understating the tax liability of another person. Anderson's conduct, therefore, is subject to penalty under I.R.C. § 6701.
190. By providing false documents, including false engineering reports, false gas rights agreements, and false production statements, to scheme customers and subpromoters, Gregory Guido also engaged in preparing or presenting a portion of a document, knowing that such portion will be used in connection with a material matter arising under the internal revenue laws, and knowing that such portion (if so used) would result in understating the tax liability of another person. Anderson's conduct, therefore, is subject to penalty under I.R.C. § 6701.
191. Defendants (except Carl Stewart) have engaged in conduct subject to penalty under

I.R.C. § 6701, and they are subject to an injunction under I.R.C. § 7408.

Count II

Injunction under IRC § 7407

192. Plaintiff incorporates by reference the allegations in paragraphs 1-191, above.

193. I.R.C. § 7407 authorizes a district court to enjoin a tax-return preparer from:

a. engaging in conduct subject to penalty under I.R.C. § 6694 which penalizes a tax return preparer who prepares or submits a return that contains an unrealistic position,

b. engaging in conduct subject to penalty under I.R.C. § 6695 which penalizes a tax return preparer who fails to comply with section 6107(b) (which requires a preparer to retain a copy or list of all tax returns he prepares and give it to the IRS on request), or negotiates a check made in respect of taxes imposed by this title which is issued to a taxpayer,

c. misrepresents his eligibility to practice before the IRS, or

d. engages in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

194. 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

that 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 income tax return preparer.

195. Defendants (except Gregory Guido, John Engelsman, Robert Anderson, and Carl Stewart) have continually and repeatedly prepared or assisted or directed others to prepare numerous federal income tax returns for FNS scheme customers that claim false FNS credits.
196. These defendants knew or should have known that these returns contained claims for which there was no realistic possibility of being sustained on the merits, and knew or should have known that such positions would not be successful.
197. Preparing federal-income-tax returns containing unrealistic and frivolous positions subjects defendants to penalty under I.R.C. § 6694.
198. Defendants (except Gregory Guido, John Engelsman, Robert Anderson, and Carl Stewart) have engaged in violations of I.R.C. § 6694, and otherwise interfered with the administration of the internal revenue laws. An injunction barring defendants (except Gregory Guido, John Engelsman, Robert Anderson, and Carl Stewart) from asserting unrealistic position on returns is necessary to prevent recurrence of these violations and to prevent further interference with the administration of the internal revenue laws.
199. In addition, defendants Sally Hand-Bostick, Elizabeth Powell, Louis Powell, Walter

Drakeford, Anthony Burrell and George Calvert have also repeatedly and continuously engaged in other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

200. Anthony Burrell has negotiated checks made in respect of federal income taxes which were issued to customers and claimed FNS credits on at least two customer's tax returns after the customers told him they did not want the credits.
201. Sally Hand-Bostick, has continued to offer the FNS credits to scheme customers as recently as March, 2009 even after her credit scheme customers were audited by the IRS, and after she was told during an interview with the IRS that the FNS credits are shams.
202. Louis Powell and Elizabeth Powell either lied to other subpromoters or were aware that the FNS credit scheme was a sham. The Powells claim to have visited every production facility involved in the scheme; however half of the production facilities do not even exist and none are owned by Calvert's and Guido's sham entities. Yet the Powells continued to sell the scheme and prepare federal income tax returns for customers claiming false FNS credits purportedly related to the non-existent facilities.
203. Robert Fontenot knew that the FNS credit scheme was a sham and yet continued to promote the scheme. He received a detailed analysis from an attorney in early 2005 explaining why a customer could not take the FNS credits for a year in which the

customer did not own or sell qualified fuel. After receiving this information in 2005, Fontenot and his Compro-Tax preparers continued to sell interests in Guido's and Calvert's sham entities to customers for past years and prepared amended federal income tax returns for those customers claiming over \$1.9 million of purportedly related sham FNS credits.

204. Walter Drakeford has misrepresented his ability to practice before the IRS in an effort to represent FNS credit scheme customers on numerous occasions.
205. Robert Fontenot and Walter Drakeford have failed to comply with section 6107(b) by refusing to provide the IRS with a copy or list of tax returns they have prepared for customers related to the FNS credit scheme.
206. George Calvert and Walter Drakeford have made wholly cosmetic modifications to the FNS credit scheme to falsely make the scheme appear to be in compliance with the Internal Revenue Code. Examples of such misconduct include 1) coaching customers to make false statements to the IRS during IRS audits, 2) providing fraudulent documents to the IRS to deceive it, and 3) attempting to substitute the FNS credits on customers' returns with other false tax credits.
207. Because Sally Hand-Bostick, Elizabeth Powell, Louis Powell, Walter Drakeford, Gregory Guido, Anthony Burrell and George Calvert have engaged in repeated and continual egregious conduct subject to injunction under I.R.C. § 7407, Sally Hand-Bostick, Elizabeth Powell, Louis Powell, Walter Drakeford, Anthony Burrell and

George Calvert should be enjoined not merely from engaging in specified misconduct, but should be barred altogether from acting as federal tax preparers.

Count III

Injunction under IRC §7402

208. Plaintiff incorporates by reference the allegations in paragraphs 1-207, above.
209. I.R.C. §7402 authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.
210. Defendants, through the actions described above, have engaged in conduct that interferes substantially with the enforcement of the internal revenue laws.
211. If defendants are not enjoined, the United States will suffer irreparable harm because the losses caused by defendants' actions will continue to increase.
212. While the United States will suffer irreparable injury if defendants are not enjoined, defendants will not be harmed by being compelled to obey the law.
213. The public interest would be advanced by enjoining defendants because an injunction will stop their illegal conduct and the harm that conduct is causing the United States Treasury and the public.
214. If the defendants are not enjoined, they are likely to continue to interfere with the enforcement of the internal revenue laws. For example, George Calvert, Gregory Guido, and Walter Drakeford have a history of trying to make the FNS credit scheme appear legitimate by changing their mode of operation once questioned by

the IRS. Since the initiation of the IRS investigation in 2004, George Calvert, Gregory Guido, and Walter Drakeford have continued to sell the FNS credit scheme but have attempted to substitute the FNS credits with other false tax credits, have reassigned customers to different non-existent energy production facilities, have provided false and backdated documents to customers and the IRS to make the scheme appear legitimate and obstruct the IRS investigation, and have coached customers to make misleading statements to the IRS in order to deceive the IRS and obstruct the IRS investigation.

215. Calvert and Guido have also attempted to hide their involvement in the scheme by filing a frivolous lawsuit against another scheme promoter, Robert Anderson.
216. In addition, Elizabeth Powell has continued to argue that the FNS credit scheme is legitimate before the United States Tax Court.
217. Finally, at least one defendant, Sally Hand-Bostick, continues to offer the FNS credits to scheme customers as recently as March 2009, even after being told by the IRS that the FNS credits are shams.
218. Section 45K sunsets and unless extended § 45K credits may not be claimed for FNS sold after December 31, 2007. However, the statute has been revised and extended in years past. Even if it is not extended, defendants have demonstrated that they will amend returns for prior years claiming false FNS credits for sham interests, if they can reasonably expect a quick refund, half or more of which defendants will

receive from their customers as payment for the customers' fraudulent interest.

219. In addition, there is legislative activity involving investment credits for projects that produce electricity such as IRC § 45. The defendants could find a way to use the investment credits in their credit scheme.

220. An injunction under §7402 is necessary and appropriate, and the United States is entitled to injunction relief under I.R.C. §7402. The injunction should bar defendants and anyone acting in concert with them from representing scheme customers before the IRS or in the courts with respect to the scheme, and from otherwise obstructing IRS investigations.

Relief Sought

WHEREFORE, the plaintiff, the United States of America, respectfully prays as follows:

A. That the Court find that the defendants have engaged in conduct subject to penalty under IRC §§ 6700 and 6701 and that injunctive relief is appropriate under I.R.C. § 7408 to prevent them and anyone acting in concert with them from engaging in any further such conduct;

B. That the Court find that the defendants have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against them and their representatives, agents, servants, employees, attorneys, and anyone acting in concert with them is appropriate to prevent the recurrence of that conduct under the Court's inherent equity powers and I.R.C. § 7402(a);

C. That the Court find that the defendants (except Gregory Guido, John Engelsman, Robert Anderson, and Carl Stewart) have engaged in fraudulent and deceptive conduct that interferes with the administration of the internal revenue laws, and engaged in conduct subject to penalty under I.R.C. § 6694, and find that injunctive relief is appropriate under I.R.C. §§ 7402 and 7407 to bar them from asserting unrealistic positions on the returns is necessary to prevent recurrence of these violations and to prevent further interference with the administration of the internal revenue laws.

D. That the Court find that defendants Walter Drakeford, George Calvert, Sally Hand-Bostick, Louis Powell, Elizabeth Powell, Robert Fontenot and Anthony Burrell have continually and repeatedly engaged in fraudulent and deceptive conduct that interferes with the administration of the internal revenue laws, and that Walter Drakeford, Gregory Guido, George Calvert, Sally Hand-Bostick, Louis Powell, Elizabeth Powell, Robert Fontenot and Anthony Burrell have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 and/or § 6695, as well as other deceptive conduct, and find that injunctive relief is appropriate under I.R.C. §§ 7402 and 7407 to permanently bar Walter Drakeford, Gregory Guido, George Calvert, Sally Hand-Bostick, Louis Powell, Elizabeth Powell, Robert Fontenot and Anthony Burrell and anyone acting in concert with them from (a) advising or assisting anyone with regard to federal taxes, (b) representing anyone before the Internal Revenue Service, and (c) preparing or filing federal tax returns or forms for anyone other than themselves and (d) owning, managing, supervising, or

otherwise being involved in the tax-return-preparation or tax-advice business in any way;

E. That the Court, under I.R.C. §§ 7402 and 7408 enter a permanent injunction prohibiting defendants as well as their agents, servants, employees, attorneys, and anyone in active concert or participation with them from directly or indirectly:

(1) Organizing, promoting, marketing, or selling the FNS credit scheme or any other tax shelter, plan, or other arrangement that advises or assists customers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;

(2) Causing other persons and entities to understate their federal tax liabilities on their tax returns;

(3) Making false statements about the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by the reason of participating in such tax shelters, plans or arrangements, or making gross valuation overstatements;

(4) Engaging in any other conduct subject to penalty under I.R.C. § 6700, including making or furnishing, in connection with the organization or sale of a tax shelter, plan or arrangement, a gross valuation overstatement or a statement about the securing of tax benefits that the defendants know or have reason to know is false or fraudulent as to any material matter;

(5) Engaging in activity subject to penalty under I.R.C. § 6701, including advising with respect to, preparing, or assisting in the preparation of a document related to a material matter under the internal revenue laws that includes a position they know will result in an understatement of tax liability;

(6) Representing scheme customers in any matter before the IRS related to the customers' participation in the scheme;

(7) Altering or backdating documents or delaying the negotiation of checks in order to deceive the IRS or to obstruct or impede IRS investigations; or

(8) Engaging in any other conduct subject to penalty under any penalty provision of the IRC, or engaging in any other conduct that interferes with the administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to I.R.C. § 7402, enter an injunction requiring all defendants 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 customers who have used any tax shelter, plan, or other arrangement that defendants have sold or promoted.

G. That the Court, pursuant to I.R.C. § 7402, enter an injunction requiring defendants at their own expense to contact by mail (or by e-mail, if a mailing address is unknown) all individuals who have participated in their abusive tax shelter, plan or

arrangement, and inform those individuals of the Court's findings concerning the falsity of defendants' prior representations and attach a copy of the permanent injunction, and to file with the Court, within 20 days of the date when the permanent injunction is entered, a certification signed under penalty of perjury that they have done so;

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

I. 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

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

Respectfully submitted,

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