

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case no. 1:24cv22034

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
NICLAS PIERRE; NICLAS TAX AND)
EXPRESS INC.;)
)
ELIUS BESSARD; BESSARD)
IMMIGRATIONS AND TAX SERVICES,)
LLC,)
)
Defendants.)
_____)

COMPLAINT FOR PERMANENT INJUNCTION

1. Plaintiff, the United States of America brings this action to permanently enjoin Niclas Pierre (“Mr. Pierre”); Mr. Pierre’s business entity, Niclas Tax and Express Inc. (“Niclas Tax”); Elius Bessard (“Mr. Bessard”); and Mr. Bessard’s business entity, Bessard Immigrations and Tax Services, LLC (“Bessard Tax”) (collectively, the “Defendants”) and all those acting in concert with or under their direction and/or control, from directly or indirectly:

a. Preparing, assisting in the preparation of, or directing the preparation of federal tax returns, amended returns, or other tax-related documents and forms, including any electronically submitted tax returns or tax-related documents, for any entity or person other than themselves;

b. Filing, assisting in the filing of, or directing the filing of federal tax returns, amended returns, or other tax-related documents or forms, including any electronically submitted tax returns or tax-related documents, for any entity or person other than themselves;

c. Owning, operating, managing, profiting from, working in, investing in, providing capital or loans to, receiving fees or remuneration from, controlling, licensing, consulting with, franchising, or volunteering at a business that prepares or assists in the preparation of tax returns, amended returns, or other tax-related documents or forms, including any electronically submitted tax returns or tax-related documents;

d. Transferring, selling, or assigning their customer lists and/or other customer information; and

e. Using, maintaining, renewing, obtaining, transferring, selling, or assigning any Preparer Tax Identification Number ("PTIN") and Electronic Filing Identification Number ("EFIN"); and

f. Training, instructing, teaching, creating, or providing guides, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns; and

g. Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701; and

h. Engaging in any conduct that substantially interferes with the proper administration and enforcement of the Internal Revenue Code.

2. This action also seeks an order, under 26 U.S.C § 7402(a), requiring Defendants to disgorge to the United States the gross receipts they received for the preparation of federal tax returns making false or fraudulent claims.

JURISDICTION AND VENUE

3. This action was authorized and requested by the Chief Counsel of the Internal Revenue Service (“IRS”), a delegate of the Secretary of the Treasury, and is brought at the direction of a delegate of the Attorney General of the United States under 26 U.S.C. § 7401.

4. This Court has jurisdiction under 26 U.S.C. §§ 7402(a) and 7407 and 28 U.S.C. §§ 1340 and 1345.

5. Venue in this Court is proper under 28 U.S.C. §§ 1391 and 1396 and 26 U.S.C. § 7407. Niclas Tax and Bessard Tax maintain their principal place of business in this district and Defendants prepare tax returns within this judicial district.

DEFENDANTS

6. Defendant Niclas Pierre has worked as a federal income tax preparer as defined by 26 U.S.C. § 7701 for approximately 30 years. Today, Mr. Pierre operates a tax return preparation business through an entity named Niclas Tax located in Miami, FL.

7. Defendant Elius Bessard has worked as a federal income tax preparer as defined by 26 U.S.C. § 7701 since at least 2009. In November 2017, Mr. Bessard

formed Bessard Tax in Miami, FL and began conducting tax preparation services in 2018.

BACKGROUND

Niclas Pierre

8. Mr. Pierre has been preparing tax returns since approximately 1992. Before opening Niclas Tax in 2016, Mr. Pierre ran a tax return preparation business through an entity named High Class Insurance. In 2016, Mr. Pierre formed Niclas Tax and is listed as the President and registered agent.

9. Since 2018, Mr. Pierre has personally prepared approximately 3,100 tax returns. Mr. Pierre also employs four return preparers, including Mr. Bessard, through Niclas Tax. Altogether, tax return preparers at Niclas Tax have filed over 9,600 returns in the last five filing seasons.

10. Mr. Pierre's tax preparation fees start at \$300 and increase depending on the complexity of the return. Each customer pays approximately 10% of the tax preparation fees upfront via cash and the remaining 90% of the tax preparation fees are withheld from the customer's refund.

11. On October 25, 2010, Pierre obtained a PTIN (XXX227) from the IRS. A PTIN is an identification number the IRS issues to return preparers that the return preparer must use to identify themselves on returns they prepare for compensation. A preparer's failure to identify herself on returns she prepares for others is subject to penalty under 26 U.S.C. § 6695(c). The returns filed under Mr. Pierre's PTIN are as follows:

Tax Year	Returns Prepared	Refunds	Refund Percentage
2018	494	396	80%
2019	437	418	96%
2020	685	678	98%
2021	724	704	97%
2022	388	370	95%
2023	376	337	89%
TOTAL	3,104	2,903	94%

12. A return preparer who expects to file (or who works at a firm whose members together expect to file) more than 10 returns per year must file the returns electronically. 26 C.F.R. § 301.6011-7(a)(3); *see also* 26 U.S.C. § 6011(e).

13. To electronically file returns, a return preparer must obtain an EFIN from the IRS. EFINs are identification numbers used by the IRS to identify and track business entities involved in electronic return preparation. All preparers working for a particular firm must include the firm's EFIN on returns that they transmit to the IRS electronically.

14. In November 2010, Mr. Pierre obtained an EFIN (XXX812) that was registered to an entity called Nick Insurance & Express. In 2016, the IRS notified Mr. Pierre that he and his firm would be expelled from participation in the IRS e-file program due to filing fraudulent returns and returns electronically filed with stolen identities.

15. In 2018, Mr. Pierre and tax preparers at Niclas Tax began to use an EFIN (XXX294) which is registered to NP Insurance Express. The EFIN is registered to Mr. Jehovat Jean Louis.

Elias Bessard

16. Mr. Bessard has been preparing returns since at least 2009. In 2009, Mr. Bessard began preparing tax returns at Niclas Tax. In 2018, Mr. Bessard formed Bessard Tax which he operates out of his home in Miami, FL. Mr. Bessard continues to prepare returns full-time at Niclas Tax and prepares tax returns at Bessard Tax on nights and weekends.

17. Sinc 2021, Mr. Bessard has prepared approximately 360 returns per year through Bessard Tax. Mr. Bessard employs a return preparer who prepares approximately 60% of the returns filed by Mr. Bessard through Bessard Tax.

18. Mr. Bessard's tax preparation fee structure is based on the customer's income and tax refund. The tax preparation fees range from \$300 - \$600. But Mr. Bessard does not charge a fee for clients who owe the IRS.

19. Mr. Bessard’s PTIN (PXXXXXX877) was issued in December 2010 and his EFIN (XX864) was issued in November 2018. Mr. Bessard uses this PTIN to file returns at Niclas Tax and Bessard Tax. The number of returns personally prepared by Mr. Bessard since 2018 are as follows:

Tax Year	Returns Prepared	Refunds	Refund Percentage
2018	991	885	89%
2019	862	859	99%

2020	1035	1025	99%
2021	1066	1045	99%
2022	889	873	98%
2023	368	345	83%
TOTAL	5,211	5,032	97%

20. Under 26 U.S.C § 6695(g), the IRS is authorized to assess penalties against a return preparer who fails to follow the due diligence requirements for claiming certain deductions and credits.

21. The IRS has assessed penalties against Mr. Bessard for understating his customers' tax liabilities by taking unreasonable positions in violation of 26 U.S.C § 6695(g) and willfully, intentionally, or recklessly filing returns that understate his customers' tax liabilities.

22. In 2011, Mr. Bessard was assessed 218 penalties under 26 U.S.C. § 6695(g). After receiving two warning calls in both 2015 and 2016, Mr. Bessard was again assessed 9 penalties under § 6695(g) in 2016 and 3 penalties under § 6695(g) in 2018.

DEFENDANTS' ACTIVITIES

23. Defendants have prepared thousands of individual federal income tax returns (Form 1040) for customers since approximately 2020. In 2023 alone (for tax year 2022), 2,184 individual tax returns were prepared for clients of Niclas Tax and 317 were prepared by Mr. Bessard through Bessard Tax.

24. Defendants deliberately prepare returns that understate their clients' tax liabilities and/or overstate the refund to which their clients are entitled.

Defendants do so through a variety of schemes, including: (1) fabricating Schedule D and Form 4797 losses; (2) falsifying Schedule C expenses and income losses; (3) fraudulent claims for residential energy tax credits; (4) bogus claims of the Energy Efficient Home Credit; and (5) fraudulent education credits under the American Opportunity Tax Credit.

25. As discussed above, Defendants have a history of ignoring, or recklessly disregarding, tax preparation due diligence requirements for reporting and claiming these deductions and credits.

26. The United States refers below to customers of Mr. Pierre's and Mr. Bessard's by number in order to protect the customers' privacy. The United States will serve with this Complaint, but not file, a customer key indicating the name of each numbered customer.

Fraudulent Schedule D and Form 4797 Loses

27. Individual taxpayers must report each year the sale of certain personal capital assets, such as stocks and bonds, on Schedule D, *Capital Gains and Losses*, filed with the taxpayer's individual income tax return. Taxpayers who profit from the sale of applicable capital assets may be taxed at a lower rate on the gain if the capital asset was owned for more than one year. Taxpayers who lose money on the sale of certain capital assets may report the amount of the loss on their Schedule D and have their taxable income reduced.

28. Likewise, on Form 4797, *Sales of Business Property*, business owners must report the sale of certain business assets each year. Generally, the sale of real property used for business purposes, business vehicles and the sale of a small business are reportable on the Form 4797. Business owners who report losses on the sale of applicable assets may be able to reduce the taxpayer's liability and generate tax refunds.

29. Returns prepared by Niclas Tax and Bessard Tax have included a scheme that involves deducting fraudulent losses from the purported sale of personal investments and the sale of business property. Customers of Niclas Tax and Bessard Tax have indicated that they did not own investments, did not incur losses, and that the deductions for losses were claimed by the preparers without their knowledge.

- Mr. Pierre prepared the 2021 return of Customer 1. Customer 1's 2021 return included a \$12,458 loss due to the sale of a business property. But Customer 1 did not operate a business and did not own or sell a business property in 2021. Customer 1 only provided Mr. Pierre with information regarding mortgage interest paid by Customer 1 on their primary residence.
- Customer 2's 2020 return was prepared by Mr. Bessard and included Form 4797 losses totaling \$6,874. But Customer 2 did not own any stocks or investments as Customer 2 did not own or operate a business.

- Customer 3 2021 return was prepared by Mr. Pierre who reported a \$19,092 loss on investments on Form 4797 without Customer 3's knowledge.
- Customer 4 had their 2021 tax return prepared by Mr. Bessard at Niclas Tax. Customer 4's 2021 return included a \$10,298 loss on Form 4797 for losses related to the sale of business investments. Mr. Bessard knew that Customer 4 did not own or operate a business in 2021. Customer 4 only provided Mr. Bessard with wage income documents they received from their employer.

Falsification of Schedule C Expenses

30. Individual taxpayers who operate a business as a sole proprietorship must report the business's income and expenses on a Schedule C, *Profit or Loss from Business (Sole Proprietorship)*, that is filed as part of the taxpayer's Form 1040. The net figure reported on a Schedule C, whether a profit or a loss, is a component of the taxpayer's adjusted gross income ("AGI").

31. The Schedule C is a detailed schedule, requiring the tax preparer to inquire whether a taxpayer had a business, what their income was, and what expenses they incurred (such as rent, travel, utilities, wages, office expenses, and professional services). As a matter of course, tax preparers routinely discuss this detailed schedule with appropriate taxpayers to ensure the information is accurate.

32. Mr. Pierre and Mr. Bessard understate their customers' AGI by fabricating or inflating expenses, and therefore overstating losses claimed on a

Schedule C filed with returns. This fraudulently reduces the amount of taxable income the customers report and thus the amount of tax that they report they owe. The reduction in tax also leads to bogus refund claims in some cases.

- Customer 5 had their 2022 return prepared by Mr. Pierre. Customer 5 was an employee of a corporation and did not own a business during the 2022 tax year. But Mr. Pierre included a Schedule C expenses of \$25,023 on Customer 5's return. Customer 5 never provided any documentation to Mr. Pierre to substantiate the loss or confirm the operation of a business.
- Customer 6 had their 2021 tax return prepared by Mr. Pierre. Customer 6 provided Mr. Pierre only with documentation of their income from their employer. But Mr. Pierre included a bogus Schedule C which indicated that Customer 6 had a \$5,000 loss from operating a business in 2021. Customer 6 did not operate a business in 2021 and Customer 6 provided Mr. Pierre with no documentation to substantiate the claimed loss.

Residential Energy Tax Credit

33. In tax years 2018 through 2022 an individual could claim a credit for (1) 10% of the cost of qualified energy efficiency improvements and (2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during the taxable year (subject to the overall credit limit of \$500). Qualified energy efficiency improvements include energy-efficient exterior windows, doors and skylights; roofs

(metal and asphalt) and roof products; and insulation. Residential energy property expenditures include energy-efficient heating and air conditioning systems; water heaters (natural gas, propane or oil); and biomass stoves.

34. Since 2019, Mr. Pierre and Mr. Bessard have prepared returns claiming the Residential Energy Credit (REC) as follows:

Processing Year	Returns Claiming Residential Energy Credit	Total Amount Claimed
2019	1210 (43%)	\$1,373,259
2020	1316 (49%)	\$1,750,270
2021	1611 (53%)	\$2,415,470
2022	596 (44%)	\$983,922
2023	223 (9%)	\$222,817
Totals	4,956	\$6,745,738

35. As described below, Defendants regularly claim false RECs on their customers' returns for home improvements and repairs unrelated to energy saving or simply fabricate expenses to claim the credit.

- Mr. Bessard prepared Customer 2's return in 2019, 2020 and 2021. Customer 2 did not install any of the energy efficient appliances or improvements required to claim the REC. Mr. Bessard claimed the REC on Customer 2's return without asking Customer 7 if the required energy efficient updates were installed.

- Customers 3, 5 and 7 all had the REC claimed on their returns even though they did not install any energy efficient appliances or improvements.

General Business Credit – Form 8908 Energy Efficient Home Credit

36. Form 8908, *Energy Efficient Home Credit*, is used by eligible contactors to claim credit for each qualified energy efficient home sold or leased to another person during the tax year. The Energy Efficient Home Credit (“EEHC”) is based on the home meeting certain energy saving requirements. Under 26 U.S.C. § 45L, an eligible contractor is the person that constructed a qualified energy efficient home (or produced a qualified energy efficient home that is a manufactured home). The home must be certified and meet certain energy saving requirements. Construction includes substantial reconstruction and rehabilitation.

37. Eligible taxpayers may claim up to \$2,000 for a dwelling unit that is certified to have an annual level of energy consumption that is at least 50% below the annual level of energy consumption of a comparable dwelling unit. The home must be certified to meet the applicable energy saving requirements before the EEHC can be claimed on the Form 8908.

38. In 2023, Mr. Pierre and Mr. Bessard prepared returns claiming the EEHC as follows:

Processing Year	Number of Returns Claiming the EEHC	Total Amount of EEHC Claimed
2023	944 (38%)	\$2,534,741

39. The Defendants claim the EEHC on their customers' return even though none of their customers are engaged in the business of selling, leasing or constructing energy efficient homes.

- Customer 4 2021 return was prepared by Mr. Bessard, who claimed the EEHC on Customer 4's 2021 return even though Customer 4 does not own their home. Customer 7 discussed with Mr. Bessard that they rented their home but Mr. Bessard still included the EEHC on Customer 4's 2021 return.
- Customer 5 had their 2021 return prepared by Mr. Bessard and their 2022 return prepared by Mr. Pierre. Even though Customer 5 did not operate a business in those tax years, Mr. Pierre and Mr. Bessard claimed that Customer 5 sold three energy efficient homes in 2021 and 2022. But Customer 5 did not sell any home in 2021 or 2022 and Mr. Pierre and Mr. Bessard claimed the EEHC without Customer 5's knowledge.
- Customer 8's 2022 return was prepared by Mr. Pierre. Mr. Pierre claimed the EEHC on Customer 10's 2022 but did not inquire about whether Customer 8 was in the business of selling, leasing or building energy efficient homes. Customer 8 did not sell, lease or build two energy efficient homes in 2022.

Education Credit

40. The American Opportunity Tax Credit (“AOTC”) is a partially refundable tax credit for qualifying higher education expenses. The AOTC reduces the amount of tax reported by the taxpayer on a dollar-for-dollar basis up to \$2,500. Up to \$1,000 of that is refundable to the taxpayer if the amount of the credit exceeds the tax shown due.

41. Each year, eligible educational institutions will issue Form 1098-T, *Tuition Statement*, to the taxpayer and the IRS which reports the qualified expenses. The information contained on the Form 1098-T is then reported on Form 8863 and attached to the taxpayer’s return.

42. Since 2018, Mr. Pierre and Mr. Bessard have prepared returns claiming the AOTC as follows:

Processing Year	Returns Claiming AOTC	Total Amount of AOTC Claimed
2018	947 (31%)	\$846,015
2019	953 (34%)	\$873,296
2020	798 (30%)	\$735,569
2021	790 (26%)	\$704,410
2022	270 (20%)	\$183,812
2023	301 (12%)	\$293,672
Totals	4,059	\$3,636,774

43. Mr. Pierre and Mr. Bessard prepared Forms 8863, *Education Credits (American Opportunity and Lifetime Learning Credits)*, that they attached to

returns they prepared for customers to claim the AOTC even though those customers did not qualify for the AOTC.

- Customer 4's 2020 return was prepared by Mr. Bessard. Customer 4's 2020 return included a AOTC for tuition and fees. But Customer 4 did not attend the required educational institution in 2020 and has not matriculated at any eligible institution for some time. Despite not being provided with the appropriate documentation, Mr. Bessard included the AOTC on Customer 4's 2020 return.
- Customer 9's 2021 return was prepared by someone at Niclas Tax. Customer 10's 2021 return included an AOTC even though Customer 9 never attended any post-high school institution. Customer 9 did not provide any documentation of any educational expenses nor did they discuss attending post-secondary schooling with the return preparer.
- Customer 10's 2021 return was prepared by Mr. Pierre. Mr. Pierre stated that Customer 10 attended "The School Board of Miami Dade County" which does not operate an eligible institution. Customer 10 did not discuss education expenses with Mr. Pierre nor did they provide a Form 1098-T.

Ghost Preparation

44. Under 26 U.S.C. § 6109, return preparers are required to identify themselves on the returns they prepare for customers by including their PTIN on the return. Return preparers that do not identify themselves on returns they prepare for

customers are subject to a penalty under 26 U.S.C. §§ 6695(b) and (c). The IRS refers to return preparers that do not identify themselves on returns they prepare as “ghost preparers.”

45. Defendants sometimes operate as ghost preparers because they do not identify themselves as the return preparer, and instead list another as the person who prepared the tax returns or list no one at all, giving the impression the return is self-prepared by the taxpayer.

46. A court can enjoin a return preparer who continually engages in conduct subject to penalty under § 6695 from preparing returns for others. *See* 26 U.S.C. § 7407. Because Defendants operate as ghost preparers, it is difficult for the IRS to identify and detect some of their illicit tax preparation activities. Once detected, it is difficult to quantify exactly how many returns the Defendants prepared and filed for their customers.

HARM CAUSED BY DEFENDANTS' ACTIONS

47. Defendants' pattern of preparing returns that understate their clients' taxes and/or overstate their refunds through the schemes described above has resulted in the loss of significant federal tax revenue. Defendants' manipulation of their customers' income and deductions, and other fraudulent practices, cause the United States to issue refunds that Defendants' customers are not entitled to receive. Based on the returns it has examined, the IRS estimates that the United States has lost millions of dollars in tax revenue from Defendants' actions. Given the complexity of Defendants' schemes and their failure to consistently identify

themselves as the preparers of returns, it is difficult to estimate the full loss caused to the United States.

48. In addition to lost tax revenue, the United States must bear the substantial cost of examining returns Defendants prepare and collecting the understated liabilities from their customers.

49. Defendants' illegal conduct harms honest tax return preparers because, by preparing tax returns that unlawfully inflate their customers' refunds, Defendants have a competitive advantage over tax return preparers who prepare returns in accordance with the law. Customers who are satisfied with the tax refunds they receive are often unaware of Defendants' illegal return preparation practices and return to Defendants for subsequent tax seasons.

50. Defendants' actions undermine confidence in the federal income tax system. Defendants' customers trust—and pay—they to prepare honest returns. Defendants betray that trust and harm their customers, who must foot the bill for the deficiencies and, potentially, interest and penalties resulting from Defendants' conduct.

51. Defendants' activities encourage noncompliance with the internal revenue laws by failing to confirm with their customers that their returns honestly and accurately reflect the information they provided.

52. Finally, Defendants' actions undermine Congress' intent in implementing many aspects of the internal revenue code that rewards taxpayers for engaging in certain behaviors. Congress chose to reduce tax liabilities for those who

invest in solar technologies, open new businesses, or invest in qualified education. By lying about their clients' situations, Defendants defraud the United States Treasury, and override Congress' directives in incentivizing certain actions.

COUNT I: INJUNCTION UNDER 26 U.S.C. § 7407
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. §§ 6694
and 6695

53. The United States incorporates by reference the allegations of paragraphs 1 through 52.

54. Under 26 U.S.C. § 7407, a district court is authorized to enjoin a person who is a tax return preparer from engaging in certain conduct or from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes the following:

55. Engaging in conduct subject to penalty under 26 U.S.C. § 6694(a), which prohibits a tax return preparer from preparing returns that contains an understatement of tax liability or an overstatement of a refund due to an unreasonable position (as defined by § 6694(a)(2)) which the preparer knew or should have known was unreasonable; and

56. Engaging in conduct subject to penalty under 26 U.S.C. § 6694(b), which prohibits a tax return preparer from preparing returns that contain an understatement of tax liability or an overstatement of a refund due to willful or reckless conduct; and

57. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

58. For a court to issue such an injunction, the court must find (1) that the preparer engaged in the prohibited conduct defined in paragraphs 23-46 above, and (2) that injunctive relief is appropriate to prevent the recurrence of the conduct.

59. If a tax return preparer's conduct is continual or repeated and the court finds that a narrower injunction would not be sufficient to prevent the preparer's interference with the proper administration of the internal revenue laws, the court may permanently enjoin the person from acting as a tax return preparer. *See* 26 U.S.C. § 7407(b).

60. The Defendants continually and repeatedly engage in conduct subject to penalty under 26 U.S.C. § 6694 by preparing returns that overstate the customers' refunds based upon unreasonable and reckless positions. As described in the complaint, the Defendants prepare returns that claim credits to which their customers are not entitled. Defendants do so with the knowledge that the positions taken on the returns are unreasonable and lack substantial authority. The defendants thus engage in conduct subject to penalty under 26 U.S.C. § 6694(a).

61. A narrower injunction would be insufficient to prevent Defendants' interference with the administration of the internal revenue laws. Defendants prepare returns understating their customers' liabilities through multiple schemes that report false information on their customers' tax returns. In addition, the IRS may not yet have identified all schemes employed by Defendants to understate liabilities and overstate refunds and credits. Denial of a permanent injunction against Defendants will require the IRS to spend additional resources to uncover all

future schemes. The harm resulting from these schemes includes both the expenditure of these resources and the revenue loss caused by the improper deductions and credits Defendants claim on returns they prepare. Accordingly, only a permanent injunction is sufficient to prevent future harm caused by Defendants acting as tax return preparers.

**COUNT II: INJUNCTION UNDER 26 U.S.C. § 7408 FOR CONDUCT
SUBJECT TO PENALTY UNDER 26 U.S.C. §§ 6700 and 6701**

62. The United States incorporates by reference the allegations of paragraphs 1 through 52.

63. Under 26 U.S.C. § 7408, a court is authorized to enjoin any person from engaging in conduct subject to penalty under 26 U.S.C. § 6701.

64. 26 U.S.C. § 6701 penalizes a person who aids or assists in the preparation of tax returns that the person knows will result in an understatement of tax liability.

65. Defendants repeatedly and continually engage in conduct subject to penalty under 26 U.S.C. § 6701 by preparing income tax returns with claims of deductions that they knew to be improper, false, and/or inflated.

66. Defendants' repeated actions fall within 26 U.S.C. § 7408, and injunctive relief is appropriate to prevent a recurrence of this conduct.

67. If Defendants continue to act as tax return preparers, their conduct will result in irreparable harm to the United States and the United States has no adequate remedy at law.

68. Defendants' conduct has caused, and will continue to cause, substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable. Unless the Court enjoins Defendants' activities, the IRS will have to devote substantial and unrecoverable time and resources auditing their customers individually to detect understated liabilities and overstated refund claims.

69. The detection and audit of erroneous tax credits and deductions claimed on returns prepared by Defendants would be a significant burden on IRS resources.

70. An injunction against Defendants is necessary to prevent them from preparing further deliberately false returns to the detriment of the United States.

COUNT III: INJUNCTION UNDER 26 U.S.C. § 7402 FOR UNLAWFUL INTERFERENCE WITH THE ENFORCEMENT OF INTERNAL REVENUE LAWS

71. The United States incorporates by reference the allegations of paragraphs 1 through 52.

72. Under 26 U.S.C. § 7402(a), a court is authorized to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

73. Defendants repeatedly and continually engage in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

74. If Defendants continue to act as a tax return preparers, their conduct will result in irreparable harm to the United States and the United States has no adequate remedy at law.

75. Defendants' conduct has caused, and will continue to cause, substantial tax losses to the United States Treasury, much of which may be undiscovered and

unrecoverable. Unless the Court enjoins Defendants' activities, the IRS will be required to devote substantial and unrecoverable time and resources auditing their customers individually to detect understated liabilities and overstated refund claims.

76. The detection and audit of erroneous tax credits and deductions claimed on returns prepared by Defendants would be a significant burden on IRS resources.

77. The threatened injury to the United States far outweighs the harm to Defendants if this injunction is granted.

78. The public interest is served by granting this requested injunction, for the reasons set forth in paragraphs 47-52.

COUNT IV – DISGORGEMENT UNDER 26 U.S.C. § 7402(a)

79. The United States incorporates by reference the allegations of paragraphs 1 through 52.

80. Under 26 U.S.C § 7402(a), a district court is authorized to issue orders, judgments, and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

81. Defendants' conduct substantially interferes with the enforcement of the internal revenue laws and causes the United States to issue tax refunds to individuals not entitled to receive them. But for Defendants' conduct, the United States would not have issued these fraudulent refunds.

82. Defendants have unjustly profited from their misconduct at the expense of the United States. They subtracted fees from their customers' fraudulent refund claims.

83. Defendants are not entitled to these fraudulent gains. Using its broad authority under 26 U.S.C. § 7402(a), the Court should enter an order requiring Defendants to disgorge to the United States the receipts (in the form of fees paid and those subtracted from customers' tax refunds) they received for the preparation of federal tax returns that make grossly incompetent, negligent, reckless, and or fraudulent claims. The Court should order that Mr. Pierre and Niclas Tax are jointly and severally liable for any disgorgement attributable to their conduct, and that Mr. Bessard and Bessard Tax are jointly and severally liable for any disgorgement attributable to their conduct.

RELIEF REQUESTED

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

A. That the Court find that Defendants have repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695, and 6701, and that injunctive relief is appropriate under 26 U.S.C. §§ 7407 and 7408 to prevent recurrence of that conduct;

B. That the Court find that Defendants have repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the internal revenue laws and that injunctive relief is appropriate under 26 U.S.C. § 7402(a) and this Court's equitable powers to prevent recurrence of that conduct;

C. That the Court enter a permanent injunction prohibiting Defendants and any other person working in concert or participation with them from directly or indirectly:

1. Preparing, assisting in the preparation of, or directing the preparation of federal tax returns, amended returns, or other tax-related documents or forms, including any electronically submitted tax returns or tax-related documents, for any entity or person other than themselves;
2. Owning, profiting from, managing, controlling, assisting, working at, or volunteering for any business or entity engaged in tax return preparation;
3. Transferring, selling, or assigning their customer lists and/or other customer information;
4. Engaging in activity subject to penalty under 26 U.S.C. §§ 6694, 6695 and 6701; and
5. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

D. That the Court enter an injunction requiring Defendants, at their own expense, to:

- i. To take reasonable steps to provide a copy of the final injunction entered against Defendants in this action, as well as a copy of the Complaint setting forth the allegations as to how

Defendants fraudulently prepared federal tax returns, to each person for whom Defendants prepared federal tax returns or any other federal tax forms after January 1, 2019, within 30 days of entry of the final injunction in this action;

- ii. To turn over to the United States copies of all returns and claims for refund that Defendants prepared after January 1, 2019;
- iii. To provide the United States a list of the names, Social Security numbers, addresses, phone numbers, and email addresses of each person for whom Defendants prepared tax returns, other tax forms, or claims for refund after January 1, 2019, within 30 days of entry of the final injunction in this action;
- iv. To prominently post: a copy of the injunction, a statement that they have been enjoined from the preparation of tax returns and a hyperlink to any press release regarding the injunction that the Department of Justice may issue, on Defendants' social media accounts and websites used to advertise their tax preparation services, if any, and in Defendants' places of business where they prepared tax returns over the past 4 years, within 10 days of entry of the final injunction in this action;

- v. To deliver a copy of the injunction to any employees, contractors and vendors of Defendants, if any, within 30 days of entry of the final injunction in this action;
- vi. To file a sworn statement with the Court evidencing Defendants' compliance with the foregoing directives within 45 days of entry of the final injunction in this action; and
- vii. To keep records of Defendants' compliance with the foregoing directives, which may be produced to the Court, if requested, or the United States pursuant to paragraph E, below;

E. That the Court enter an order allowing the United States to monitor Defendants' compliance with the injunction and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

F. Order, without further proceedings, the immediate revocation of any and all PTINs and EFINs held by, assigned to, or used by Defendants issued under 26 U.S.C. § 6109;

G. Enter an order, pursuant to 26 U.S.C. § 7402(a), requiring Defendants to disgorge to the United States the gross receipts (the amount of which is to be determined by the Court) that Defendants received (in the form of fees subtracted from customers' tax refunds or paid out of pocket) for the preparation of tax returns that make or report false or fraudulent claims, deductions, credits, income, expenses, or other information that results in the understatement of taxes;

H. Retain jurisdiction over Defendants and this action to enforce any permanent injunction entered; and

I. Award the United States its costs incurred in connection with this action, along with such other relief as justice requires.

Dated: May 28, 2024

Respectfully submitted,

DAVID A. HUBBERT
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