

FILED

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

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US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

VICKY BARWICK a/k/a VICKY EDDLEMAN,
JASMINE MORALES a/k/a JASMINE RIVERA,
and Q A TAX SERVICE, INC.,

Defendants.

Civil No. 17-cv-35-DRI-18TBS

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America, for its complaint against Vicky Barwick a/k/a Vicky Eddleman, Jasmine Morales a/k/a Jasmine Rivera, and Q A Tax Service, Inc., alleges the following:

1. This is a civil action brought by the United States under 26 U.S.C. §§ 7402, 7407, and 7408 to enjoin Vicky Barwick, Jasmine Morales, Q A Tax Service, Inc., and anyone in active concert or participation with them, from:
 - a. acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
 - b. preparing or assisting in preparing federal tax returns that they know or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by 26 U.S.C. § 6694;
 - c. owning, operating, managing, working in, investing in, providing capital or loans to, receiving fees or remuneration from, controlling, licensing, consulting with, or franchising a tax return preparation business;

- d. training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- e. maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
- f. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6701, or any other penalty provision in the Internal Revenue Code; and
- g. engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

This action also seeks, under 26 U.S.C. § 7402, an order requiring Barwick, Morales, and Q A Tax Service, Inc., to disgorge to the United States the ill-gotten gains that Barwick, Morales, and Q A Tax Service, Inc. received (in the form of tax preparation fees) for the preparation of federal tax returns making grossly incompetent, negligent, reckless, false, and/or fraudulent claims.

Authorization

2. This action has been requested and authorized 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, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408.

Jurisdiction and Venue

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402(a).

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because Barwick and Morales reside in this judicial district, Barwick and Morales are officers of Q A Tax Service, Inc., which has its principal place of business in Orlando, Florida, within this district, and a substantial part of the activities giving rise to this suit occurred in this judicial district.

Defendants

5. Vicky Barwick, a/k/a Vicky Eddleman, resides in Orlando, Florida. Barwick has been preparing tax returns for others since at least 2012. In 2016, Barwick was an owner of (and prepared tax returns in the name of) Q A Tax Service, Inc. Prior to 2016, Barwick prepared tax returns at LBS Tax Services and BPTS Tax Services. Barwick personally prepared the following total number of tax returns identifying her as the paid preparer in 2013, 2014, 2015, and 2016:

Processing Year	Total Number of Returns	Number of Returns Claiming a Refund	% of Returns Claiming a Refund
2013	207	204	98 %
2014	258	256	99 %
2015	250	245	98 %
2016	167	159	95 %

6. Jasmine Morales, a/k/a Jasmine Rivera, resides in Winter Garden, Florida. Morales has been preparing tax returns for others since at least 2011. In 2016, Morales was an owner of (and prepared tax returns in the name of) Q A Tax Service, Inc. Prior to 2016, Morales prepared tax returns at LBS Tax Services and BPTS Tax Services. Morales personally prepared the following total number of tax returns identifying her as the paid preparer in 2013, 2014, 2015, and 2016:

Processing Year	Total Number of Returns	Number of Returns Claiming a Refund	% of Returns Claiming a Refund
2013	149	146	97 %
2014	46	43	93 %
2015	33	32	96 %
2016	26	24	92 %

7. Q A Tax Service, Inc. was incorporated in the State of Florida on or about November 30, 2015. The officers of Q A Tax Service, Inc. are Morales (President), Tanisha Salmon a/k/a Tanisha Chambers¹ (Vice President), and Barwick (Secretary).

8. Q A Tax Service, Inc. was incorporated nine days before the United States District Court for the Middle District of Florida entered a preliminary injunction against Tonya Chambers. Chambers owned BPTS, LLC, doing business as BPTS Tax Services. Morales is Tonya Chambers' sister-in-law, and Barwick has for several years been the manager at the tax preparation store that Chambers owned and previously managed herself (when it was an LBS Tax Services store owned by Jean Demesmin) in Apopka, Florida. The injunction against Chambers, entered December 8, 2015, barred her from 1) preparing or assisting in the preparation of tax returns for others, 2) owning or operating a tax preparation business, 3) assigning, transferring, or selling a list of customers or any other customer information from, and any proprietary information pertaining to, BPTS, LLC and any other business through which Chambers or those acting at her direction have prepared a tax return, and 4) assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to BPTS, LLC or any other tax return preparation business to which Chambers or any entity under her control is a party. *See* Docket No. 51, *United States v. Demesmin, et al.*, Case No. 6:14-cv-1537-ACC-TBS (M.D. Fla.).

9. Since December 2015, Q A Tax Service, Inc. has operated eight tax preparation stores. Q A Tax Service, Inc. began operating tax preparation stores that previously, in 2015, were operated by Tonya Chambers directly and through her wholly-owned entities BPTS, LLC, and Taxes Done Right, LLC. In 2016, Q A Tax Service, Inc. operated six tax preparation stores

¹ Tanisha Salmon resides in Fayetteville, North Carolina, and the United States is simultaneously filing a lawsuit against her in the United States District Court for the Eastern District of North Carolina.

that Chambers operated in 2015 under the name BPTS, located in Orlando, Apopka, Orange City, and Leesburg, Florida, and Fayetteville and Dunn, North Carolina, and one store that Chambers operated in 2015 under the name Taxes Done Right in Chicago, Illinois. According to Q A Tax Service, Inc.'s website, it also operates a store in Hammond, Indiana.

10. Barwick, Morales, and Q A Tax Service, Inc. prepare tax returns for compensation. As the owners of Q A Tax Service, Inc., Barwick and Morales employ individuals, either directly or through Q A Tax Service, Inc., who prepare tax returns for compensation.

Background

11. LBS Tax Services ("LBS") began in 2008 as a tax return preparation business in Orlando operated by Walner Gachette. In 2011, Gachette began franchising the LBS name through Loan Buy Sell, Inc., a corporation organized in the State of Florida, to his employees in order to broaden his revenue base.

12. Barwick and Morales began working at LBS stores owned and operated by Jean Demesmin and Tonya Chambers in 2011 and 2012, respectively. These stores subsequently were owned solely by Tonya Chambers and operated as BPTS Tax Services.

13. The Defendants utilize the business structure and business model created by LBS, which they learned working at LBS and BPTS Tax Services stores. Each of the Q A Tax Service, Inc. stores are managed by an individual who may be known as a District Sales Manager. District Sales Managers, in turn, oversee office managers, tax return preparers, and marketers (employees whose sole job is to solicit customers). The Defendants, however, bear ultimate authority over their stores.

14. The Defendants fail to teach managers and tax return preparers crucial elements related to basic tax return preparation. The Defendants' tax return preparation training covers instruction on data entry using tax return preparation software and preparing practice tax returns so that preparers know where to enter information in the preparation software. The supplier of the tax return preparation software does not provide in-person training or training on tax law.

15. The Defendants train and instruct their tax return preparers on how to prepare tax returns that improperly claim bogus refunds based on false claims, credits, and deductions, in order to falsely and improperly maximize customers' tax refunds and to maximize the fees extracted from those refunds. The Defendants also train their tax return preparers to increase the tax return preparation fees charged to customers as they increase the customers' bogus refunds.

16. The Defendants provide instruction sheets to managers and tax return preparers that direct the preparers to input specific information into the tax preparation software to create the maximum bogus refund for customers. The Defendants also provide scripts directing employees on how to interact with customers and potential customers. This includes scripts informing customers that they will be receiving a refund, although not all customers legally qualify for a refund. The Defendants deliver on their promise of a refund, as illustrated above in paragraphs 5 and 6, in the high refund rates on tax returns that the Defendants prepared from 2013 through 2016.

17. The purpose of these scripts is to solicit customers and, once those customers have come in the door, to run up the tax return preparation fees by attaching unnecessary forms to the return at an additional charge to the customer. The Defendants include bogus claims, credits, and deductions on these forms to generate a higher refund for the customer, and use this higher refund to justify the additional (and often undisclosed) tax return preparation fees.

The Defendants' Activities

18. The Defendants, and those acting in concert with them and at their direction, have created and maintained a tax preparation business that promotes and encourages the preparation of false and fraudulent federal income tax returns to generate bogus refunds for customers and enable the Defendants to charge exorbitant fees, thereby maximizing profits at the expense of the United States Treasury.

19. Many of the Defendants' customers earn low to moderate incomes and lack knowledge regarding tax law and tax return preparation. Customers often have no knowledge that the Defendants and Q A Tax Service, Inc. tax return preparers have prepared and filed false tax returns on their behalf. For others, the tax preparers—with the Defendants' consent and urging—mislead customers about what can “legally” be claimed on their tax returns, particularly with respect to various credits and deductions, and by promising customers thousands of dollars of (illegal) refunds to convince them to have Q A Tax Service, Inc. prepare their tax returns.

20. Instead of focusing on honest and accurate tax return preparation, the Defendants' business model is result-oriented. The Defendants and their employees make grossly incompetent, negligent, reckless, and/or fraudulent claims on these forms, in order to improperly increase customers' refunds. After completing the returns, the Defendants and their employees falsely tell the customers that these forms legally increased the customers' refunds, and charge higher (and often undisclosed) fees due to the additional forms and the higher refund that the Defendants claimed. The Defendants charge customers fees for preparing the return, fees for each tax form attached to the return, and fees for filing the return. These fees are all deducted from the customer's tax refund, often without the customer being told the amount that the Defendants actually charged for preparing the tax return.

21. The Defendants typically train and instruct their employees how to request on customers' tax returns a refund amount that is not based on the customer's actual income, expenses, deductions, and applicable qualifying credits. Instead, the refund is based on fabricated income, expenses, deductions, and credits reported by the Defendants and their employees for the sake of generating an entirely false or fraudulently inflated refund from which the Defendants can subtract an exorbitant and undisclosed fee without the customers' knowledge.

22. Barwick and Morales, and those acting at their direction at Q A Tax Service, Inc., engage in negligent, reckless, fraudulent, and/or illegal practices. These practices include, but are not limited to:

- a. Making fraudulent claims for the Earned Income Tax Credit;
- b. Circumventing due diligence requirements in order to fraudulently maximize the Earned Income Tax Credit;
- c. Improperly claiming false filing status, such as Head of Household when the customer is actually married;
- d. Fabricating businesses and related business income and expenses;
- e. Fabricating itemized deductions, including for unreimbursed employee business expenses and charitable contributions;
- f. Falsely claiming the federal Fuel Tax Credit;
- g. Falsely claiming education credits to which their customers are not entitled;
- h. Improperly preparing returns based on pay stubs rather than Wage and Income Statements Forms W-2;
- i. Failing to provide customers with a copy of the completed tax return;
- j. Guaranteeing refunds; and
- k. Charging deceptive and unconscionable fees.

Earned Income Tax Credit Fraud and Failure to Comply with Due Diligence Requirements

23. The Defendants, and their employees acting at their direction and with their knowledge and consent, prepare tax returns that include fraudulent claims for the Earned Income Tax Credit (“EITC”) often based on fabricated business income and expenses, bogus or improperly-claimed dependents, and/or false filing status.

24. The EITC is a refundable tax credit available to certain low-income working people. The amount of the credit is based on the taxpayer’s income, filing status, and claimed number of dependents. *See* 26 U.S.C. § 32 and the accompanying Treasury Regulations. Because the EITC is a refundable credit, claiming an EITC can, in certain circumstances, reduce a taxpayer’s federal tax liability below zero, entitling the taxpayer to a payment from the U.S. Treasury.

25. Due to the method used to calculate the EITC, an individual can claim a larger EITC by claiming multiple dependents and, for certain income ranges, individuals with higher earned income are entitled to a larger credit than those with lower earned income. The amount of the credit increases as income increases between \$1 and \$13,650, and decreases as income increases beyond \$17,830. Some tax preparers who manipulate reported income to maximize the EITC refer to this range of earned income corresponding to a maximum EITC as the “sweet spot” or “golden range.” For tax year 2014, the maximum EITC was \$6,143 and was available to eligible individuals with three dependent children who earned income between \$13,650 and \$17,830.

26. Because of the way the EITC is calculated, reporting more income, up to a certain point, allows customers to receive a larger refundable credit. Similarly, claiming losses to offset

higher income to decrease the total reported income and to fall within the “sweet spot” allows customers to claim a larger refundable credit.

27. The Defendants, and their employees acting at their direction and with their knowledge and consent, falsify information to claim the maximum EITC for customers. For example, to bring the customer’s reported earned income within the “sweet spot” for the EITC, and depending on a customer’s actual income, the Defendants and their employees inflate or fabricate business income reported on a Form Schedule C, “Profit or Loss from Business (Sole Proprietorship)” (used to report income and expenses from a sole proprietorship), in order to fraudulently increase customers’ reported earned income, or claim bogus Schedule C expenses to fraudulently decrease customers’ reported earned income.

28. The Defendants, and their employees acting at their direction and with their knowledge and consent, also report bogus “Household Help” income on their customers’ tax returns to falsely report earned income that improperly enables the customer to claim the EITC. Household Help income (“HSH”) is paid to individuals typically hired to perform household work, and these individuals are considered employees of the person for whom they perform the household work; the employer determines and controls the work performed by the individual. The individual receiving the income may be paid in cash or non-cash benefits, on an hourly, weekly, or monthly basis, for jobs such as babysitting, house cleaning, yard work, health care, or driving. Individuals who receive HSH receive Forms W-2 reporting income received and taxes withheld, just as with any other employment. The Defendants, and their employees acting at their direction and with their knowledge and consent, report bogus HSH income on Line 7 of the Form 1040 income tax return. IRS records do not show that Forms W-2 were issued by employers to the customers for the Defendants reported the purported HSH income on their tax

returns. As with reporting fabricated income on a Form Schedule C, reporting this fabricated HSH income enables the Defendants to falsely claim the EITC on their customers' tax returns.

29. Because of the potential for abuse in claiming the EITC, Congress has authorized the Secretary of the Treasury to impose "due diligence" requirements on federal tax return preparers claiming the EITC for their customers. *See* 26 U.S.C. § 6695(g). These "due diligence" requirements obligate the tax return preparer to make "reasonable inquiries" to ensure the customer is legitimately entitled to the EITC. The tax return preparer may not "ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete." *See* 26 C.F.R. § 1.6695-2 (2011). Tax return preparers must also document their compliance with these requirements and keep that documentation for three years. *Id.*

30. The Defendants, and their employees acting at their direction and with their knowledge and consent, utterly fail to comply with the due diligence requirements. The conduct of the Defendants shows an intentional disregard for the tax laws and in particular for the due diligence requirements, and demonstrates their unwillingness to comply with the requirements. Not only do the Defendants, and their employees acting at their direction and with their knowledge and consent, fail to adhere to the due diligence requirements, but they are falsifying information in order to maximize the EITC for their customers.

Fabricated Schedule C Business Income and Expenses

31. The Defendants, and their employees acting at their direction and with their knowledge and consent, prepare tax returns reporting non-existent businesses on bogus Forms Schedule C. On some of these returns, the Defendants, and their employees acting at their

direction and with their knowledge and consent, report substantial income, but little or no expenses. On other returns, the Defendants, and their employees acting at their direction and with their knowledge and consent, report substantial expenses, but little or no income. The determining factor is whether the tax return preparer needs to inflate a customer's income (or create income when the customer has none) to bring the reported income within the EITC "sweet spot," or to lower the taxable income of a customer who has actual income (such as wages reported on a W-2) in order to either bring the income within the EITC "sweet spot" or simply to create a phony business loss to offset the customer's wages and falsely or fraudulently reduce the customer's income tax liability.

32. Belinda Cobb was a tax return preparer who worked at the LBS store located at 2479 John Young Pkwy., Orlando, Florida, in 2013. Jasmine Morales managed that store at the time. According to a complaint that Cobb filed with the IRS in 2013, she "was instructed to play around with numbers on a Schedule C in order to get people back as much as possible on their return" and have customers sign statements indicating that the customers "gave all information to the tax preparer, which is untrue." When Cobb "mentioned that this was incorrect" to Morales and Vicky Barwick, Cobb was told "that they knew and that it was the way they prepare taxes." Cobb resigned because she "witnessed many returns that were done fraudulently." Cobb witnessed both Morales and Barwick "manipulate" numbers on customers' tax returns. This included Morales "determin[ing] the earnings and expenses actually listed on the Schedule C by changing the numbers until the refund reached a desired amount." Morales trained Cobb to "play with the numbers" to maximize a customer's tax refund by keeping "the numbers within certain ranges" and avoiding "using round numbers because doing so would raise red flags with the IRS."

Intentionally Claiming an Improper Filing Status and Bogus Dependents

33. The Defendants, and their employees acting at their direction and with their knowledge and consent, prepare tax returns reporting false filing status. Specifically, Head of Household filing status is claimed on customers' tax returns to increase the amount of the customers' standard deduction, even though the Defendants and their managers and preparers are aware that the customer does not qualify for Head of Household filing status.

34. The Defendants, and their employees acting at their direction and with their knowledge and consent, file separate returns for married couples who are not living apart, improperly using the "head-of-household" or "single" filing status, both of which are unavailable to married couples living together. Often, this is an attempt to increase the claimed EITC; a qualifying couple with at least two children who, together, might otherwise receive a single EITC refund of \$5,000 by properly claiming "married, filing jointly," may instead each receive a refund of \$3,000 or more, by both falsely claiming Head of Household or single status and each claiming at least one dependent.

35. Additionally, the Defendants, and their employees acting at their direction and with their knowledge and consent, claim dependents who do not actually qualify as dependents on customers' tax returns, and then claim Head of Household filing status to increase the customers' refunds through both the false filing status and fraudulent EITC claim based on the bogus dependents.

36. For example, Customers 1 and 2 of Eustis, Florida had their 2015 tax returns prepared at the Q A Tax Service, Inc. store located in Apopka, Florida. Barwick prepared the tax returns. Customers 1 and 2 are married, and informed Barwick that they are married. Customers 1 and 2 also have three children.

37. Barwick prepared separate tax returns for Customers 1 and 2. On both Customer 1's and Customer 2's returns, Barwick falsely claimed Head of Household filing status, despite knowing that they were married to each other. In order to improperly claim Head of Household filing status on both Customer 1's and 2's tax returns, Barwick falsely claimed two of the children as dependents on Customer 1's return and one as a dependent on Customer 2's return. By improperly filing two returns claiming Head of Household filing status and splitting their dependents between the two tax returns, Barwick falsely claimed the EITC on Customer 1's and 2's tax returns in the amounts of \$1,449 and \$2,973, respectively.

Bogus Schedule A Deductions

38. The Defendants, and their employees acting at their direction and with their knowledge and consent, prepare tax returns reporting bogus itemized deductions on Form Schedule A, "Itemized Deductions," to improperly or fraudulently reduce customers' taxable income. For example, the Defendants fabricate (or falsely inflate) charitable contributions, medical expenses, and unreimbursed employee business expenses purportedly paid by their customers.

39. The Defendants, and their employees acting at their direction and with their knowledge and consent, also prepare tax returns for customers which include Forms Schedule A making false claims for purported unreimbursed employee business expenses. Section 162 of the Internal Revenue Code governs trade or business expenses. The Defendants, and their employees acting at their direction and with their knowledge and consent, often claim deductions for fabricated, fraudulently inflated, and/or non-qualifying business expenses, particularly for purported business miles driven by customers. IRS Publication 529 (which is a guide for preparing Forms Schedule A and is readily available and easy to understand) provides examples

of qualifying business expenses, including “Union dues and expenses” and “Work clothes and uniforms if required and not suitable for everyday use.” Publication 529 also provides examples of expenses that do not qualify as business expenses, including “Commuting expenses,” “Lunches with co-workers,” “Meals while working late,” and “Personal, living, or family expenses.”

40. For example, Customer 3 of Orlando, Florida had his 2015 tax return prepared at the Q A Tax Service, Inc. store in Apopka, Florida. Barwick prepared the tax return.

41. Customer 3 gave Barwick his Forms W-2 (showing wages totaling \$40,283), driver’s license, social security card, and some receipts for work tools (totaling \$462) and personal auto repairs (around \$400). On the Schedule A attached to the tax return, Barwick falsely claimed that Customer 3 made \$1,250 in cash charitable contributions and \$2,699 in non-cash charitable contributions.

42. Barwick also fabricated unreimbursed employee business expenses totaling \$21,362 – more than half of the wages that Customer 3 received in 2015 – and reported these expenses on the customer’s tax return. These phony expenses included \$7,924 in vehicle expenses (for a purported 13,780 business miles driven); \$3,959 in parking fees, tolls, and transportation; uniforms of \$500; cell phone of \$2,047; insurance of \$1,623; and repairs of \$4,847. By reporting these fabricated charitable contributions and business expenses, Barwick fraudulently reduced Customer 3’s taxable income to \$2,050 and claimed a bogus refund of \$4,349.

43. Customer 4 of Orlando, Florida had her 2015 tax return prepared at the Q A Tax Service, Inc. store located on John Young Parkway in Orlando, Florida. Morales prepared Customer 4’s tax return.

44. Customer 4 worked several jobs in 2015, earning a total of \$21,083 in wages. Morales falsely claimed on the Schedule A attached to the tax return that Customer 4 incurred unreimbursed employee business expenses totaling \$17,427 – over 80% of her wages. These fabricated business expenses included \$6,007 in vehicle expenses; \$4,814 in parking fees, tolls and transportation; \$3,624 in overnight travel expenses; \$929 in meals and entertainment expenses; and \$2,517 in other, unidentified business expenses. As a result of the phony expenses reported, Morales fraudulently reduced Customer 4's reported taxable income to zero and claimed a bogus refund of \$900 on Customer 4's tax return.

45. Morales did not ask Customer 4 about any expenses related to her jobs, and Customer 4 did not tell Morales about any of these expenses and was unaware that they were reported on her tax return.

Bogus Education Credits

46. The Defendants, and their employees acting at their direction and with their knowledge and consent, also claim bogus education expenses and falsely claim refundable education credits, including the American Opportunity education credit, on customers' federal income tax returns. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability. The Defendants, and their employees acting at their direction and with their knowledge and consent, claim false education credits on the tax returns of customers who did not attend college and had no qualifying education expenses, in order to fraudulently reduce their customers' taxable income and generate a larger bogus refund.

Fraudulent Fuel Tax Credits

47. The Defendants, and their employees acting at their direction and with their knowledge and consent, prepare and file federal income tax returns for customers on which they

improperly claim false or fraudulent fuel tax credits using IRS Form 4136, "Credit for Federal Tax Paid on Fuels." The fuel tax credit is available only to taxpayers who operate farm equipment or other off-highway business vehicles. Moreover, the equipment or vehicles using the fuel must not be registered for highway uses. The Defendants, and their employees acting at their direction and with their knowledge and consent, claim the fuel tax credit for fabricated and non-qualifying fuel purchases.

48. Internal Revenue Code section 6421(a) provides a tax credit for fuel used in an off-highway business use. Off-highway business use is any off-highway use of fuel in a trade or business or in an income-producing activity where the equipment or vehicle is not registered and not required to be registered for use on public highways. IRS Publication 225 provides the following examples of off-highway business fuel use: (1) in stationary machines such as generators, compressors, power saws, and similar equipment; (2) for cleaning purposes; and (3) in forklift trucks, bulldozers, and earthmovers.

49. IRS Publication 510 defines a highway vehicle as any "self-propelled vehicle designed to carry a load over public highways, whether or not it is also designed to perform other functions." A public highway includes any road in the United States that is not a private roadway. This includes federal, state, county, and city roads and streets. These highway vehicles are not eligible for the fuel tax credit. IRS Publication 510 provides the following as examples of highway vehicles which are not eligible for the fuel tax credit: passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors.

50. IRS Publication 510 provides the following example of an appropriate application of the fuel tax credit:

Caroline owns a landscaping business. She uses power lawn mowers and chain saws in her business. The gasoline used in the power lawn mowers and chain

saws qualifies as fuel used in an off-highway business use. The gasoline used in her personal lawn mower at home does not qualify.

51. In short, the fuel tax credit does not apply to passenger cars or other vehicles that are registered or required to be registered to drive on public highways.

52. The Defendants, and their employees acting at their direction and with their knowledge and consent, claim the fuel tax credit for fabricated and non-qualifying fuel purchases.

Improperly Preparing and Filing Returns based on Pay Stubs

53. The Defendants, and their employees acting at their direction and with their knowledge and consent, also prepare and file federal income tax returns using customers' end-of-year pay stubs and then file their customers' tax returns without valid Forms W-2. In other instances, an IRS Form 4852, "Substitute for Form W-2," is attached to customers' returns, which falsely claims that the employer did not timely issue a Form W-2. In reality, the returns are prepared before the end of the tax year and/or before an employer even has the ability to issue a Form W-2 for that year.

54. Federal tax returns for wage earners must be prepared using Forms W-2. Using pay stubs to prepare and file tax returns is improper and violates IRS rules. Moreover, end-of-year pay stubs frequently omit income and distributions that are shown on employer-issued Forms W-2. Thus, preparing and filing federal income tax returns based on information from end-of-year pay stubs inevitably results in errors and omissions on federal tax returns, which necessarily interferes with the administration and enforcement of the internal revenue laws.

55. The Defendants, and their employees acting at their direction and with their knowledge and consent, know that using pay stubs to prepare and file returns violates IRS rules and regulations because in order to participate in the IRS's electronic filing program, all

electronic filers, including the Defendants and managers and preparers at Q A Tax Service, Inc., must acknowledge that they will comply with the IRS's requirements, which expressly prohibit filing returns prepared with pay stubs and without genuine Forms W-2.

56. The Defendants, and their employees acting at their direction and with their knowledge and consent, began soliciting customers in December by falsely telling customers that their returns can be prepared using their most recent pay stub. The Defendants opened stores and advertised that customers can have their tax returns prepared before the end of the tax year, before customers know how much income they earned and taxes they owe for the year, and before employers are able to issue Forms W-2 to their employees. Forms W-2 are not available to employees before the end of the calendar tax year, and tax returns cannot be filed before January of the processing year.

57. The Defendants know that preparing tax returns based on pay stubs violates IRS rules and regulations, and consequently interferes with the administration of the Internal Revenue laws. By preparing tax returns before the end of the tax year, the Defendants unfairly solicit business before competitors.

Unconscionable and Undisclosed Fees

58. The Defendants charge unconscionably high fees to prepare tax returns, mostly through added, fees which are typically charged without customers' knowledge. The Defendants charge up to \$999 (or more) to prepare and file fraudulent tax returns with unnecessary and bogus forms and schedules attached, when they should have honestly prepared a basic Form 1040 tax return.

59. The Defendants, and their employees acting at their direction and with their knowledge and consent, intentionally deceive customers regarding the fees charged for the

preparation of tax returns. Employees are trained not to disclose the full amount of the fee and, when having the customer sign forms showing the fee, to cover the fee with a hand or a piece of paper and not explain to the customer what the customer is signing.

60. The Defendants, and their employees acting at their direction and with their knowledge and consent, charge additional fees for each form and schedule (such as a Schedule C or a Form 8863 for an education credit) attached to the Form 1040 tax return. Q A Tax Services, Inc. charges separate fees for forms and schedules such as the electronic filing authorization (Form 8879) which is required for e-filing, the EITC qualifying child form (Schedule EIC), and the related EITC due diligence checklist (Form 8867), which must be completed in connection with a claim for the EITC. These fees result in a total tax return preparation fee much higher than the amount advertised.

61. The high fees charged (and the fee structure, which encourages the addition of unnecessary and often improper forms and schedules to the Form 1040) are a strong incentive for the Defendants and their employees to prepare and file fraudulent returns claiming excessive refunds based on bogus claims and associated forms and schedules. Employees who charge higher fees and generate more revenue are more likely to be promoted and have the opportunity to manage or own their own stores.

62. Because the Defendants target low-income individuals, the high fees frequently can pose a significant financial hardship for customers. Customers may be required to pay back the improper refunds that they receive due to the Defendants' grossly incompetent, negligent, reckless, and/or fraudulent tax return preparation. Because the Defendants deduct their high fees, sometimes \$1,000 or more, directly from their customers' refunds, customers required to return these improper refunds to the government must also return the portion subtracted as fees.

Thus, customers are then out-of-pocket the high fees charged by the Defendants. Additionally, fees are unconscionable for the basic – albeit fraudulent – tax returns being prepared for these customers, who are often eligible for free tax return preparation and electronic filing elsewhere.

63. The Defendants, and their employees acting at their direction and with their knowledge and consent, also routinely and intentionally fail to disclose to customers all fees charged. The Defendants, and their employees acting at their direction and with their knowledge and consent, present forms to customers to sign, including a form acknowledging the fees charged, without allowing the customer to closely review or understand the forms they are signing. Alternatively, the Defendants, and their employees acting at their direction and with their knowledge and consent, tell customers one amount for fees and then later increase the fees without the customers' knowledge or consent. Customers are often surprised to learn that the refund requested on their return is hundreds if not thousands of dollars more than the refund amount that they received after the fees were deducted.

64. Q A Tax Service, Inc.'s fees are not paid by customers at the time of the preparation of their tax returns, but instead are subtracted from the customers' tax refund. By doing so, the Defendants are able to conceal from unsuspecting customers the actual amount that the customers pay to have their tax return prepared. Customers typically do not discover that the fees charged are much more than the customers anticipated for the preparation of their tax return until the customers receive a refund that is much less than quoted by the tax return preparer, after the Defendants have subtracted their high fees.

65. The Defendants' practice of charging unconscionable and undisclosed fees interferes with the administration and enforcement of the Internal Revenue laws. Such predatory

behavior erodes consumer confidence in tax return preparers and dissuades taxpayers from seeking professional assistance with the preparation of their federal tax returns.

**Failure to Provide Customers with Copies of their Completed Tax Returns
in Violation of 26 U.S.C. § 6701(a)**

66. The Defendants, and their employees acting at their direction and with their knowledge and consent, fail to provide customers with copies of their completed tax returns. The completed tax return, filed with the IRS, shows the refund that the Defendants are claiming for the customer. By giving a copy of the tax return to the customer, the customer is able to determine the amount of fees that the Defendants charged by subtracting the amount of the refund that the customer actually receives from the amount of the refund claimed on the tax return. The Defendants' failure to provide a copy of a customer's completed tax return is part of the strategy to conceal the actual fees from their customers.

67. Failing to provide a customer with a copy of the completed tax return also violates 26 U.S.C. § 6107(a), which requires that a tax return preparer "shall furnish a completed copy of [a tax return or claim for refund] to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature."

68. Customers who do receive a copy of the tax return often receive only the first two pages of the Form 1040, but not the other forms filed with the return, such as Forms Schedule C, Forms Schedule A, and Forms 2106, "Employee Business Expenses." This is because the Defendants, and their employees acting at their direction and with their knowledge and consent, make fraudulent claims on these forms and, to conceal the fraud from customers, do not provide them with copies of these completed forms.

Examples of the Defendants' False and Fraudulent Tax Return Preparation

69. Barwick prepared the 2014 federal income tax return of Customer 5 of Mascotte, Florida. Customer 5 worked as a correctional officer for the Bureau of Prisons in 2014. In addition, Customer 5 makes around \$2,000 annually doing personal fitness training out of her home.

70. On the Schedule A attached to Customer 5's tax return, Barwick falsely claimed non-deductible expenses for "home maintenance" in the amount of \$365 and other fabricated expenses, including \$3,380 for "fuel," \$200 for a computer, and \$2,100 for insurance, and \$2,339 for purported unreimbursed employee business expenses. Barwick also fraudulently claimed that Customer 5 incurred \$7,625 for medical and dental expenses.

71. On the Schedule C attached to Customer 5's tax return, Barwick falsely claimed that Customer 5 incurred expenses for a personal training business for advertising (\$429), car and truck expenses (\$15,644), contract labor (\$800), insurance (\$1,795), legal and professional services (\$999), repairs and maintenance (\$2,505), supplies (\$910), meals and entertainment (\$1,800), and other expenses (cellphone \$2,166 and "equipment" \$4,152). The Schedule C falsely claimed that Customer 5 had gross receipts in the amount of \$2,309, but also incurred expenses for costs of goods sold – for a personal training business – in the amount of \$9,109. Thus, even before taking into account the fabricated expenses, Barwick falsely claimed that Customer 5's personal training business had a loss in the amount of \$6,800. Combined with the fabricated expenses, the Schedule C falsely reported a total loss in the amount of \$38,680.

72. Barwick did not inform Customer 5 that these fabricated amounts were reported on her tax return. As a result of these phony claims, Barwick fraudulently reduced Customer 5's taxable income to zero and claimed a bogus refund in the amount of \$5,460.

73. Barwick prepared the 2012 and 2013 federal income tax returns of married Customers 6 and 7 of Apopka, Florida. Customer 6 worked as a representative for an energy company, and Customer 7 works at a transportation company. Neither Customer 6 nor Customer 7 had any out-of-pocket expenses related to their jobs.

74. Barwick falsely told Customer 6 that he could deduct the amount that he spent on jeans and his cell phone as job-related expenses on his tax return. Barwick also falsely told Customer 6 that he and his wife could deduct expenses incurred commuting to work, including tolls, as job-related expenses on their tax return.

75. On the Schedule A attached to Customer 6's and Customer 7's 2012 tax return, Barwick falsely claimed that Customer 6 incurred unreimbursed employee business expenses in the amount of \$13,423, including \$8,248 for vehicle expenses, \$1,441 for parking and tolls, \$2,922 for a cell phone, and \$812 for "work clothes."

76. In addition, Barwick falsely claimed Customer 6's and Customer 7's personal expenses as deductible expenses, such as a \$4,750 expense for "Installed PVC Fence," a \$2,311 expense for "HOA Fees," and an \$11,496 expense for "Home Improvements." Barwick, and any other tax return preparer, knows or should reasonably know that such personal expenses are not deductible on a tax return.

77. As a result of these fabricated claims, Customer 6's and Customer 7's 2012 tax return claimed a bogus refund in the amount of \$8,433.

78. Barwick fabricated similar claims on Customer 6's and Customer 7's 2013 tax return, claiming fabricated unreimbursed employee business expenses in the amount of \$26,415 and non-deductible personal expenses for "HOA Fees" (\$2,311) and "home repairs and maintena[nce]" (\$2,617).

79. In addition, on Customer 6's and Customer 7's 2013 tax return, Barwick claimed a fraudulent federal Fuel Tax Credit in the amount of \$829, based on a purported 4,529 gallons of fuel purchased for off-highway business use. Customers 6 and 7 did not purchase any such fuel and were unaware that Barwick claimed this bogus credit on their tax return.

80. As a result of Barwick's fabricated expenses and credits, the Customer 6's and Customer 7's 2013 tax return claimed a bogus tax refund in the amount of \$9,035.

81. Morales prepared the 2012 federal income tax return of Customer 8 of Apopka, Florida. Morales asked Customer 8 whether or not she had education expenses. Customer 8 attended Everest University in 2005, and did not provide any information to Morales about any education expenses that she incurred in 2012. Customer 8 provided Morales with her Forms W-2 when she had her tax return prepared.

82. Morales falsely reported on the tax return that, in 2012, Customer 8 attended Everest University and incurred out-of-pocket education expenses in the amount of \$3,999. Morales claimed a bogus American Opportunity education credit in the amount of \$1,000 on Customer 8's tax return.

83. Morales also falsely claimed that Customer 8 drove 19,999 miles for her job in 2012, and, as a result, claimed phony unreimbursed employee business expenses in the amount of \$11,099. Customer 8, who received wages in 2012 totaling \$11,184, did not drive this much for her job, did not provide this mileage amount to Morales, and did not incur unreimbursed employee business expenses in an amount nearly equaling her income. By claiming these fabricated business miles, Morales falsely reduced Customer 8's taxable income to zero.

84. As a result of these false claims, Morales claimed a bogus refund in the amount of \$2,702 on Customer 8's 2012 tax return. Morales charged Customer 8 over \$700 in total fees to prepare the tax return.

85. A preparer at a Morales-managed tax preparation store prepared the 2012 federal income tax return of Customer 9 of Apopka, Florida. The tax return identifies Morales as the paid preparer.

86. Customer 9 earns income styling hair but did not provide any records to the preparer, who asked what records Customer 9 maintained at home, but did not ask to see any of the records when preparing the tax return. Customer 9 did not have any jobs for which she received a Form 1099 or W-2 in 2012.

87. In order to maximize the EITC claimed on Customer 9's tax return, Morales reported fabricated HSH income on line 7 of Customer 9's tax return in the amount of \$3,264. Customer 9 never discussed this income with the preparer, and was unaware that it was reported on her tax return. As a result on claiming this fabricated income, Morales claimed a falsely inflated EITC in the maximum amount of \$5,891, and a bogus refund of \$6,156 on Customer 9's tax return. Customer 9 was charged over \$1,000 to have her 2012 tax return prepared.

88. Barwick prepared the 2015 tax returns of Customers 1 and 2, as discussed above in paragraph 37. In addition to improperly claiming Head of Household filing status on both of their returns, Barwick also falsely claimed business expenses on Forms Schedule C attached to both Customer 1's and Customer 2's returns.

89. Customer 2 was employed doing health care in 2015. Barwick asked Customer 2 about her mileage driving to and from work. Barwick falsely reported on the Form Schedule A attached to Customer 2's return that Customer 2 drove 19,699 business miles. Additionally,

Customer 2 earned approximately \$600 in self-employment income in 2015 doing home health care. Barwick falsely reported that Customer 2 incurred expenses for costs of goods sold in the amount of \$2,519, and expenses for mileage, cell phone, work clothes and shoes, and (despite also reporting mileage expenses on the Schedule C) fuel in the total amount of \$3,143. These fabricated expenses resulted in a phony reported loss of \$5,041. As a result, Barwick claimed a bogus refund of \$5,037 on Customer 2's tax return.

90. Customer 1 told Barwick that he earned some money doing construction work with a friend, but did not provide Barwick with any documents showing his income or expenses. Customer 1's expenses related to this construction work did not exceed \$900. However, Barwick falsely reported on the Schedule C attached to Customer 1's tax return that he had gross receipts in the amount of \$2,500, had costs of goods sold un the amount of \$4,500, and incurred expenses for advertising, contract labor, repairs and maintenance, supplies, cell phone, tools, and insurance totaling \$8,325. These false expenses resulted in a phony loss of \$10,325 on the Schedule C. This fraudulently reduced Customer 1's taxable income. Barwick thereby claimed a bogus refund of \$5,686 on Customer 1's tax return. Additionally, Barwick did not tell Customer 1 how much he was being charged to have his 2015 tax return prepared.

Harm Caused by the Defendants

91. Barwick's, Morales', and Q A Tax Service, Inc.'s preparation of tax returns making grossly incompetent, negligent, reckless, and/or fraudulent claims, knowledge and encouragement of negligent or reckless conduct and fraud at their tax return preparation stores, false and misleading statements directed to customers and potential customers, and culture favoring volume and ill-gotten profits over accuracy and integrity have harmed the public and the United States Treasury. These practices harm the public because Barwick, Morales, Q A Tax

Service, Inc., and many of their preparers prepare false or fraudulent tax returns that understate their customers' correct income tax liabilities and illegally cause customers to incorrectly report their federal tax liabilities and underpay their taxes.

92. The grossly incompetent, negligent, reckless, and fraudulent practices of Barwick, Morales, Q A Tax Service, Inc., and many of their preparers harm the United States Treasury by causing lost tax revenue.

93. Barwick's, Morales', and Q A Tax Service, Inc.'s customers have also been harmed because they relied on Barwick, Morales, and Q A Tax Service, Inc. to prepare proper tax returns. Instead, customers' tax returns substantially understated their correct tax liabilities after paying unconscionably high fees to have their tax returns prepared. As a result, many customers, who are often low-income taxpayers, now face large income tax debts and may be liable for penalties and interest.

94. Customers are harmed by the unconscionably high and frequently undisclosed fees tied to anticipated tax refunds. These fees are subtracted from the erroneous refunds that result from the fraudulent tax return preparation perpetrated by Barwick, Morales, and Q A Tax Service, Inc. When the IRS conducts audits or examinations of customers and seeks repayment of these erroneous refunds, the customers are liable for the repayment of those refunds. Not only do customers face the hardship associated with repayment of erroneous refunds resulting from Barwick's and Morales' greed at others' expense, but customers may also have to repay the portion of the refund that Barwick, Morales, and Q A Tax Service, Inc. subtracted in fees. Customers may also have to pay additional fees to other tax return preparers to file amended tax returns to correct the fraudulent tax returns prepared and filed by Barwick, Morales, and Q A Tax Service, Inc.

95. Barwick's, Morales', and Q A Tax Service, Inc.'s misconduct further harms the United States and the public by requiring the IRS to devote scarce resources to detecting their false and fraudulent claims on tax returns and assessing and collecting lost tax revenues from Barwick's, Morales', and Q A Tax Service, Inc.'s customers. Consequently, identifying and recovering all lost tax revenues resulting from Barwick's, Morales', and Q A Tax Service, Inc.'s negligent, reckless, fraudulent, and illegal activities may be impossible.

96. Barwick's, Morales', and Q A Tax Service, Inc.'s conduct also harms honest tax return preparers who unfairly lose business to Barwick, Morales, and Q A Tax Service, Inc. due to Barwick's and Morales' willingness to break the law. Customers often have their returns prepared at Barwick's and Morales' business because they promise the maximum refund, and deliver by fabricating claims and deductions on customers' tax returns.

97. Finally, Barwick's, Morales', and Q A Tax Service, Inc.'s misconduct harms the public at large by undermining public confidence in the federal tax system and encouraging widespread violations of the internal revenue laws.

98. The harm to the government and the public will continue, and likely increase, unless Barwick, Morales, and Q A Tax Service, Inc. are enjoined because—given the seriousness and pervasiveness of their illegal conduct—without an injunction, Barwick, Morales, and Q A Tax Service, Inc. are likely to continue preparing false and fraudulent federal income tax returns for customers. An injunction will serve the public interest because it will put a stop to Barwick's, Morales', and Q A Tax Service, Inc.'s illegal conduct and the harm that such conduct causes the United States and its citizens.

Count I
Injunction under 26 U.S.C. § 7407

99. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under 26 U.S.C. § 6694 or § 6695. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further 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 further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, among other things, the following:

- a. Engaging in conduct subject to penalty under 26 U.S.C. § 6694(a), which penalizes a return preparer who prepares a return or claim for refund that contains an unreasonable position and the return preparer knew (or reasonably should have known) of the position;
- b. Engaging in conduct subject to penalty under 26 U.S.C. § 6694(b), which among other conduct, penalizes a return preparer who recklessly or intentionally disregards IRS rules or regulations;
- c. Engaging in conduct subject to penalty under 26 U.S.C. § 6695(g), which penalizes a return preparer who fails to comply with the statutory due diligence requirements;
- d. Guaranteeing the payment of any tax refund or the allowance of any tax credit; or
- e. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

100. Section 7701(a)(36) of the Internal Revenue Code defines tax return preparer to include not only the individual who physically prepares a tax return for compensation, but also anyone "who employs one or more persons" to prepare tax returns for compensation.

101. Barwick and Morales, as shown above in paragraphs 1 through 98, are tax return preparers who, individually and through their business, Q A Tax Service, Inc., have repeatedly and continually prepared or submitted returns or portions of returns (or employed or managed others who prepared or submitted returns or portions of returns) that contain unreasonable positions and substantially understate the liability for tax on the return. Barwick and Morales also advise, instruct, direct, and cause their managers, preparers, and employees to engage in tax fraud, and to prepare federal income tax returns asserting unreasonable, unrealistic, frivolous and fraudulent positions. Accordingly, Barwick and Morales knew (or should have known) of the unreasonable, unrealistic, frivolous and fraudulent positions.

102. Barwick and Morales, and those acting in concert with them and at their direction, have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing federal tax returns that understate their customers' liabilities based on unrealistic, frivolous and reckless positions. Barwick and Morales, through the actions described above, also recklessly or intentionally disregard IRS rules or regulations.

103. Barwick and Morales, and those acting in concert with them and at their direction, have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695. The Treasury regulations promulgated under 26 U.S.C. § 6695(g) prohibit a return preparer from claiming the EITC without first conducting proper due diligence and documenting his or her compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6695-2 (2011). Not only do Barwick and Morales fail to conduct proper due diligence or comply with the due diligence requirements, but they also advise, encourage, and cause their managers, preparers, and employees to circumvent the due diligence requirements and to ignore or disregard the information provided by customers.

104. Barwick's and Morales' failure to comply with the due diligence requirements for the EITC violates Treasury Regulations and their willingness to falsify information to obtain the EITC for their customers shows a reckless and/or intentional disregard of IRS rules and regulations.

105. Barwick and Morales, and those acting in concert with them and at their direction, have continually and repeatedly prepared federal income tax returns that claim the EITC for customers, where Barwick and Morales, and those acting in concert with them and at their direction, have not conducted, let alone documented, the required due diligence procedures.

106. Barwick and Morales also fail to comply with 26 U.S.C. § 6695(a), which requires that a tax return preparer provide a copy of the completed tax return to the taxpayer.

107. Barwick's and Morales' continual and repeated violations of 26 U.S.C. §§ 6694 and 6695 fall within 26 U.S.C. § 7407(b)(1)(A), and thus are subject to an injunction under 26 U.S.C. § 7407.

108. Barwick's and Morales' continual and repeated fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws falls within 26 U.S.C. § 7407(b)(1)(D), and thus is subject to an injunction under 26 U.S.C. § 7407.

109. Barwick and Morales, and those acting in concert with them and at their direction, have continuously and repeatedly guaranteed refunds to customers and guaranteed the allowance of tax credits, including but not limited to the EITC. This conduct falls within 26 U.S.C. § 7407(b)(1)(C), and thus is subject to an injunction under 26 U.S.C. § 7407.

110. If Barwick, Morales, and Q A Tax Service, Inc. are not enjoined from all tax preparation, they and those acting in concert with them and at their direction are likely to continue to prepare and file false and fraudulent tax returns.

111. Barwick's, Morales', and Q A Tax Service, Inc.'s continual and repeated conduct subject to an injunction under 26 U.S.C. § 7407, including their continual and repeated fabrication of expenses and deductions, is so flagrantly illegal and so egregious that it demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Barwick's, Morales', and Q A Tax Service, Inc.'s interference with the proper administration of the internal revenue laws. Accordingly, Barwick, Morales, and Q A Tax Service, Inc. should be permanently barred from acting as federal tax return preparers, and from owning, operating, managing, investing in, controlling, licensing, franchising, or working for a tax return preparation business.

Count II
Injunction under 26 U.S.C. § 7408

112. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either 26 U.S.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

113. Section 6701(a) of the Internal Revenue Code penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability. Under 26 U.S.C. § 6701(c)(1), the term "procures" includes "ordering (or otherwise causing) a subordinate to do an act," as well as "knowing of, and not attempting to prevent, participation by a subordinate in an act."

114. Barwick, Morales, and Q A Tax Service, Inc., through the actions detailed above in paragraphs 1 through 98, caused the presentation and preparation of false, fraudulent, and

abusive tax returns and other documents. Barwick and Morales prepare, assist, and/or advise with respect to the presentation and preparation of federal tax returns for customers that they know will understate their correct tax liabilities, because Barwick and Morales knowingly prepare, assist, and/or advise with respect to the presentation and preparation of returns claiming bogus expenses and deductions. Barwick and Morales procured and assisted the preparation of false and fraudulent tax returns by filing and encouraging the filing of tax returns they knew were false or fraudulent, and by employing, training, and supervising tax return preparers engaging in tax fraud. Barwick and Morales have thus engaged in conduct subject to a penalty under 26 U.S.C. § 6701.

115. Barwick and Morales are likely to continue violating the law absent an injunction. Tax return preparation is Barwick's and Morales' primary source of revenue. To maximize that income, Barwick and Morales prepare and instruct and direct their managers and preparers to prepare fraudulent returns. That fraudulent conduct, in turn, gives Barwick and Morales a competitive edge over law-abiding preparers. It also provides a means for Barwick and Morales to further exploit their customers by charging them unconscionably high fees, while Barwick's and Morales' fraud simultaneously and callously exposes their customers to possible civil and criminal liability.

116. If the Court does not enjoin Barwick, Morales, and Q A Tax Service, Inc., they are likely to continue to engage in conduct subject to penalty under 26 U.S.C. § 6701. The preparation of tax returns claiming improper expenses and deductions by Barwick and Morales, and those acting in concert with them and at their direction, is widespread over many customers and tax years. Injunctive relief is therefore appropriate under 26 U.S.C. § 7408.

Count III
Injunction under 26 U.S.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

117. Section 7402 of the Internal Revenue Code authorizes a district court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws.

118. Barwick, Morales, and Q A Tax Service, Inc., through the actions described above in paragraphs 1 through 98, including, but not limited to, intentionally understating their customers' tax liabilities and charging unconscionable and undisclosed fees for the preparation of federal tax returns that intentionally understate their customers' tax liabilities, have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

119. Unless enjoined, Barwick, Morales, and Q A Tax Service, Inc., and those acting in concert with them and at their direction, are likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Barwick, Morales, and Q A Tax Service, Inc. are not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by providing federal income tax refunds to individuals not entitled to receive them.

120. While the United States will suffer irreparable injury if Barwick, Morales, and Q A Tax Service, Inc. are not enjoined, Barwick, Morales, and Q A Tax Service, Inc. will not be harmed by being compelled to obey the law.

121. Enjoining Barwick, Morales, and Q A Tax Service, Inc. is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Barwick's, Morales', and Q A Tax Service, Inc.'s illegal conduct and the harm it causes the United States and Barwick's, Morales', and Q A Tax Service, Inc.'s customers.

122. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

Count IV
Disgorgement under 26 U.S.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

123. Section 7402 of the Internal Revenue Code authorizes a district court to issue orders, judgments, and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws.

124. Barwick's, Morales', and Q A Tax Service, Inc.'s conduct, described above in paragraphs 1 through 98, substantially interferes with the enforcement of the internal revenue laws and has caused the United States to issue tax refunds to individuals not entitled to receive them. Barwick, Morales, and Q A Tax Service, Inc. have unjustly profited at the expense of the United States by subtracting their exorbitant fees from those refunds.

125. Barwick, Morales, and Q A Tax Service, Inc. are not entitled to these ill-gotten gains. But for Barwick's, Morales', and Q A Tax Service, Inc.'s conduct, these bogus refunds would not have been issued. The Court should enter an order under 26 U.S.C. § 7402(a) requiring Barwick, Morales, and Q A Tax Service, Inc., to disgorge to the United States the gross receipts (in the form of fees subtracted from customers' tax refunds) that Barwick, Morales, and Q A Tax Service, Inc. received for the preparation of federal tax returns making grossly incompetent, negligent, reckless, and/or fraudulent claims.

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

A. That the Court find that Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, continually and repeatedly engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. from acting as federal tax return preparers;

C. That the Court find that Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. have engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and 26 U.S.C. § 7402(a);

E. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc., and all those in active concert or participation with them, from:

- (1) acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
- (2) preparing or assisting in preparing federal tax returns that they know or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by 26 U.S.C. § 6694;
- (3) owning, operating, managing, working in, investing in, providing capital or loans to, receiving fees or remuneration from, controlling, licensing, consulting with, or franchising a tax return preparation business;
- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;

- (5) maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
- (6) engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6701, or any other penalty provision in the Internal Revenue Code; and
- (7) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to 26 U.S.C. §§ 7402(a) and 7407, enter an order requiring Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. to immediately and permanently close, because of the pervasive fraud, all tax return preparation stores that they own directly or through Q A Tax Service, Inc., or any other entity, and whether those stores do business as Q A Tax Service or under any other name;

G. That the Court, pursuant to 26 U.S.C. §§ 7402(a) and 7407, enter an order appointing a receiver to sell all of the hard assets, such as computers (after any and all taxpayer information has been removed), electronics, and furniture, for all tax return preparation stores that Vicky Barwick and Jasmine Morales own directly or through Q A Tax Service, Inc., or any other entity, and whether those stores do business as Q A Tax Service or under any other name;

H. That the Court, pursuant to 26 U.S.C. § 7402(a), enter an order prohibiting Vicky Barwick and Jasmine Morales, directly or through Q A Tax Service, Inc., or any other entity, from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to Q A Tax Service or any other tax return preparation business to which they or any entity under their control is a party;

I. That the Court, pursuant to 26 U.S.C. § 7402(a), enter an order barring Vicky Barwick and Jasmine Morales, directly or through Q A Tax Service, Inc., from: (1) selling to any individual or entity a list of customers, or any other customer information, for whom Vicky

Barwick, Jasmine Morales, Q A Tax Service, Inc., and any other business or name through which Vicky Barwick and Jasmine Morales, or those acting at their direction, have at any time since 2012 prepared a tax return; (2) assigning, disseminating, providing, or giving to any current or former franchisee, General Sales Manager, District Sales Manager, manager, tax return preparer, employee, or independent contractor of Vicky Barwick, Jasmine Morales, Q A Tax Service, Inc., or any other business through which Vicky Barwick and Jasmine Morales prepare tax returns or own or franchise a tax return preparation business, a list of customers or any other customer information for customers for whom Vicky Barwick, Jasmine Morales, Q A Tax Service, Inc., and any other business or name through which Vicky Barwick and Jasmine Morales, or those acting at their direction, have at any time since 2012 prepared a tax return; and (3) selling to any individual or entity any proprietary information pertaining to Q A Tax Service, Inc., and any other business or name through which Vicky Barwick and Jasmine Morales, or those acting at their direction, have at any time since 2012 prepared a tax return;

J. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. to disgorge to the United States the gross receipts (the amount of which is to be determined by the Court) that Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. received (in the form of fees subtracted from customers' tax refunds) for the preparation of tax returns that make or report grossly incompetent, negligent, reckless, and/or fraudulent claims, deductions, credits, income, expenses, or other information that results in the understatement of taxes, prepared since 2012 by Vicky Barwick, Jasmine Morales, and/or Q A Tax Service, Inc., and at any tax preparation store franchised, owned, or managed by Vicky Barwick, Jasmine Morales, and/or Q A Tax Service, Inc.;

K. That the Court, pursuant to 26 U.S.C. §§ 7402(a) and 7407, enter an order requiring Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. to contact, within 30 days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom Vicky Barwick, Jasmine Morales, Q A Tax Service, Inc., and their managers, employees, and tax return preparers prepared federal tax returns or claims for a refund for tax years beginning in 2012 and continuing through this litigation to inform them of the permanent injunction entered against them, including sending a copy of the order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court;

L. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. to produce to counsel for the United States, within 30 days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom Vicky Barwick, Jasmine Morales, Q A Tax Service, Inc., and their managers, employees, and tax return preparers prepared federal tax returns or claims for a refund for tax years beginning in 2012 and continuing through this litigation;

M. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. to produce to counsel for the United States, within 30 days of the Court's order, a list that identifies by name, address, e-mail address, and telephone number all principals, officers, managers, franchisees, employees, and independent contractors of Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. from 2012 to the present;

N. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. to provide a copy of the Court's order to all principals, officers, managers, franchisees, employees, and independent contractors of Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. within 15 days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person whom Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. provided a copy of the Court's order;

O. That the Court retain jurisdiction over Vicky Barwick, Jasmine Morales, and Q A Tax Service, Inc. and over this action to enforce any permanent injunction entered against them;

P. That the United States be entitled to conduct discovery to monitor Vicky Barwick's, Jasmine Morales', and Q A Tax Service, Inc.'s compliance with the terms of any permanent injunction entered against them; and

Q. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

Dated: January 9, 2017

A. LEE BENTLEY, III
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CAROLINE D. CIRAULO
Principal Deputy Assistant Attorney General


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