

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

THE UNITED STATES OF AMERICA, )  
                                    )  
                                    )  
Plaintiff,                     )  
                                    )  
v.                                 )                                  Case No. 3:16-cv-00373-MGL  
                                    )  
                                    )  
CHRISTOPHER PAUL HAYNES, d/b/a )  
LIBERTY TAX SERVICE,             )  
                                    )  
Defendant.                     )

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

Plaintiff, United States of America, seeks a permanent injunction against Defendant Christopher Paul Haynes (“Haynes”), individually and doing business as Liberty Tax Service, barring Haynes from further acting as a federal tax return preparer. In support of this relief, the United States alleges as follows:

**Nature of Action**

1. Haynes is a Columbia, South Carolina-area Liberty Tax Service franchisee. He currently owns, operates and controls three Liberty Tax Service-branded tax preparation offices in Columbia. Haynes’s Liberty Tax Service offices routinely prepare and file fraudulent income tax returns for customers.

2. The tax return preparers at Haynes’s tax preparation offices fabricate expenses, deductions, credits and other adjustments on customers’ federal income tax returns to illegally generate a tax refund or a refundable credit from the Internal Revenue Service (“IRS”). Among other things, Haynes’s employees: (i) report false or inflated Schedule C business income and expenses and bogus dependents to obtain improper or inflated Earned Income Tax Credits; (ii)

file income tax returns reporting false filing statuses; and (iii) claim bogus unreimbursed employee business expenses on IRS Schedule A forms to obtain improper tax refunds from the IRS. The United States brings this action to put an end to this illegal conduct and to prevent future harm to the U.S. Treasury.

3. The United States brings this complaint pursuant to 26 U.S.C. §§ 7402(a), 7407 and 7408 to enjoin Haynes, and all those in active concert or participation with him, from directly or indirectly:

- a. Acting as a federal tax return preparer, supervising, managing or employing federal tax return preparers or requesting, assisting with, or directing the preparation or filing of federal tax returns or amended returns (or other related tax forms or documents) for any person or entity other than preparing Haynes's own personal tax return;
- b. Appearing as a representative on behalf of any person or entity other than himself personally before the IRS;
- c. Owning, managing, controlling, working for, profiting from, or volunteering for any business or entity engaged in tax-return-preparation;
- d. Seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS Preparer Tax Identification Number ("PTIN") and/or IRS Electronic Filing Identification Number ("EFIN"), or any other IRS service or program by which one prepares or files tax returns;
- e. Using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN(s) and EFIN(s);
- f. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695 or 6701, including: preparing and filing tax returns or other documents that underestimate the tax liabilities of others, preparing or assisting in preparing federal tax returns that Haynes knows or reasonably should know would result in an understatement of tax liability or the overstatement of a taxpayer's entitlement to a federal tax refund, failing to comply with required due diligence procedures, failing to furnish tax return preparer identifying numbers, and promoting any false tax or tax-return scheme;

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

### **Authorization**

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

### **Jurisdiction and Venue**

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

6. Venue is proper in this Court under 28 U.S.C. § 1391 because Haynes resides in this judicial district and a substantial portion of the events giving rise to this action took place in this judicial district. In addition, Haynes, either in his individual capacity or doing business as Liberty Tax Service, currently is conducting business in this judicial district at the following three addresses: (i) 2700 Broad River Road, Suite K, Columbia, South Carolina 29210; (ii) 4058 West Beltline Road, Columbia, South Carolina 29204; and (iii) 599 St. Andrews Road, Columbia, South Carolina 29210.

### **The Defendant**

7. Haynes is a South Carolina resident and lives in Irmo, South Carolina. Prior to becoming a Liberty Tax Service franchisee in 2005, Haynes had no tax return preparation experience or training and the only tax return he had ever prepared was his own personal income

tax return. He is not an attorney, Certified Public Accountant or Enrolled Agent. Prior to 2005, Haynes worked as a sales representative, network engineer and sales manager.

8. Liberty Tax Service is headquartered in Virginia Beach, Virginia, and is a national franchisor marketing tax preparation services throughout the United States. In 2005, Haynes became a Liberty Tax Service franchisee by purchasing a franchise territory in Columbia, South Carolina. Haynes currently owns, operates and controls three Liberty Tax Service office locations in Columbia at the following addresses:

- a. 2700 Broad River Road, Suite K, Columbia, South Carolina 29210 (“the Broad River office”);
- b. 4058 West Beltline Road, Columbia, South Carolina 29204 (“the West Beltline office”); and
- c. 599 St. Andrews Road, Columbia, South Carolina 29210 (“the St. Andrews office”).

9. Haynes has owned, operated and controlled these three locations as sole proprietorships each year since at least 2008. In addition, in the years 2011 and 2012, Haynes co-owned and operated Liberty Tax Service franchise territories in Memphis and Chattanooga, Tennessee.

10. Haynes also is an Area Developer for Liberty Tax Service. Area Developers own the right to sell and service Liberty Tax Service franchise territories in defined geographic areas. Haynes currently is an Area Developer for parts of Georgia, Tennessee and North Carolina. Area Developers are supposed to assist franchisees in all facets of their tax-preparation businesses, including office site selection and operational guidance, as well as marketing, training and staffing. As compensation for being a Liberty Tax Service Area Developer, Haynes receives approximately half of the royalty payment that each franchise location in his areas pays

to the Liberty Tax Service corporate office every month. As of 2012, Haynes was the Area Developer for 27 Liberty Tax Service franchise territories.

### **The Operation of Haynes's Liberty Tax Service Offices**

11. During the annual tax-filing season, from approximately January to April, Haynes employs approximately two dozen tax return preparers at his Broad River office, five-to-seven tax return preparers at his West Beltline office and four-to-six tax return preparers at his St. Andrews office. Tax return preparers typically are hired in December and January before the beginning of the tax season, and the positions are advertised as "no experience necessary." Indeed, Haynes's employees are not required to have any minimum knowledge of federal tax laws or accounting, or any other minimum education. Virtually anyone can apply to work as a tax return preparer. Haynes makes all of the employment decisions and personally decides who to hire as a tax return preparer.

12. Haynes employs an office manager at each of his Liberty Tax Service offices. Among other duties, the office manager is supposed to supervise the other tax return preparers. The office managers also can, and frequently do, prepare income tax returns for customers. In addition, Haynes's office managers have the ability to review the tax returns prepared by all other employees in the office. The office managers report directly to Haynes, and he personally selects who will serve as an office manager at each of his franchise locations. Haynes visits each of his offices throughout the tax-filing season.

13. Haynes charges his customers "by the form" for tax return preparation. In other words, tax-return-preparation fees increase based on the number of forms or schedules that are included with the customer's tax return. For example, adding a Schedule A to the tax return increases the preparation fee, and adding additional schedules or other forms further increases

the preparation fee for each form that is added. Based on this fee structure, the fee charged to a customer for preparing a Form 1040 with a Schedule A, Schedule C, Child Tax Credit and an Earned Income Tax Credit can sometimes exceed \$600, or more.

14. Haynes's entry-level tax return preparers are paid an hourly wage, which is typically at or slightly above minimum wage. Haynes's tax return preparers also are paid a bonus at the conclusion of tax filing season. The bonus is based on the total number of tax returns that the employee prepares and files during the tax season. Generally, the bonus is a percentage of the net preparation fees collected from the tax returns prepared by the employee. The percentage used to calculate the bonus increases as the total number of tax returns prepared and filed by the employee increases. Thus, Haynes financially incentivizes his tax return preparers via this bonus system to prepare as many tax returns as possible, for the highest possible preparation fee.

15. Haynes's employees also are taught to adhere to a system called "Closing the Sale." "Closing the Sale" is a technique used in Haynes's tax preparation offices that focuses on purportedly "building value" for the customer through a variety of methods designed to make the customer feel comfortable with the exorbitant fees being charged for the preparation of his or her tax return. The goal of this technique is to keep the customer in the tax-return-preparation office until "the close" of the sale. As part of this technique, Haynes's employees are told that there is a "no walkout" policy and that each employee should attempt to prepare a tax return for every customer who walks through the door.

16. Prior to the beginning of tax season, tax return preparers receive some tax preparation training from one or more of Haynes's managers using written instructional material provided by Liberty Tax Service's corporate office. However, during the tax season, Haynes's

employees are encouraged to prepare as many tax returns as possible, and many employees do not uniformly adhere to the pre-tax-season tax preparation training when preparing customers' tax returns.

17. As detailed more fully below, since at least 2010, Haynes and many of his employees at his three Columbia, South Carolina, Liberty Tax Service offices have employed several fraudulent tax schemes to understate the true tax liability of their customers, and/or to obtain significantly inflated refunds for their customers (and to collect higher preparation fees for doing so).

18. In furtherance of these schemes, Haynes and many of his employees also routinely fail to provide customers with a complete copy of their prepared and filed income tax return. Rather, many times a complete copy of a customer's prepared and filed tax return is provided to the customer only if the customer specifically requests a copy. Sometimes Haynes and/or his employees even charge customers \$25 to \$50 for a complete copy of their prepared and filed income tax return. The failure to furnish copies of completed tax returns prior to filing violates 26 U.S.C. § 6107(a).

19. Haynes serves as the Electronic Return Originator ("ERO") for each of his three Liberty Tax Service offices. ERO is an IRS designation for the person or entity that electronically submits tax returns on behalf of customers. EROs are identified by their registered EFIN and are responsible for preparing and filing with each tax return an IRS Form 8879, "IRS e-file Signature Authorization." Form 8879 is a signature authorization for an electronically filed tax return filed by an ERO on behalf of a customer.

20. On the EFIN application for each of his three offices, Haynes certified that he is the "primary contact, principal and responsible official" for those offices. Haynes also listed his

home address in Irmo, South Carolina, as the “mailing address” for each of his three Liberty Tax Service offices.

21. IRS Publication 1345 requires that an ERO “be diligent in recognizing fraud and abuse, reporting it to the IRS and preventing it when possible.” However, Haynes and his managers conduct no meaningful quality control or oversight over their tax return preparers, much less act diligently to prevent the fraudulent preparation of customers’ tax returns.

### **Haynes’s Fraudulent Tax Preparation Activities**

22. Haynes and many of his employees acting in concert with him and at his direction have created an atmosphere at his tax preparation offices that encourages the preparation and filing of false and fraudulent income tax returns in order to maximize profits.

23. Haynes and his managers direct, assist, advise, encourage and cause his managers and tax return preparers to engage in illegal practices that result in the preparation and filing of fraudulent tax returns. These practices include, but are not limited to:

- a. Making fraudulent claims for the Earned Income Tax Credit (“EITC”) and circumventing due diligence requirements;
- b. Fabricating businesses and related business income and expenses, as reported on IRS Form Schedule C;
- c. Fabricating Form Schedule A deductions, including but not limited to, deductions for unreimbursed employee business expenses;
- d. Filing tax returns reporting false filing statuses; and
- e. Failing to provide customers with a copy of their completed tax return.

24. In short, the goal of Haynes’s tax-fraud scheme is to obtain a tax refund for his customers that his customers would not otherwise be entitled to receive and, concomitantly, to profit from preparing and filing fraudulent income tax returns by charging fees for his services.

Indeed, in 2015, nearly every customer who walked through the door at Haynes's three Liberty Tax Service offices received an income tax refund. During the 2015 tax-filing season (from January through April), 99% of the 1,471 income tax returns prepared by Haynes's employees contained a claim for a refund.

25. Many of Haynes's customers have low to moderate incomes and are unsophisticated with respect to tax law and tax return preparation. Customers often have no knowledge that Haynes's employees file fraudulent tax returns on the customers' behalf.

26. However, to give the appearance that due diligence is being conducted, Haynes's employees often ask customers to sign a Return Information Verification form after the preparation of a customer's tax return. The Return Information Verification form and other Liberty Tax Service forms give the illusion – should the IRS conduct an investigation of Haynes's tax return preparation practices – that customers verified their income, expenses and other information contained on their tax return and the accompanying schedules.

27. However, many of Haynes's employees often do not explain the Return Information Verification form and other Liberty Tax Service forms to customers. In fact, sometimes Haynes's employees will use the Return Information Verification form solely to highlight the amount of the customer's expected tax refund and then ask the customer to sign the Return Information Verification form and other Liberty Tax Service forms without explaining or reviewing the remainder of the forms with the customer (much less reviewing an actual paper copy of the customer's prepared tax return that will be filed with the IRS).

28. The vast majority of the tax returns prepared by Haynes's employees over the last five years contained a request for a refund as shown in the chart below.

| <b>Processing Year</b> | <b>Tax Year</b> | <b># of Returns Prepared and Filed</b> | <b>Percent Claiming Refunds</b> |
|------------------------|-----------------|--|---------------------------------|
| 2011                   | 2010            | 1,967                                  | 95%                             |
| 2012                   | 2011            | 2,165                                  | 93%                             |
| 2013                   | 2012            | 1,981                                  | 93%                             |
| 2014                   | 2013            | 1,915                                  | 92%                             |
| 2015                   | 2014            | 1,735 <sup>1</sup>                     | 92%                             |

29. As detailed more fully below, since at least 2010, many of Haynes's employees have intentionally understated customers' tax liabilities or intentionally input false information on tax returns to increase customers' claims for refundable credits.

30. The IRS examined 202 federal income tax returns prepared by Haynes's employees for tax years 2010 through 2013. Of the returns examined for these years, 96% contained deficiencies that required IRS adjustments. The IRS calculated the average tax deficiency per return to be approximately \$3,834 per tax return.

31. Haynes's employees repeatedly prepared and filed, including as recently as the 2015 tax-filing season, erroneous federal income tax returns on behalf of customers claiming false deductions, bogus expenses and illegal dependents, even though: (a) Haynes was aware that he was under investigation by the IRS; (b) Haynes was aware that his customers were being audited by the IRS; and (c) his tax return preparers were repeatedly warned by the IRS about the suspicious tax returns that they prepared and filed (*see infra ¶ 40*).

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

32. Many of Haynes's managers and tax return preparers prepare tax returns that include fraudulent claims for the EITC often based on fabricated business income and/or expenses, bogus dependents, and/or false filing status.

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<sup>1</sup> Returns filed with the IRS as of November 24, 2015.

33. The EITC is a refundable tax credit available to certain low-income working people. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability and have made no withholding payments. The amount of a taxpayer's EITC is based on multiple variables, including, *inter alia*, the taxpayer's marital status, filing status (e.g., single, married filing separately, head-of-household), number of qualified dependents, and income caps. The requirements for claiming the EITC are set forth in 26 U.S.C. § 32 and the accompanying Treasury Regulations.

34. 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. 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.

35. 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 allows customers to claim a larger refundable credit. 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."

36. Taxpayers who claim head-of-household status on their tax returns are also eligible to potentially receive a larger EITC, if they otherwise qualify for the credit. To claim head-of-household filing status, among other things, a taxpayer generally must be unmarried or live separately from his or her spouse for the last six months of the tax year, must pay more than

half of the cost of keeping up a home for the tax year, and must have a qualified dependent. Haynes's employees file returns using head-of-household status for taxpayers they know are not entitled to claim such status.

37. More than half of the returns prepared and filed by Haynes's Liberty Tax offices include a claim for the EITC, as shown in the chart below.

| <b>Processing Year</b> | <b>Tax Year</b> | <b># of Returns Prepared and Filed</b> | <b>Percentage of Returns Claiming the EITC</b> |
|------------------------|-----------------|--|--|
| 2011                   | 2010            | 1,967                                  | 61%  |
| 2012                   | 2011            | 2,165                                  | 59%  |
| 2013                   | 2012            | 1,981                                  | 62%  |
| 2014                   | 2013            | 1,915                                  | 63%  |
| 2015                   | 2014            | 1,735                                  | 62%  |

38. Many of Haynes's employees falsify information to claim the maximum (or an inflated) EITC for customers. These employees exploit the rules by claiming bogus dependents on customers' tax returns and/or by reporting phony Schedule C businesses and income. Schedule C (Form 1040), Profit or Loss from Business ("Schedule C") is used to report income or loss from a business that the customer operated or a profession that the customer practiced as a sole proprietor. To bring the customer's reported earned income within the "sweet spot" for the EITC, and depending on a customer's actual income, many of Haynes's preparers inflate or fabricate Schedule C income to fraudulently increase customers' reported earned income, or claim bogus Schedule C expenses to fraudulently decrease customers' actual reported earned income.

39. Schedule C fraud (which is discussed in more detail below) is a means by which some of the tax return preparers employed by Haynes manipulate customers' income in order to obtain bogus refunds based on fictitious claims for the EITC and other credits. Because of the

amount of the EITC credit, and because Haynes charges customers “by the form,” Haynes frequently charges higher fees in connection with the preparation of bogus Schedules C.

40. The IRS has repeatedly warned many of Haynes’s employees – some as recently as September 2015 – that they have prepared tax returns with questionable claims for the EITC. The below chart summarizes some of the more recent warnings.

| Date       | IRS Action   |
|------------|--|
| 9/30/2015  | IRS sends letter warning to <u>Employee 1</u> about 2014 tax returns that s/he prepared with questionable claims for EITC  |
| 9/30/2015  | IRS sends letter warning to <u>Employee 2</u> about 2014 tax returns that s/he prepared with questionable claims for EITC  |
| 9/28/2015  | IRS sends letter warning to <u>Employee 3</u> about 2014 tax returns s/he prepared claiming EITC that also contained questionable Schedule C income and expenses |
| 9/21/2015  | IRS sends letter warning to <u>Employee 4</u> about 2014 tax returns s/he prepared claiming EITC that also contained questionable Schedule C income and expenses |
| 10/7/2014  | IRS sends letter warning to <u>Employee 5</u> about 2013 tax returns that s/he prepared with questionable claims for EITC  |
| 10/7/2014  | IRS sends letter warning to <u>Employee 3</u> about 2013 tax returns that s/he prepared with questionable claims for EITC  |
| 10/7/2014  | IRS sends letter warning to <u>Employee 6</u> about 2013 tax returns that s/he prepared with questionable claims for EITC  |
| 1/31/2014  | IRS sends letter warning to <u>Employee 3</u> about 2013 tax returns that s/he prepared with questionable claims for EITC  |
| 11/21/2013 | IRS sends letter warning to <u>Employee 7</u> about 2013 tax returns that s/he prepared with questionable claims for EITC  |

41. Some of the above individuals have been employed by Haynes as tax return preparers and/or store managers for several years despite having received warnings about the questionable nature of the claims for the EITC on the returns that they prepared. In addition, some of these same preparers have had many of the tax returns that they prepared audited by the IRS. Irrespective of whether Haynes knew (or should have known) about the warnings issued by the IRS to his employees, Haynes knew about the IRS’s audits of his customers in connection with its investigation of his tax-return-preparation business.

42. Given 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). Due diligence requirements mandate that a tax return preparer “must not know, or have reason to know, that any information used by the tax return preparer in determining the taxpayer’s eligibility for, or the amount of, the EITC is incorrect.” *See* 26 C.F.R. § 1.6695-2 (2011).

43. 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 document their compliance with these requirements and keep that documentation for three years. *Id.*

44. To document compliance with the due diligence requirements, tax return preparers must complete the “Paid Preparer’s Earned Income Credit Checklist” (IRS Form 8867) and, when a tax return is electronically filed, must electronically file the completed Form 8867. Tax return preparers must also complete an Earned Income Credit Worksheet or otherwise record the method and information the preparer used to compute a taxpayer’s EITC.

45. 26 U.S.C. § 6695 imposes a penalty on tax return preparers who fail to comply with due diligence requirements.

46. Many of Haynes’s employees repeatedly fail to comply with EIC due diligence requirements despite IRS requirements. Many of Haynes’s employees know certain stock answers to the due diligence questions which they believe are sufficient to satisfy IRS review of

their due diligence practices. Some of these employees automatically input these stock answers regardless of the information the customer provides them. Some of Haynes's preparers robotically input the same due diligence answers without even bothering to ask all of the required due diligence questions or verify all of the information being provided by the customer. Thus, the Form 8867 checklist that is then generated and filed with the IRS shows that the preparer purportedly complied with the due diligence requirements when the preparer, in fact, did not.

47. A review of Haynes's customer files produced in response to an IRS summons also shows that his tax return preparers routinely failed to retain records purportedly provided by customers as support for many claims for the EITC as required by 26 C.F.R. § 1.6695-2(b)(4). In particular, many of Haynes's tax return preparers failed to retain a copy of any documentary support for how business income and expenses were computed for customers with a supposed Schedule C business, as well as failed to retain copies of any documentary proof that customers were entitled to claim the dependents listed on their tax return.

#### Fabricated Schedule C Business Income and Expenses

48. Haynes's employees also prepare tax returns with false income and expenses on Form Schedule C. In some cases, the business listed on the Schedule C by Haynes's preparer is completely fabricated and does not exist. On some of these tax returns, Haynes's preparers report either: (i) substantial income from the supposed business, but little or no expenses; or (ii) substantial expenses, but little or no income. One reason for this is to inflate a customer's income (or create income when the customer has none) so that the customer qualifies for an EITC (or an inflated EITC), or to lower the taxable income of a customer who has actual income (such as wages reported on a W-2) in order to bring the income within the EITC range. On other

tax returns, a phony business is listed on the Schedule C with losses that offset the customer's wages and fraudulently reduce the customer's income tax liability and generate a tax refund.

49. Some of Haynes's employees also ask customers questions designed to elicit information that the preparer can potentially use to fabricate Schedule C income or expenses on a customer's tax return. For example, based on questions from the preparer about hobbies or odd jobs that the customer may have, if a customer responds that he or she cuts a friend's hair or enjoy arts and crafts, Haynes's employees then falsely report that activity as a business on a Schedule C (e.g., hair-cutting or craft-making), and report bogus income and/or expenses in order to bring the income within the range of EITC eligibility or to simply reduce the customer's taxable income.

#### Improper Filing Status and Bogus Dependents

50. Haynes's employees also routinely prepare tax returns reporting false filing status for their customers. Specifically, "Head of Household" filing status is claimed on customers' tax returns to increase the amount of the customer's standard deduction, even though Haynes's employees are aware, or should be aware, that the customer does not qualify for Head of Household filing status.

51. Additionally, Haynes's tax return preparers claim dependents on their customers' returns who do not actually qualify as dependents, and then claim Head of Household filing status to increase the customers' refunds and any EITC claim through both the false filing status and the bogus dependents.

#### Bogus Schedule A Deductions

52. Haynes's employees often prepare tax returns for customers which include false claims for purported unreimbursed employee business expenses. 26 U.S.C. § 162 governs

deductions for trade or business expenses. IRS Publication 529 provides examples of qualifying business expenses, including “Union dues and expenses” and “Work clothes and uniforms if required and not suitable for everyday use.” *See* IRS Publication 529 (2013) (available online at: <http://www.irs.gov/publications/p529/ar02.html>). 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.” But many of Haynes’s employees prepare tax returns that often claim deductions for fabricated, fraudulently inflated, and/or non-qualifying business expenses.

53. Many of Haynes’s employees improperly deduct vehicle expenses on the IRS Schedule A (Form 1040) Itemized Deductions (the forms used to itemize deductions) attached to customers’ returns. Haynes’s employees frequently report that a customer used a personal vehicle for a business purpose and that the customer drove hundreds or thousands of miles for work. In reality, the majority of this purported mileage is for commuting from home to work, which is not a qualifying vehicle expense giving rise to a Schedule A deduction. Haynes’s employees also improperly deduct purely personal meals and entertainment expenses that do not qualify as a legitimate business expense.

### **Specific Examples of Fraudulent Conduct**

54. The following examples illustrate the fraud described above.

55. Customer 1 of Columbia, South Carolina, had her 2014 tax return prepared at Haynes’s West Beltline office. When preparing Customer 1’s 2014 income tax return, Haynes’s employee falsely claimed that Customer 1 owned and operated a “housekeeping” business. Haynes’s employee then fabricated income and expenses on a Schedule C-EZ for this fictitious business. Haynes’s employee manufactured a bogus Schedule C-EZ net profit of \$7,320 to

falsely raise Customer 1's income so that she would qualify for the maximum EITC of \$6,143 and receive an inflated tax refund of \$6,744. Customer 1 did not own or operate a "housekeeping" business in 2014 and did not tell Haynes's employee that she did. The net profits on the Schedule C-EZ were manufactured entirely by Haynes's employee.

56. Customers 2 and 3 of Columbia, South Carolina, had their joint 2014 tax return prepared at Haynes's West Beltline office. When preparing the tax return for Customers 2 and 3, Haynes's employee falsely claimed that Customers 2 and 3 owned and operated a "janitorial" business. Haynes's employee manufactured a bogus Schedule C listing no income, but \$2,250 in expenses supposedly incurred in connection with the "janitorial" business. This bogus Schedule C loss offset other income reported by Customers 2 and 3 and resulted in an inflated tax refund. Customers 2 and 3 did not own or operate a janitorial business in 2014, and the expenses on the Schedule C were concocted by Haynes's employee.

57. Customer 4 of Columbia, South Carolina, had her 2013 tax return prepared at Haynes's Broad River office. When preparing Customer 4's 2013 income tax return, Haynes's employee falsely claimed that Customer 4 owned and operated a "baby sitting" business and a "hair styling" business. Haynes's employee then fabricated income and expenses on two separate Schedules C for these supposed businesses. Haynes's employee manufactured a bogus net profit of \$11,804 on the first Schedule C for the supposed "baby sitting" business and \$5,700 on the second Schedule C for the purported "hair styling" business. The Schedules C falsely raised Customer 4's income so that she would qualify for an EITC and receive a tax refund of \$4,889. Customer 4 did not provide the information contained on either Schedule C, and the net profits were manufactured entirely by Haynes's employee. Customer 4 was charged approximately \$900 for the preparation of this fraudulent tax return. When Customer 4

discovered that Haynes's employee had prepared a fraudulent tax return on her behalf, she sought out another tax return preparer to amend the tax return to correct it. Customer 4 also filed a complaint with the IRS.

58. Customer 5 of Columbia, South Carolina, had her 2011 and 2012 tax returns prepared at Haynes's West Beltline office. When preparing Customer 5's 2011 and 2012 income tax returns, Haynes's employee falsely claimed that Customer 5 owned and operated a "Hair Styling" business. Haynes's employee then fabricated income and expenses on a Schedule C for this supposed business. Haynes's employee manufactured a bogus Schedule C net profit of \$4,263 in 2011 and \$3,200 in 2012 for this fictitious business to falsely raise Customer 5's income so that she would qualify for an inflated EITC and receive a tax refund for each of these years. In response to due diligence questions, the preparer also falsely wrote that Customer 5 had a logbook and records to verify her income. When contacted by the IRS, Customer 5 said that she did not own or operate a "Hair Styling" business and the net profits were "made up" by Haynes's employee. Haynes's employee also falsely claimed "Head of Household" as the filing status for Customer 5 to further inflate the EITC when that status should have been "Single."

59. Customer 6 of Columbia, South Carolina, had her 2010 and 2011 tax returns prepared at Haynes's West Beltline office. When preparing Customer 6's 2010 income tax return, Haynes's employee falsely claimed that Customer 6 owned and operated a "cleaning service" business. When preparing Customer 6's 2011 income tax return, Haynes's employee falsely claimed that Customer 6 owned and operated a "caregiver" business. Haynes's employee then fabricated income and expenses on the Schedules C for these supposed businesses. Haynes's employee manufactured a bogus Schedule C net profit of \$4,700 in 2010 and \$8,100 in 2011 for these fictitious businesses to falsely raise Customer 6's income so that she would

qualify for an EITC and receive a tax refund of \$2,014 in 2010 and \$2,333 in 2011. Customer 6 did not own or operate a “cleaning service” or “caregiver” business, and the net profits were manufactured by Haynes’s employee.

60. Customer 7 of Columbia, South Carolina, had her 2011 and 2012 tax returns prepared at Haynes’s Broad River office. When preparing Customer 7’s 2011 and 2012 income tax returns, Haynes’s employee falsely claimed that Customer 7 owned and operated a “child care” business. Haynes’s employee then fabricated income and expenses on a Schedule C-EZ for this supposed business. Haynes’s employee manufactured a bogus Schedule C-EZ net profit of \$10,000 in 2011 and \$14,625 in 2012 for this fictitious business to falsely raise Customer 7’s income so that she would qualify for an EITC and receive a tax refund for each of these years. The preparer also falsely wrote that Customer 7 had a logbook and records to verify the income in response to due diligence questions. Customer 7 did not own or operate a “child care” business and the net profits were manufactured entirely by Haynes’s employee.

61. Customer 8 of Columbia, South Carolina, had her 2011 and 2012 tax returns prepared at Haynes’s Broad River office. When preparing Customer 8’s 2011 and 2012 income tax returns, Haynes’s employee falsely claimed that Customer 8 owned and operated a “home health care” business. Haynes’s employee then fabricated income and expenses on a Schedule C-EZ for this supposed business. Haynes’s employee manufactured a bogus Schedule C net profit of \$10,500 in 2011 and \$10,224 in 2012 for this fictitious business to falsely raise Customer 8’s income so that she would qualify for an EITC and receive a tax refund for each of these years. The preparer also falsely wrote that Customer 8 had records to verify the income in response to due diligence questions. Customer 8 had no records and did not provide her preparer

with any documentation. At no time did Customer 8 own or operate a “home health care” business, and the net profits were manufactured entirely by Haynes’s employee.

62. Customer 9 of Columbia, South Carolina, had her 2011 tax return prepared at Haynes’s Broad River office. When preparing Customer 9’s 2011 income tax return, Haynes’s employee falsely claimed that Customer 9’s granddaughter was a dependent so that Customer 9 would qualify for the EITC. Additionally, Haynes’s employee falsely claimed that Customer 9, who didn’t earn any wages in 2011, owned and operated a supposed “babysitting” business. Haynes’s employee then fabricated \$7,910 in income on a Schedule C-EZ for this supposed business to falsely claim that Customer 9 had income (when she did not) so that Customer 9 would qualify for an EITC and receive a tax refund for this year. Customer 9 did not own or operate a “babysitting” business, and did not tell Haynes’s employee that she did. The income was manufactured entirely by Haynes’s employee. Customer 9 was not aware that a Schedule C-EZ had been filed with her tax return until she attempted to re-apply for disability benefits and was denied. Customer 9 was charged \$564 for the preparation of this fraudulent tax return.

63. Customer 10 of Columbia, South Carolina, had her 2011 and 2012 tax returns prepared at Haynes’s West Beltline office. When preparing Customer 10’s 2011 and 2012 income tax returns, Haynes’s employee falsely claimed that Customer 10 owned and operated a “hair care” business. Haynes’s employee then fabricated gross receipts and expenses for this supposed business on Schedules C-EZ for 2011 and 2012. Haynes’s employee manufactured \$17,000 in net profit for 2011 and \$14,275 in net profit for 2012 on Schedules C-EZ to falsely state that Customer 10 had income (when she had none) so that Customer 10 would qualify for an EITC and receive a tax refund for these years. Customer 10 received a tax refund of \$6,583 in 2011 and another \$5,678 refund in 2012 that she was not entitled to receive. Customer 10 did

not own or operate a “hair care” business, and did not tell Haynes’s employee that she did. Indeed, Customer 10 was in school in 2011 and 2012 and did not know that Haynes’s employee filed a Schedule C-EZ with her 2011 and 2012 tax returns. The net profit on both Schedules C-EZ was manufactured entirely by Haynes’s employee. In response to due diligence questions, Haynes’s employee also falsely wrote that Customer 10 had records to verify the income. Customer 10 had no records and did not provide her preparer with any documentation because there was no business.

64. Customers 11 and 12 of Columbia, South Carolina, had their joint 2011 and 2012 tax returns prepared at Haynes’s Broad River office. When preparing Customer 11 and 12’s 2011 and 2012 income tax returns, Haynes’s employee falsely claimed that Customers 11 and 12 had tens of thousands of dollars in Schedule A unreimbursed employee business expenses. Haynes’s employee falsely reported unreimbursed employee business expenses of \$33,397 in 2011 and \$19,980 in 2012. When reported, these fictitious expenses offset Customer 11 and Customer 12’s other income and generate a tax refund for them in both years. Customer 11 and Customer 12 did not have any qualifying unreimbursed employee business expenses in either 2011 or 2012.

65. Customer 13 of Columbia, South Carolina, had her 2010 and 2011 returns prepared at Haynes’s Broad River office. When preparing Customer 13’s 2010 and 2011 income tax returns, Haynes’s employee claimed that Customer 13 owned and operated an “Arts and Craft” business. Haynes’s employee then fabricated gross receipts and expenses on a Schedule C for this business in 2010 and 2011. Haynes’s employee manufactured \$13,150 in net losses for 2010 and \$13,093 in net losses for 2012 to offset Customer 13’s other income so that Customer 13 would qualify for a larger EITC and receive a tax refund for both 2010 and 2011.

Customer 13 did not own or operate an “Arts and Craft” business. Indeed, arts and crafts were a hobby of Customer 13, on which she spent no more than “a few hours per month.” The expenses on both Schedules C were manufactured entirely by Haynes’s employee, including items such as \$9,210 in car and truck expenses and \$3,240 in utilities on the Schedule C for 2011. Haynes’s employee also falsely wrote that Customer 13 had records to verify the expenses in response to due diligence questions. Customer 13 did not provide her preparer with documentation to support the fabricated expenses on the Schedule C.

66. Customer 14 of Columbia, South Carolina, had her 2011, 2012 and 2013 tax returns prepared at Haynes’s West Beltline office. When preparing Customer 14’s 2011, 2012 and 2013 income tax returns, Haynes’s employee claimed that Customer 14 owned and operated a “childcare” business. Haynes’s employee then fabricated gross receipts and expenses on a Schedule C for this business in 2011, 2012 and 2013. Haynes’s employee manufactured \$12,800 in net profits for 2011, \$4,400 in net profits for 2012 and \$4,700 in net profits for 2013 to increase Customer 14’s income so that Customer 14 would qualify for a larger EITC and receive an inflated tax refund of \$5,448 for 2011, \$7,143 for 2012 and \$6,704 for 2013. Customer 14 did not own or operate a “childcare” business. The net profits on the Schedules C were invented by Haynes’s employee. Haynes’s employee also falsely wrote that Customer 14 had records to verify the expenses in response to due diligence questions. Customer 14 did not provide her preparer with documentation to support the fabricated expenses on the Schedules C.

#### **Haynes’s Violation of IRS PTIN Requirements**

67. Anyone who prepares or assists in preparing federal tax returns for compensation must have a valid PTIN issued by the IRS. *See* 26 U.S.C. § 6109(a)(4); 26 C.F.R. § 1.1609-2(d). Paid preparers must include their PTIN on each tax return that they prepare and file with the IRS.

PTINs serve as an essential part of tax administration and the Government's effort to ensure compliance with the internal revenue laws by allowing the IRS to identify paid tax preparers on tax returns.

68. Haynes knowingly violates IRS PTIN rules by encouraging his employees to file tax returns with incorrect PTINs and by allowing his employees to prepare customer tax returns without a valid PTIN.

69. Some of Haynes's employees improperly use the PTINs of other employees, both with and without the permission of the actual PTIN holder. These unregistered tax return preparers then file tax returns that falsely identify other individuals as the person who prepared the tax return. For example, during the 2013 tax filing season, Haynes asked Employee 8 if a recently hired employee, who could not obtain her own PTIN, could file tax returns using the PTIN of Employee 8. Employee 8 refused. Instead, Employee 8 witnessed Haynes instruct another tax return preparer employed by him to share her PTIN with the new employee, under which the new employee prepared and filed tax returns, according to Employee 8.

#### **Haynes's Failure to File Information Returns and to Withhold and Pay Employment Taxes**

70. In addition to preparing and filing fraudulent income tax returns for customers, Haynes also is swindling the U.S. Treasury by failing to report wages and to pay employment taxes for some of his employees at his Liberty Tax Service offices. Indeed, some of Haynes's higher-volume tax return preparers (those preparing a significant number of tax returns per year) are being paid by Haynes "under the table." In other words, Haynes is paying these employees to work for him, but he is not reporting to the IRS the wages that he is paying these employees

by filing information returns (IRS Forms W-2) as he is required to do under 26 U.S.C. §§ 6060, 6695(e) and 6721.

71. In addition, as an employer, Haynes is required by law to withhold from all employees' wages federal income and Federal Insurance Contributions Act ("FICA") taxes, and to pay over to the IRS those withholdings, along with the employer's own FICA and Federal Unemployment Tax Act ("FUTA") taxes (collectively, "employment taxes") under 26 U.S.C. §§ 3102, 3111, 3301, and 3402. Haynes has failed to comply with these federal tax obligations for the employees that he is paying "under the table."

72. For example, Employee 9 is employed by Haynes as a tax return preparer and store manager. Employee 9 prepared 435 tax returns in 2012, 396 tax returns in 2013 and 242 tax returns in 2014 at Haynes's Broad River office. For each of these years, Haynes failed to report the wages he paid to Employee 9 by filing an information return with the IRS for Employee 9. Haynes also did not withhold any income or employment taxes from Employee 9's wages or, if he did, he did not pay those withheld taxes over to the IRS for these years.

73. Employee 10 is employed by Haynes as a tax return preparer and store manager. Employee 10 prepared 202 tax returns in 2012, 206 tax returns in 2013 and 155 tax returns in 2014 at Haynes's Broad River office. For each of these years, Haynes failed to report the wages he paid to Employee 10 by filing an information return with the IRS for Employee 10. Haynes also did not withhold any income or employment taxes from Employee 10's wages or, if he did, he did not pay those withheld taxes over to the IRS for any of these years.

74. Employee 11 is employed by Haynes as a tax return preparer. Employee 11 prepared 218 tax returns in 2014 at Haynes's West Beltline office. For 2014, Haynes failed to report the wages he paid to Employee 11 by filing an information return with the IRS for

Employee 11. Haynes also did not withhold any income or employment taxes from Employee 11's wages or, if he did, he did not pay those withheld taxes over to the IRS for 2014.

75. The failure to file correct information returns with the IRS violates 26 U.S.C. §§ 6060, 6695(e) and 6721. Moreover, Haynes's failure to adhere to his obligations as an employer to issue information returns and to pay employment taxes for some of his tax-return-preparation-employees is further evidence that Haynes cannot be trusted to run a tax return preparation business and should be permanently barred from doing so.

#### **Continual and Repeated Nature of Haynes's Fraudulent Conduct**

76. The scope of misconduct at Haynes's Liberty Tax Service offices is longstanding. Since 2010, Haynes's offices have filed approximately 9,763 federal income tax returns on behalf of customers. Indeed, the fraudulent conduct in Haynes's Liberty Tax Service offices has continued despite the IRS's investigation of his offices, as well as over 200 IRS audits of his customers.

77. Moreover, Haynes has not meaningfully curtailed the improper conduct in his Liberty Tax Service offices, even with increased IRS scrutiny of his offices in the past few years. Haynes was aware of the IRS's investigation of his office's fraudulent activities as early as 2012. Yet, Haynes's employees continued to illegally generate tax refunds for customers of his Liberty Tax Service offices. For example, the IRS has repeatedly warned many of Haynes's employees – some as recently as September 2015 – that they have prepared tax returns with questionable claims for the EITC. (*See ¶ 40 supra.*) Yet, those same tax preparers remain employed by Haynes.

78. Indeed, during the 2015 tax-filing season (from January through April), of the 1,411 returns prepared by Haynes's Liberty Tax Service offices, 99% of the tax returns contained a request for a refund.

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

79. Haynes's Liberty Tax Service offices have been preparing tax returns containing bogus deductions and credits since at least 2010. The fraudulent returns prepared and filed by Haynes's Liberty Tax Service offices have caused and continue to cause substantial harm to the Government by fraudulently reducing customers' reported tax liabilities, helping taxpayers to obtain fraudulent refunds and evade taxes, and by obstructing the IRS's efforts to administer the federal tax laws.

80. Many of Haynes's customers are unsophisticated in tax matters with low-to-moderate incomes. Some of these customers have no knowledge that Haynes's employees prepare and file fraudulent tax returns on their behalf. For others, Haynes's employees encourage customers to participate in the tax fraud by promising them thousands of dollars of illegally inflated refunds.

81. Many of Haynes's customers have been harmed because they relied on Haynes and his employees to prepare proper tax returns. Instead, numerous customers' tax returns substantially understated their correct tax liabilities or overstated the refunds due. Some of these customers were audited by the IRS, and as a result, now face large income tax debts that may also include sizeable penalties and interest.

82. As of November 24, 2015, the IRS has examined 202 federal income tax returns prepared and filed by Haynes's employees for the 2010 through 2013 tax years. Of the returns examined for these years, 96% contained deficiencies that required IRS adjustments. The audits

resulted in over \$700,000 in tax deficiencies for Haynes's customers, with an average tax deficiency of \$3,834 per tax return for tax returns audited in connection with the IRS's investigation of Haynes. The total actual monetary harm to the government with respect to understatements on tax returns for all years could be much more than \$700,000.

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

84. In addition to the direct monetary harm caused by preparing tax returns that understate customers' federal income tax liabilities, Haynes and his employees' illegal activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws. Haynes's and his employees' conduct results in the IRS having to devote scarce resources to identifying his customers, ascertaining their correct tax liabilities, recovering any refunds erroneously issued, and collecting any additional taxes and penalties.

**COUNT I: Injunction Under 26 U.S.C. § 7407 for Engaging in Conduct Subject to Penalty Under 26 U.S.C. §§ 6694 and 6695**

85. The United States incorporates by reference the allegations contained in paragraphs 1 through 84.

86. Under 26 U.S.C. § 7407, a district court is authorized to enjoin a tax return preparer from specified misconduct (which is described in 26 U.S.C. §§ 6694 and 6695, and 26 U.S.C. § 7407 itself) if the court finds that the preparer has engaged in such conduct and injunctive relief is appropriate to prevent the recurrence of such conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court

finds that a narrower injunction (i.e., prohibiting only specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from acting as a federal tax return preparer.

87. Under 26 U.S.C. § 6694(a), a tax return preparer is subject to penalty if he prepares a return or claim for refund understating a customer's tax liability based on a position for which there was not a reasonable belief that the position would more likely than not be sustained on the merits, and the preparer knew or should have known of the position.

88. Under 26 U.S.C. § 6694(b), a tax return preparer is subject to penalty for a willful attempt in any manner to understate the liability for tax on the return or claim, and for a reckless or intentional disregard of internal revenue rules or regulations.

89. Under 26 U.S.C. § 7701(a)(36), a "tax return preparer" is defined as a person who prepares for compensation or who employs one or more persons to prepare for compensation, any return or a substantial portion thereof.

90. Haynes is a tax return preparer.

91. Haynes and/or his employees acting under his supervision and under his control, willfully prepare tax returns for customers that Haynes and/or his employees know contained false deductions, losses, credits and expenses. Haynes and/or his employees know that these false deductions, losses, credits and expenses would understate his customers' tax liabilities.

92. Haynes knew or should have known that the returns his employees prepared for customers contained claims or positions which they could not have reasonably believed that would more likely be sustained on the merits. Haynes or his employees acting at his direction and under his control fabricated these unreasonable claims and their supporting documentation.

There could be no possibility that these false deductions, losses, credits and expenses would be sustained on the merits because they were fabricated.

93. Preparing federal tax returns that willfully understate the taxpayer's liability and that contain unrealistic or unreasonable and frivolous positions subjects Haynes to penalties under 26 U.S.C. § 6694.

94. Anything less than a permanent and complete bar on the preparation of tax returns is unlikely to stop Haynes and his employees from preparing fraudulent tax returns. Haynes's and/or his employees' long record of deceit and fraud shows there is a high likelihood that his Liberty Tax Service offices will continue their fraudulent tax preparation practices if Haynes is merely barred from filing improper returns.

**COUNT II: Injunction Under 26 U.S.C. § 7408 for Engaging in Conduct Subject to Penalty Under 26 U.S.C. § 6701**

95. The United States incorporates by reference the allegations contained in paragraphs 1 through 84.

96. Under 26 U.S.C. § 7408(a), a district court is authorized to enjoin persons who have engaged in conduct subject to penalty under 26 U.S.C. § 6701.

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

98. Haynes's conduct is subject to penalty under 26 U.S.C. § 6701. Haynes or his employees acting at his direction and under his control prepare and file fraudulent tax returns on behalf of customers who obtain unwarranted federal tax refunds as a result.

99. As a tax return preparer, Haynes knew or had reason to know that the tax returns that he, or his employees acting at his direction and under his control, prepared would be used as to material matters under federal tax law. Additionally, as a tax return preparer, Haynes knew that the returns he or his employees prepared would result in understatements of customers' tax liability because Haynes knew that the deductions, losses, credits and expenses on the returns they prepared were overstated or fabricated.

100. Accordingly, Haynes's conduct in connection with his employees' preparation and filing of false tax returns is subject to penalty under 26 U.S.C. § 6701.

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

102. The magnitude of lost tax revenue caused by the fraudulent conduct of Haynes and/or his employees is substantial. The average tax deficiency for audited tax returns in connection with the IRS's investigation of Haynes is \$3,834 per tax return. The total actual monetary harm to the government with respect to understatements on tax returns for all years could be much more.

103. The United States also is harmed because the IRS must continually devote limited resources to detecting and examining inaccurate returns filed by Haynes's Liberty Tax Service offices and to attempting to assess and collect unpaid taxes.

104. An injunction against Haynes is necessary and appropriate to prevent the recurrence of his conduct, subjecting him to penalty under 26 U.S.C. § 6701, and for engaging in any other conduct subject to penalty under the Internal Revenue Code.

**COUNT III: Injunction Under 26 U.S.C. § 7402 for Unlawful Interference with the Enforcement of the Internal Revenue Laws**

105. The United States incorporates by reference the allegations contained in paragraphs 1 through 84.

106. 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, even if the United States has other remedies available for enforcing those laws.

107. Haynes's activities described above substantially interfere with the enforcement of the internal revenue laws because his employees' preparation and filing of numerous fraudulent tax returns resulted in customers not paying their true federal tax liabilities and receiving erroneous tax refunds.

108. An injunction prohibiting Haynes from preparing or assisting in the preparation of tax returns is needed to stop him and his employees from preparing or filing fraudulent tax returns and to prohibit him and his employees from otherwise interfering with the proper administration and enforcement of the internal revenue laws now and in the future.

109. Given the continual, repeated, broad and brazen nature of Haynes's and his employees' misconduct, unless enjoined by this Court, Haynes and his employees are likely to continue to engage in illegal conduct in the future.

110. If Haynes is not enjoined, the United States will suffer irreparable harm from the underpayment of taxes, the exhaustion of resources to enforce the internal revenue laws, and the losses caused by Haynes's and his employees' conduct.

111. The public interest would be advanced by enjoining Haynes because an injunction will stop not only his illegal conduct but also the harm such conduct is causing the United States Treasury and the public.

112. Unless enjoined, Haynes is likely to continue engaging in improper conduct, including filing false and fictitious returns on behalf of others. If Haynes and his employees continue to engage in fraudulent filing conduct, it will inflict irreparable injury upon the United States because the government will wrongfully provide federal income tax refunds to individuals not entitled to receive them or will collect less than the correct amount of tax from individuals who owe taxes to the United States.

113. An injunction under 26 U.S.C. § 7402 is therefore necessary and appropriate, and the United States is entitled to injunctive relief under 26 U.S.C. § 7402. The injunction, as detailed below, should bar Haynes, and anyone acting in concert with him, from preparing or filing tax returns for others, representing customers before the IRS, and from otherwise engaging in conduct that interferes with the proper administration of the internal revenue laws.

### **Relief Sought**

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

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

B. That this Court find that Haynes continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that injunctive relief under 26 U.S.C. § 7407 is appropriate to prevent recurrence of that conduct.

C. That this Court find that Haynes engaged in conduct substantially interfering with the administration and enforcement of the internal revenue laws and that injunctive relief under 26 U.S.C. § 7402(a) is appropriate to prevent a recurrence of that conduct.

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

- a. Acting as a federal tax return preparer, supervising, managing or employing federal tax return preparers or requesting, assisting with, or directing the preparation or filing of federal tax returns or amended returns (or other related tax forms or documents) for any person or entity other than preparing Haynes's own personal tax return;
- b. Appearing as a representative on behalf of any person or entity other than Haynes before the IRS;
- c. Owning, managing, controlling, working for, profiting from, or volunteering for any business or entity engaged in tax-return-preparation;
- d. Seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS PTIN and/or IRS EFIN, or any other IRS service or program by which one prepares or files tax returns;
- e. Using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN(s) and EFIN(s);
- f. Engaging in conduct subject to penalty under 26 U.S.C. §§ 6694, 6695 or 6701, including: preparing and filing tax returns or other documents that understate the tax liabilities of others, preparing or assisting in preparing federal tax returns that Haynes knows or reasonably should know would result in an understatement of tax liability or the overstatement of a

taxpayer's entitlement to a federal tax refund, failing to comply with required due diligence procedures, failing to furnish tax return preparer identifying numbers, and promoting any false tax or tax-return scheme;

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

E. That the Court, pursuant to 26 U.S.C. § 7402, permanently bar Haynes from using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN(s) and EFIN(s);

F. That the Court, pursuant to 26 U.S.C. § 7402, order Haynes to surrender any existing PTIN(s) or EFIN(s) registered in his name or in any name used for any purpose by Haynes;

G. That the Court, pursuant to 26 U.S.C. § 7402, enter an injunction requiring Haynes to produce to counsel for the United States a list identifying (by name, address, e-mail address, phone number, and Social Security or other tax identification number) all of the customers who, for any of the tax years 2010 to the present, have used the services of Haynes or his businesses as they are known under any of their names, including but not limited to Liberty Tax Service;

H. That the Court, pursuant to 26 U.S.C. § 7402, enter an injunction requiring Haynes, at his own expense, to contact by mail all of his customers related to any of his tax preparation services and inform those individuals of the Court's findings concerning the falsity of the returns that he prepared and attach a copy of the permanent injunction, and to file with the

Court, within 20 days of the date on which the permanent injunction is entered, a certification signed under penalty of perjury that he has done so, and that any enclosure or cover letter be approved by counsel for the United States;

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

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

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

Dated this 8th day of February, 2016

Respectfully submitted,

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