

FILED

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

2017 DEC -1 AM 9:49

US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO, FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

HERVE ERILUS and HERVE ERILUS, LLC,

Defendants.

Civil No. 6:17-cv-2060-ORL-28-TBS

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

The United States of America, for its complaint against Herve Erilus and Herve Erilus, LLC, 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 Herve Erilus and Herve Erilus, LLC, 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 Herve Erilus and Herve Erilus, LLC, to disgorge to the United States the gross receipts that Herve Erilus and Herve Erilus, LLC received (in the form of tax preparation fees) for the preparation of federal tax returns.

#### **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 Herve Erilus resides in this judicial district and a substantial part of the activities giving rise to this suit occurred in this judicial district.

**Defendants**

5. Herve Erilus resides in Cocoa, Florida. Erilus has been preparing tax returns for compensation since at least 2011. In 2010, Erilus began working at LBS Tax Services as a manager of a tax preparation store, a tax return preparer, and a marketer who solicited business.

6. On or about August 25, 2011, Erilus incorporated Herve Erilus, LLC in Florida. Erilus is the sole member of Herve Erilus, LLC, and serves as the registered agent.

7. In December 2014, Herve Erilus, individually and through Herve Erilus, LLC, began operating his own tax preparation business under the names Herve Erilus LLC and Travelers Tax Services.

8. Erilus prepares tax returns for compensation. In addition to personally preparing tax returns for compensation, Erilus, as the sole owner of Herve Erilus, LLC, employs individuals directly or through Herve Erilus, LLC who prepare tax returns for compensation.

**Background**

9. LBS Tax Services ("LBS") began in 2008 as a tax return preparation business in Orlando, Florida operated by Walner Gachette. Gachette is the brother of Herve Erilus. 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. In 2016, the United States District Court for the Middle District of Florida enjoined Gachette from preparing federal tax returns and owning, operating, and franchising a tax preparation business. *See United States v. Walner Gachette*, 6:14-cv-1539 (M.D. Fla.). Herve Erilus is also the brother of Gerline Erilus and St. Fonie Erilus, who also own and operate tax preparation businesses.

10. Erilus began working at LBS in 2010. At LBS, Erilus managed a tax preparation store owned by Jean Demesmin in 2011. From 2012 to 2014, Erilus worked at a tax preparation

store managed and subsequently owned by Tonya Chambers, a former manager at LBS.

Chambers' tax preparation store was called BPTS Tax Services.

11. While working at Chambers' tax preparation store, Erilus prepared tax returns and solicited business at large, retail business centers, such as Wal-Mart, and private locations, such as apartment complexes. For example, Erilus would knock on doors at apartment complexes, convince the residents to allow him to prepare their tax returns, drive the residents to the tax preparation store to have their tax returns prepared, bring the residents back to the apartment complex, and then repeat the process.

12. The United States filed suit against Demesmin and Chambers on September 23, 2014. *See United States v. Demesmin, et al.*, 6:14-cv-1537 (M.D. Fla.) This Court entered a permanent injunction against Demesmin and Chambers on September 7, 2016 and November 6, 2016, respectively, barring them from preparing tax returns and owning and operating a tax preparation business.

13. Following the incorporation of Herve Erilus LLC in December 2014, and after the United States brought its suit against Demesmin and Chambers, Erilus began owning and operating a tax preparation store through Herve Erilus, LLC. In December 2014, Erilus registered the fictitious business name "Travelers Tax Services" with the State of Florida. Tax returns prepared at the Defendants' tax preparation store identify the paid preparer firm as "Travelers Tax Center," rather than Travelers Tax Services. In 2017, Erilus operated his tax preparation business at 800 N. Fiske Blvd., Cocoa, Florida 32922.

14. According to documents that Erilus filed in a related matter in this Court, "HERVE ERILUS LLC was giving [sic] a fictitious name as of December 12, 2014. The fictitious name giving [sic] to HERVE ERILUS LLC was TRAVELERS TAX CENTER."

According to Erilus, “TRAVELERS TAX CENTER is the name of my business, and HERVE ERILUS LLC is still my federal way of being paid.” Additionally, “HERVE ERILUS LLC is the banking system for TRAVELERS TAX CENTER.” *See Herve Erilus v. United States*, docket no. 1, 6:15-mc-78 (M.D. Fla. Dec. 17, 2015).

15. When managing an LBS store, and when owning and operating his own tax preparation store, Erilus prepared tax returns for customers and oversaw employees who prepared tax returns.

16. In addition to owning and operating a tax preparation store (directly or through Herve Erilus, LLC), Erilus personally prepared the following number of tax returns identifying him as the paid preparer in 2013, 2014, 2015, 2016, and 2017, *all* of which claimed a tax refund:

Processing Year	Total Number of Returns	Number of Returns Claiming a Refund	% of Returns Claiming a Refund	Number and % of Returns Claiming EITC <sup>1</sup>
2013	11	11	100%	8 (72%)
2014	141	141	100%	117 (82%)
2015	98	98	100%	83 (84%)
2016	70	70	100%	58 (82%)
2017	63	63	100%	53 (84%)

### **The Defendants’ Activities**

17. The Defendants prepare tax returns to generate bogus refunds for customers, enabling the Defendants to charge exorbitant fees and maximize profits at the expense of the United States Treasury.

18. 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

---

<sup>1</sup> The Earned Income Tax Credit, a refundable tax credit available to certain low-income working people in varying amounts based on the taxpayer’s income, filing status, and claimed number of dependents.

that the Defendants have prepared and filed false tax returns on their behalf. For others, the Defendants 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 the Defendants prepare their tax returns.

19. The Defendants make false claims on tax returns, particularly on the forms attached to those returns, in order to improperly increase customers’ refunds. After completing the returns, the Defendants 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.

20. The Defendants 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.

21. The Defendants engage in unlawful tax return preparation practices including:
- a. Making false claims for the Earned Income Tax Credit;
  - b. Circumventing due diligence requirements in order to unlawfully maximize the Earned Income Tax Credit;
  - c. Fabricating businesses and related business income and expenses;
  - d. Improperly claiming false filing status, such as Head of Household;
  - e. Claiming education credits to which their customers are not entitled;

- f. Fabricating itemized deductions;
- g. Charging deceptive and unconscionable fees;
- h. Failing to provide customers with a copy of the completed tax return; and
- i. Failing to identify the actual paid preparer of the tax return.

**Phony Claims for the Earned Income Tax Credit  
and Failure to Comply with Due Diligence Requirements**

22. The Defendants 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.

23. 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.

24. 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.

25. 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.

26. The Defendants 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 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.

27. 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. 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.” Tax return preparers must also document their compliance with these requirements and keep that documentation for three years.

28. The Defendants fail to comply with the due diligence requirements. The Defendants show an intentional disregard for the tax laws and in particular for the due diligence requirements.



### **Fabricated Schedule C Business Income and Expenses**

29. The Defendants prepare tax returns reporting non-existent businesses on bogus Forms Schedule C. On some of these returns, the Defendants report substantial business income, but little or no expenses. On other returns, the Defendants 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.

#### **Customers 1 and 2**

30. For example, Customers 1 and 2 of Cocoa, Florida, had their 2013, 2014, and 2015 federal income tax returns prepared at the Defendants' store. Erilus prepared the 2014 return, and a female preparer at his store prepared the 2015 return. Erilus is identified as the paid preparer on the 2013 tax return, but that return was actually prepared by a female preparer at the business. During these three years, Customers 1 and 2 received disability income from the Social Security Administration, and did not work or earn other income from self-employment.

31. Erilus told Customers 1 and 2 that his preparation of their tax returns would increase the social security income they received. On all three tax returns, the preparer falsely reported on the Form Schedule C that Customer 1 had a business, not identified on the tax return by name or type of business (the 2015 return reports the business name as "[Customer 1 first name] Housing." The 2013 tax return reports that the phony business was located at Customer

1's and 2's residence in Cocoa, while the 2014 and 2015 returns report a business address with Customer 1's and 2's street address in Cocoa, but identifying the city and town as Clinton, Iowa.

32. The 2013 return reports gross receipts of \$19,708 and expenses of \$1,808, for a net profit of \$17,900. The 2014 return reports gross receipts of \$10,500 and no expenses. The 2015 return reports gross receipts of \$10,487 and no expenses. By reporting this fabricated earned income from a non-existent business, the 2013, 2014, and 2015 tax returns claimed false EITC in the amounts of \$6,044, \$3,910, and \$3,307, and bogus refunds in the amounts of \$6,481, \$5,226, and \$4,625, respectively.

33. Erilus charged Customers 1 and 2 approximately \$1,000 to prepare their 2013, 2014, and 2015 tax returns, without informing Customers 1 and 2 that he was charging this large amount. Neither Erilus nor the other preparers reviewed the completed tax returns with Customers 1 and 2. Customer 1 did not initially receive copies of the tax returns from Erilus and asked Erilus for copies several times. When Customer 1 eventually received copies of the tax returns, she received multiple copies, and some copies did not seem to match others she received.

### **Customer 3**

34. Erilus prepared the 2013 and 2014 federal income tax returns of Customer 3 of Cocoa, Florida. In 2013 and 2014, Customer 3 received income from the Social Security Administration and a lesser amount from "house sitting" for friends and neighbors. Although Customer 3 did not actually earn much income from house sitting, Erilus told Customer 3 that he could get her a tax refund because he knew how to "fix the papers."

35. On Customer 3's 2013 tax return, Erilus falsely reported that Customer 3 earned income from a business, not identified by name or type of business, through which Customer 3

purportedly received gross receipts of \$14,440 and incurred expenses of \$1,879, for a total net profit of \$12,561.

36. On Customer 3's 2014 tax return, Erilus falsely reported that Customer 3 earned income from a business, not identified by name or type of business, through which Customer 3 purportedly received gross receipts of \$20,215 and incurred expenses of \$5,515 (including \$278 for advertising, \$2,734 for repairs and maintenance, \$678 for supplies, and \$1,825 for utilities), for a total net profit of \$14,700. As described above, due to how the EITC is calculated, a higher income can entitle a taxpayer to a larger tax credit, and thus a larger refund.

37. Customer 3 did not have a business, did not receive this reported income or incur these reported expenses, and did not provide any of these amounts to Erilus.

38. Erilus, by reporting this fabricated income and phony education expenses, discussed in paragraphs 59-62, *infra*, claimed bogus refunds in the amounts of \$5,445 and \$5,933, respectively, on Customer 3's 2013 and 2014 tax returns.

39. Customer 3 paid Erilus around \$900 to prepare and file each tax return.

#### **Customers 4 and 5**

40. Erilus prepared the 2014, 2015, and 2016 federal income tax returns of Customers 4 and 5 of Cocoa, Florida. The 2015 tax return identifies another preparer as the paid preparer. Customers 4 and 5 were employed these years. In addition, Customer 4 provided janitorial services for additional income on her days off from her job. Customer 4 and 5 provided Erilus with copies of their Forms W-2, and Customer 4 also provided her receipts showing the income she received from, and expenses she incurred for, her janitorial service.

41. Rather than report the income that Customer 4 received from her janitorial business (she made money through the business), Erilus falsely reported that Customer 4 lost

money through this business. Erilus, in fact, did not report any of the income that Customer 4 received through this business in 2014, 2015, and 2016. Rather, Erilus falsely reported on the tax returns that Customer 4 lost \$58,035 through this business over this 3 year period.

42. On the 2014 tax return, Erilus falsely claimed that Customer 4's cleaning business received no gross receipts, but incurred expenses totaling \$11,700, including \$5,324 for repairs and maintenance and \$6,376 for supplies.

43. On the 2015 tax return, Erilus falsely claimed that Customer 4's cleaning business received no gross receipts, but incurred expenses totaling \$27,902, including \$14,781 for repairs and maintenance and \$13,121 for supplies.

44. On the 2016 tax return, Erilus falsely claimed that Customer 4's cleaning business received no gross receipts, but incurred expenses totaling \$18,433, including \$2,716 for advertising, \$2,371 for insurance, \$7,532 for renting or leasing business property, and \$5,813 for taxes and licenses.

45. Although Customer 4 provided documentation to Erilus showing the income that she received from her janitorial business, Erilus did not report on the tax returns any of the income that Customer 4 received. Customer 4 did not incur the reported expenses and did not provide the reported expense amounts to Erilus.

46. Erilus, by reporting this fabricated income and phony education expenses, discussed in paragraphs 63-64, *infra*, claimed bogus refunds in the amounts of \$6,291, \$7,006, and \$6,429, respectively, on Customer 4's and 5's 2014, 2015, and 2016 tax returns.

#### **Intentionally Claiming an Improper Filing Status and Bogus Dependents**

47. The Defendants 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, when the Defendants know that the customer does not qualify for Head of Household filing status.

48. The Defendants 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 unlawfully 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.

49. Additionally, the Defendants 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.

#### **Customer 6**

50. For example, Erilus prepared the 2014 federal income tax return of Customer 6 of Cocoa, Florida. In 2014, a friend of Customer 6 lived with her off and on for 2 or 3 months. Erilus falsely claimed this friend as a dependent in Customer 6's tax return, and falsely reported the friend as Customer 6's "stepsister," which she was not. Customer 6 did not tell Erilus that her friend was her stepsister. Because of this reported dependent, Erilus also falsely claimed "Head of Household" filing status on Customer 6's tax return.

51. Additionally, Erilus falsely reported on the Schedule C attached to the return that Customer 6 had a business, not identified by name or type of business, that received \$10,500 in

net profits in 2014. Customer 6 was employed at a retail store in 2014, did not have her own business, and did not tell Erilus that she owned a business.

52. As a result of the phony dependent, “Head of Household” filing status, and fabricated income and educational expenses, discussed in paragraph 65, *infra*, Erilus claimed a bogus tax refund of \$3,631 on Customer 6’s 2014 tax return.

### **Bogus Education Credits**

53. The Defendants, and the tax return preparers acting at the Defendants’ direction or 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 the tax return preparers acting at their direction or 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 reduce their customers’ taxable income and generate a larger bogus refund.

### **Customer 7**

54. For example, Erilus prepared the 2013, 2014, and 2015 federal income tax returns of Customer 7 of Rockledge, Florida. Customer 7’s 2013 tax return identifies the paid preparer’s firm name as BPTS, his 2014 tax return identifies the preparer’s firm name as Herve Erilus LLC, and his 2015 tax return identifies the preparer’s firm name as Travelers Tax Center. Erilus claimed false education credits on all three tax returns.

55. On Customer 7’s 2013 tax return, Erilus falsely reported that Customer 7 attended “Clerky School,” which is not a recognized educational institution, and listed an address for the

school in Cocoa, Florida that matches the address of a church. Erilus falsely claimed that Customer 7 incurred education expenses totaling \$2,500, and claimed a bogus American Opportunity education credit in the amount of \$850.

56. On Customer 7's 2014 and 2015 tax returns, Erilus falsely reported that Customer 7 attended a school identified as the "Association of American Red Cross Retirees Inc," which, like "Clerky School," is not an actual educational institution. On the 2014 tax return, Erilus falsely claimed that Customer 7 incurred education expenses totaling \$2,500, and claimed a bogus American Opportunity education credit in the amount of \$850. On the 2015 tax return, Erilus falsely claimed that Customer 7 incurred education expenses totaling \$3,000, and claimed a bogus American Opportunity education credit in the amount of \$900.

57. Additionally, Erilus claimed fabricated losses from a purported business on the Forms Schedule C attached to all three of the tax returns. Erilus falsely reported on all three returns that Customer 7 had a business, unidentified by type of business, which did not receive any gross receipts any of those years, but incurred expenses totaling \$22,322, \$23,960, and \$20,672, respectively, on the 2013, 2014, and 2015 tax returns. According to the Erilus-prepared returns, this business did not receive even one dollar over this three year period, but incurred \$66,954 in expenses. These fabricated business losses falsely reduced Customer 7's reported income and, combined with the phony education credits claimed, resulted in Erilus claiming bogus refunds on Customer 7's 2013, 2014, and 2015 tax returns in the amounts of \$9,581, \$9,035, and \$8,522, respectively.

#### **Customer 8**

58. Erilus prepared the 2013 and 2014 federal income tax returns of Customer 8 of Cocoa, Florida. On these tax returns, Erilus falsely reported that Customer 8 incurred

educational expenses for herself and a dependent (although the same dependent each year, that dependent is identified on the 2013 tax return as a *grandparent*, and on the 2014 tax return as a *grandchild*) related to “Brevard Workforce” and “Brevard Workforce Management Board,” which are not qualifying educational institutions. On both returns, Erilus falsely claimed that Customer 8 incurred education-related expenses in the amount of \$2,500 for both herself and her dependent, and claimed a bogus American Opportunity credit on each return in the amount of \$1,700.

**Customer 3 (continued)**

59. On Customer 3’s 2013 and 2014 federal income tax returns, Erilus falsely reported that Customer 3 incurred qualified education-related expenses for herself and her dependents.

60. On Customer 3’s 2013 tax return, Erilus falsely claimed that Customer 3 incurred expenses totaling \$7,500 (\$2,500 for herself and two claimed dependents) related to all of them purportedly attending “Brevard Workforce,” which is not a recognized educational institution. By reporting these fabricated expenses, Erilus claimed a phony American Opportunity credit in the amount of \$2,550 on Customer 3’s 2013 tax return.

61. On Customer 3’s 2014 tax return, Erilus again falsely claimed that Customer 3 incurred expenses totaling \$7,500 (\$2,500 for herself and two *different* claimed dependents, who were not claimed on the 2013 tax return) related to all of them purportedly attending “Brevard Workforce Development Board,” which is not a recognized educational institution. By reporting these fabricated expenses, Erilus again claimed a phony American Opportunity credit in the same amount of \$2,550 on Customer 3’s 2014 tax return.



62. Customer 3 did not incur any such education-related expenses and did not provide this information to Erilus.

**Customers 4 and 5 (continued)**

63. On the 2014, 2015, and 2016 federal income tax returns of Customers 4 and 5, Erilus falsely reported that these customers incurred qualified education-related expenses for their dependent. Customer 4 provided IRS Forms 1098-T to Erilus showing that all of the educational expenses for their dependent were covered by scholarships and grants, and showing that Customers 4 and 5 incurred no out-of-pocket qualifying education expenses.

64. However, Erilus falsely reported that Customers 4 and 5 incurred education-related expenses in the amount of \$3,000 on each of their 2014, 2015, and 2016 tax returns, and claimed bogus American Opportunity credits in the amount of \$900 on each of these tax returns.

**Customer 6 (continued)**

65. In 2014, Customer 6 took a course to become an addiction and recovery counselor, and paid around \$50 for books related to that course. Erilus, however, falsely claimed that Customer 6 incurred \$3,000 in education expenses for Kaplan Higher Education. Customer 6 did not attend Kaplan in 2014, and did not tell Erilus that she attended Kaplan in 2014. Moreover, Erilus also falsely claimed that Customer 6 incurred education-related expenses in the amount of \$3,000 for the friend claimed as a dependent on Customer 6's tax return, purportedly for the friend's attendance at "Brevard Workforce," which is not a recognized educational institution. Erilus thus claimed a bogus American Opportunity credit in the amount of \$1,700 on Customer 6's 2014 tax return.

**Erilus' Federal Income Tax Returns**

66. Erilus also claims phony education credits on his personal income tax returns, and brazenly reports the amounts he paid to purchase the tax preparation software that his business uses as purported qualifying education expenses. Erilus' 2012, 2013, 2014, 2015, and 2016 tax returns state that they were prepared by tax preparers working at LBS (2012), BPTS (2013), Herve Erilus LLC (2014), and Travelers Tax Center (2015 and 2016). The LBS and BPTS location identified on the 2012 and 2013 tax returns is the store location that Erilus subsequently owned in Cocoa and operated as Herve Erilus LLC and Travelers Tax Center.

67. All five of these tax returns claim fabricated education credits and identify "Drake Software" as the purported educational institution to which Erilus paid qualified educational expenses. Drake Software is not a recognized educational institution. Drake Software is the *corporation that licenses the tax preparation software* that Erilus' tax preparation stores use. To the extent that Drake Software provides training, it is limited to how to use and navigate its tax preparation software. Payments to Drake Software to purchase tax preparation software cannot be claimed as qualified education expenses on a tax return.

68. Erilus' tax returns falsely claim that he incurred education-related expenses in the amounts of \$2,497 (2012), \$2,500 (2013), \$3,000 (2014 and 2015), and \$3,500 (2016).

69. Erilus' 2012 and 2013 tax returns, jointly filed with his wife, also falsely claim that his wife incurred educational expenses related to "Brevard County Workforce" in the amount of \$2,481 in 2012, and "Brevard Workforce" in the amount of \$2,500 in 2013. Again, Brevard Workforce is not a recognized educational institution.

70. As a result, Erilus' tax returns claimed phony American Opportunity education credits in the amounts of \$1,698 (2012), \$1,700 (2013), \$900 (2014 and 2015), and \$950 (2016).

### **Bogus Schedule A Deductions**

71. The Defendants prepare tax returns reporting bogus itemized deductions on Form Schedule A, "Itemized Deductions," to improperly or fraudulently reduce customers' taxable income.

72. For example, the Defendants prepare tax returns for customers that include Forms Schedule A making false claims for medical expenses, charitable contributions, or purported unreimbursed employee business expenses. Section 162 of the Internal Revenue Code governs trade or business expenses. In instances where customers do have actual qualifying expenses, such as for charitable contributions, the Defendants report a falsely inflated amount of the expense that the customer incurred, to improperly increase the tax refund claimed on the return.

#### **Customer 9**

73. For example, Erilus prepared the 2016 federal income tax return of Customer 9 of Cocoa, Florida. Customer 9 did not work in 2016, but received disability income from the Social Security Administration. All of Customer 9's medical expenses in 2016 were covered by Medicare.

74. Customer 9 asked Erilus about filing a tax return, even though her only income came from social security. Erilus informed Customer 9 that he could report income from a business (on the Form Schedule C), even though Customer 9 did not own a business and did not receive any income from a business, in order to generate a tax refund for Customer 9. Customer 9 was hoping to receive a tax refund so that she could provide some money to her daughter. Customer 9 informed Erilus that before he prepared a tax return on her behalf, she needed to first contact the IRS. Customer 9 did not tell Erilus that she wanted him to prepare a tax return, and did not give Erilus permission to prepare and file a tax return on her behalf.

75. Without Customer 9's knowledge or permission, Erilus prepared and filed a tax return on her behalf.

76. Erilus reported that Customer 9 received social security benefits in the amount of \$11,580. Erilus falsely claimed on the Form Schedule A attached to the tax return that Customer 9 incurred medical and dental expenses in the amount of \$11,580, the exact same amount of social security benefits reported on the return. Customer 9 did not incur any such medical expenses, as any medical expenses she incurred were covered by Medicare, and did not provide this amount to Erilus.

77. Additionally, Erilus reported that Customer 9 had a business, which Erilus called "Jackey Cafe," through which Customer 9 purportedly received income of \$8,500. Erilus knew that Customer 9 had no such business and received no such business-related income.

78. Customer 9 was unaware that Erilus filed a tax return on her behalf, much less that he made these false claims on the filed tax return. It is not known what happened to the \$2,212 bogus refund claimed on the filed tax return. Customer 9, not even knowing that Erilus prepared and filed a tax return with her name and social security number, did not receive any of the claimed refund.

#### **Unconscionable and Undisclosed Fees**

79. The Defendants charge unconscionably high fees to prepare tax returns, which are typically charged without customers' knowledge. The Defendants charge these high fees to prepare and file false tax returns with unnecessary and bogus forms and schedules attached, when they should have honestly prepared a basic Form 1040 tax return.

80. The Defendants intentionally deceive customers regarding the fees charged for the preparation of tax returns. The Defendants do not disclose the full amount of the fee and, when

having the customer sign forms showing the fee, cover the fee with a hand or a piece of paper and do not explain to the customer what the customer is signing.

81. The Defendants 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. The Defendants charge 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.

82. 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 to prepare and file false or fraudulent tax returns claiming excessive refunds based on bogus claims and associated forms and schedules.

83. 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. Because the Defendants deduct their high fees directly from her 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 that the Defendants charged. 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.

84. The Defendants also routinely and intentionally fail to disclose to customers all fees charged. The Defendants 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 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.

85. The Defendants' 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 subtracted their high fees.

#### **Customer 10**

86. For example, Customer 10 of Daytona Beach, Florida had her 2014 federal income tax return prepared at the Defendants' tax preparation store. Although the tax return identifies Erilus as the paid preparer, a female preparer actually prepared the tax return. The tax return, which reported a fabricated loss from a non-existent business on the form Schedule C attached to return, claimed a bogus refund in the amount of \$10,695. The preparer informed Customer 10 that the tax preparation fee would be \$50. However, when Customer 10 received a check for her tax refund from the Defendants' business, \$1,000 had been taken from the refund as a fee. Customer 10 asked the preparer why she did not receive her full refund and why the Defendants had subtracted \$1,000 from the refund as a fee, and did not receive an answer before the preparer hung up the phone. Customer 10 filed an amended tax return, prepared by an

unrelated tax preparation business, to correct the false claims (including the phony business loss) reported on her tax return by the preparer at the Defendants' business.

87. The Defendants' practice of charging unconscionable and undisclosed fees interferes with the administration and enforcement of the Internal Revenue laws. Such 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. § 6107(a)**

88. The Defendants 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. For example, a customer who is provided a copy of a tax return showing the actual tax refund claimed 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 her customers.

89. 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."

90. 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 make false claims on these forms and, to conceal the claims from customers, do not provide customers with copies of these completed forms.

**Failure to Identify the Actual Preparer of Customers' Tax Returns  
in Violation of 26 U.S.C. §§ 6695(b) and 6695(c)**

91. Erilus, and those acting at his direction or with his knowledge and consent, prepared tax returns for customers on which they did not identify themselves as the paid preparer. For example, Customers 1, 2, 4, 5, and 10 all identified as the paid preparer of their tax returns an individual other than the preparer actually named on the return as the paid preparer.

92. A tax return preparer who fails to sign a tax return that he preparers violates 26 U.S.C. § 6695(b). A tax return preparer, or employer of a tax return preparer, who fails to report an identifying number of the tax return preparer or the employer on a tax return that the preparer or an employee prepares, violates 26 U.S.C. § 6695(c).

**Harm Caused by the Defendants**

93. The Defendants' preparation of false and fraudulent tax returns 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 the Defendants 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.

94. Defendants' conduct (and that of their preparers) harms the United States Treasury by causing lost tax revenue.

95. During the IRS's investigation of the Defendants, the IRS examined at least 36 tax returns for tax years 2013, 2014, and 2015 prepared by Erilus or tax return preparers working



for Erilus or Herve Erilus, LLC. The IRS made adjustments to the reported tax on all 36 of the examined tax returns. The IRS examined 6 tax returns for 2013, with an average adjustment to the reported tax of \$4,868. The IRS examined 19 tax returns for 2014, with an average adjustment to the reported tax of \$4,481. The IRS examined 11 tax returns for 2015, with an average adjustment to the reported tax of \$4,180.

96. The Defendants' customers have also been harmed because they relied on the Defendants and their tax preparation stores 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.

97. 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 false or fraudulent tax return preparation perpetrated by the Defendants and their employees acting at their direction and with their knowledge and consent. 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 the Defendants' greed at others' expense, but customers may also have to repay the portion of the refund that the Defendants subtracted in fees. Customers may also have to pay additional fees to other tax return preparers to file amended tax returns to correct the false or fraudulent tax returns prepared and filed by the Defendants, and their employees acting at their direction and with their knowledge and consent.

98. The Defendants' misconduct further harms the United States and the public by requiring the IRS to devote some of its resources to detecting her false claims on tax returns and assessing and collecting lost tax revenues from the Defendants' customers. Consequently, identifying and recovering all lost tax revenues resulting from the Defendants' activities may be impossible.

99. The Defendants' conduct also causes intangible harm to honest tax return preparers who unfairly lose business to the Defendants due to their willingness to break the law. Customers often have their returns prepared at the Defendants' tax preparation stores because they promise the maximum refund, and deliver by fabricating claims and deductions on customers' tax returns.

100. Finally, the Defendants' misconduct harms the public at large by undermining public confidence in the federal tax system and encouraging widespread violations of the internal revenue laws.

101. The harm to the government and the public will continue, and likely increase, unless the Defendants are enjoined because—given the seriousness and pervasiveness of their illegal conduct—without an injunction, the Defendants 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 the Defendants' illegal conduct and the harm that it causes the United States and its citizens.

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

102. 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.

103. 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.

104. Herve Erilus, as shown above in paragraphs 1 through 101, is a tax return preparer who, individually and through his registered corporation, Herve Erilus, LLC, has 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. Erilus also advises, instructs, directs, and causes his managers, preparers, and employees to engage in tax fraud, and to prepare federal

income tax returns asserting unreasonable, unrealistic, frivolous and fraudulent positions.

Accordingly, Erilus knew (or should have known) of the unreasonable, unrealistic, frivolous and fraudulent positions.

105. Erilus and those acting in concert with him and at his 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. Erilus, through the actions described above, also recklessly or intentionally disregards IRS rules or regulations.

106. Erilus and those acting in concert with him and at his 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 does Erilus fail to conduct proper due diligence or comply with the due diligence requirements, but he also advises, encourages, and causes his managers, preparers, and employees to circumvent the due diligence requirements and to ignore or disregard the information provided by customers.

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

108. Erilus and those acting in concert with him and at his direction have continually and repeatedly prepared federal income tax returns that claim the EITC for customers, where Erilus and those acting in concert with him and at his direction have not conducted, let alone documented, the required due diligence procedures.

109. Erilus fails 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.

110. Erilus and Herve Erilus, LLC also fail to comply with 26 U.S.C. §§ 6695(b) and 6695(c), which require that a tax return preparer and a tax return preparation firm identify the actual paid preparer of the tax return, and the tax preparation firm, on all tax returns that the preparer and preparation firm prepare.

111. Erilus' 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.

112. Erilus' 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.

113. Erilus and those acting in concert with him and at his 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.

114. If Herve Erilus and Herve Erilus, LLC are not enjoined from all tax preparation, they and those acting in concert with him and at his direction are likely to continue to prepare and file false and fraudulent tax returns.

115. Erilus' and Herve Erilus, LLC'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 Erilus' and Herve Erilus, LLC's interference with the proper administration of the internal revenue laws.

Accordingly, Herve Erilus and Herve Erilus, LLC 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**

116. 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.

117. 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."

118. Herve Erilus and Herve Erilus, LLC, through the actions detailed above in paragraphs 1 through 101, caused the presentation and preparation of false, fraudulent, and abusive tax returns and other documents. Erilus prepares, assists, and/or advises with respect to the presentation and preparation of federal tax returns for customers that he knows will understate their correct tax liabilities, because Erilus knowingly prepares, assists, and/or advises with respect to the presentation and preparation of returns claiming bogus expenses and deductions. Erilus procured and assisted the preparation of false and fraudulent tax returns by filing and encouraging the filing of tax returns he knew were false or fraudulent, and by

employing, training, and supervising tax return preparers engaging in tax fraud. Erilus has thus engaged in conduct subject to a penalty under 26 U.S.C. § 6701.

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

120. If the Court does not enjoin Herve Erilus and Herve Erilus, LLC, 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 Erilus, and those acting in concert with him and at his 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**

121. 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.

122. Herve Erilus and Herve Erilus, LLC, through the actions described above in paragraphs 1 through 101, 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.

123. Unless enjoined, Herve Erilus and Herve Erilus, LLC, 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 Herve Erilus and Herve Erilus, LLC 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.

124. While the United States will suffer irreparable injury if Herve Erilus and Herve Erilus, LLC are not enjoined, the Defendants will not be harmed by being compelled to obey the law.

125. Enjoining Herve Erilus and Herve Erilus, LLC is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop the Defendants' illegal conduct and the harm it causes the United States and the Defendants' customers.

126. 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**

127. 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.

128. Herve Erilus' and Herve Erilus, LLC's conduct, described above in paragraphs 1 through 101, 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. Herve Erilus and Herve Erilus, LLC have unjustly profited at the expense of the United States by subtracting their exorbitant fees from those refunds.



129. Herve Erilus and Herve Erilus, LLC are not entitled to these ill-gotten gains. But for the Defendants' conduct, these bogus refunds would not have been issued.

130. The Court should enter an order under 26 U.S.C. § 7402(a) requiring Herve Erilus and Herve Erilus, LLC to disgorge to the United States the gross receipts (in the form of fees subtracted from customers' tax refunds) that Herve Erilus and Herve Erilus, LLC received for the preparation of federal tax returns making false and/or fraudulent claims..

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

A. That the Court find that Herve Erilus and Herve Erilus, LLC 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 Herve Erilus and Herve Erilus, LLC from acting as federal tax return preparers;

C. That the Court find that Herve Erilus and Herve Erilus, LLC 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 Herve Erilus and Herve Erilus, LLC 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 Herve Erilus and Herve Erilus, LLC, 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 Herve Erilus and Herve Erilus, LLC to immediately and permanently close, because of the pervasive fraud, all tax return preparation stores that they own directly or through any other entity, and whether those stores do business as Herve Erilus LLC, Travelers Tax Services, Travelers Tax Center, 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 Herve Erilus and Herve Erilus, LLC own directly or through any other entity, and whether those stores do business as Herve Erilus LLC, Travelers Tax Services, Travelers Tax Center, or under any other name;

H. That the Court, pursuant to 26 U.S.C. § 7402(a), enter an order prohibiting Herve Erilus and Herve Erilus, LLC, directly or through any other entity, from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to Herve Erilus and Herve Erilus, LLC, 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 Herve Erilus and Herve Erilus, LLC, directly or through any other entity, from: (1) selling to any individual or entity a list of customers, or any other customer information, for whom Herve Erilus and Herve Erilus, LLC and any other business or name (including but not limited to Herve Erilus LLC, Travelers Tax Services, and Travelers Tax Center), or those acting at their direction, have at any time since 2013 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 Herve Erilus and Herve Erilus, LLC, or any other business or entity through which Herve Erilus 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 Herve Erilus and Herve Erilus, LLC, and any other business or name (including but not limited to Herve Erilus LLC, Travelers Tax Services, and Travelers

Tax Center) through which Herve Erilus, or those acting at their direction, have at any time since 2013 prepared a tax return; and (3) selling to any individual or entity any proprietary information pertaining to Herve Erilus and Herve Erilus, LLC, and any other business or name (including but not limited to Herve Erilus LLC, Travelers Tax Services, and Travelers Tax Center) through which Herve Erilus, or those acting at their direction, have at any time since 2013 prepared a tax return;

J. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Herve Erilus and Herve Erilus, LLC to disgorge to the United States the gross receipts (the amount of which is to be determined by the Court) that Herve Erilus and Herve Erilus, LLC 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 2013 by Herve Erilus and Herve Erilus, LLC, and at any tax preparation store franchised, owned, or managed by Herve Erilus and Herve Erilus, LLC, including but not limited to Herve Erilus LLC, Travelers Tax Services, and Travelers Tax Center;

K. That the Court, pursuant to 26 U.S.C. §§ 7402(a) and 7407, enter an order requiring Herve Erilus and Herve Erilus, LLC 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 Herve Erilus and Herve Erilus, LLC, and their managers, employees, and tax return preparers (including but not limited to those doing business under the names Herve Erilus LLC, Travelers Tax Services, and Travelers Tax Center) prepared federal tax returns or claims for a refund from 2013 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 Herve Erilus and Herve Erilus, LLC 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 Herve Erilus and Herve Erilus, LLC, and their managers, employees, and tax return preparers (including but not limited to those doing business under the names Herve Erilus LLC, Travelers Tax Services, and Travelers Tax Center) prepared federal tax returns or claims for a refund since 2013;

M. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an order requiring Herve Erilus and Herve Erilus, LLC 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 Herve Erilus and Herve Erilus, LLC since 2013;

N. That the Court, pursuant to 26 U.S.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Herve Erilus and Herve Erilus, LLC to provide a copy of the Court's order to all principals, officers, managers, franchisees, employees, and independent contractors of Herve Erilus and Herve Erilus, LLC 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 Herve Erilus and Herve Erilus, LLC provided a copy of the Court's order;

O. That the Court retain jurisdiction over Herve Erilus and Herve Erilus, LLC and over this action to enforce any permanent injunction entered against them;

P. That the United States be entitled to conduct discovery to monitor Herve Erilus' and Herve Erilus, LLC'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: December 1, 2017

W. STEPHEN MULDROW  
Acting United States Attorney

DAVID A. HUBBERT  
Deputy Assistant Attorney General

s/ Daniel A. Applegate  
DANIEL A. APPLGATE  
ALISON A. YEWDELL  
JOSHUA Y. LEVINE  
JARED S. WIESNER  
Trial Attorneys, Tax Division  
U.S. Department of Justice  
P.O. Box 7238, Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 353-8180  
Fax: (202) 514-6770  
Daniel.A.Applegate@usdoj.gov