

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:20-cv-28
)	
WESLEY ADAM KROLL, individually and)	
d/b/a UNITED TAX SERVICE, AMERICAN)	
TAX SERVICE, AMERICAN TAX, TAX STOP,)	
and TAX SOUTH,)	
)	
Defendant.)	

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America, for its complaint against Wesley Adam Kroll, individually and doing business as United Tax Service, American Tax Service, American Tax, Tax Stop, and Tax South (“Kroll”), alleges the following:

1. This is a civil action brought by the United States under 26 U.S.C. §§ 7402, 7407, and 7408 to permanently enjoin Kroll from, among other things, acting as a federal tax return preparer.
2. United States also seeks an order, pursuant to 26 U.S.C. § 7402, requiring Kroll to disgorge to the United States the gross receipts that he and his businesses received from the preparation of federal tax returns that contained false or fraudulent claims.
3. This action has been authorized by the Chief Counsel of the Internal Revenue Service (“IRS”), 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. §§ 7407 and 7408.

Jurisdiction and Venue

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

5. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because Kroll resides in this judicial district and Kroll operates his tax return preparation businesses in Albany, Georgia and Moultrie, Georgia, which are within this judicial district. Moreover, a substantial part of the events giving rise to this suit occurred within this judicial district.

Defendant

6. Kroll resides in Midland, Georgia.

7. Kroll is a tax return preparer. Kroll prepares federal tax returns for compensation and operates three tax return preparation businesses at three locations: 1607 Gillionville Road, Albany, Georgia, 31707; 800 W. Oglethorpe Avenue, Albany, Georgia, 31701; and 533 N. Main Street, Moultrie, Georgia, 31768.

8. Kroll has operated his tax return preparation businesses from at least 2013 to the present under various names, including United Tax Service, American Tax Service, American Tax, Tax Stop, and Tax South.

9. Kroll has no degrees or certificates in accounting or taxation. He holds a high school diploma.

10. As a result of errors detected on customer returns associated with Kroll, the IRS conducted in-person educational visits (also known as due diligence visits) with Kroll in 2012, 2014 and 2015, and issued him warning letters in 2013 and 2016.

11. On June 16, 2014 and August 17, 2015, the IRS assessed \$148,000 and \$34,500, respectively, in tax return preparer penalties against Kroll, pursuant to 26 U.S.C. § 6694(b), for

understating customers' tax liabilities on 587 tax returns that Kroll prepared for tax years 2012 and 2013. The unpaid balance of Kroll's preparer penalty liabilities exceeds \$220,000, as of January 29, 2020.

12. On or about April 17, 2018, Kroll was arrested and charged with: (1) knowingly and willfully preparing and filing a fraudulent Georgia Income Tax Return that contained fraudulent information in the form of fraudulent itemized deductions on a Schedule A for the purpose of facilitating an illegally obtained tax refund from the State of Georgia; and (2) knowingly and willfully creating a fraudulent Schedule A form containing \$17,287.00 in fictitious deductions in the form of medical expenses, charity donations, and unreimbursed employee expenses, and attaching and filing the Schedule A form with a Georgia Income Tax Return.

13. On or about January 23, 2009, Kroll was arrested on charges of first-degree arson and burglary of Georgia E-Fast Tax, a tax return preparation store in Americus, Georgia. Kroll was indicted for both offenses on February 28, 2012. Kroll ultimately pled guilty to first-degree arson.

14. Georgia E-Fast Tax was operated by a former business partner of Kroll's father. On December 30, 2008, firefighters responded to Georgia E-Fast Tax where they found two drums of accelerant and burglary tools.

EFIN and PTIN Requirements

15. To electronically file customers' federal tax returns, the IRS requires all tax return preparers to obtain an Electronic Filing Identification Number ("EFIN"). Each EFIN is uniquely associated with a specific address (*e.g.*, tax return preparation business address). An EFIN application includes the identification of the person or persons responsible for all tax returns that

originate from the address associated with the EFIN. An EFIN application also includes the names of individuals who are authorized to act on behalf of the tax return preparation business in legal or tax matters.

16. Kroll does not maintain his own EFIN. Kroll is unable to secure an EFIN from the IRS due to his felony conviction for first-degree arson in 2012 and because he has a substantial balance due to the IRS for tax return preparer penalties. Instead, Kroll and those acting at his direction use EFINS in the names of various people that, unlike Kroll, can pass the EFIN suitability checks. Each EFIN used by the tax return stores managed by Kroll omit any reference to Kroll in the EFIN application.

17. Kroll substantially interferes with the proper administration of the internal revenue laws through his improper use of EFINS on tax returns originating from the tax return preparation stores he manages.

18. The IRS also requires that anyone who prepares federal tax returns for compensation must have a valid Preparer Tax Identification Number (“PTIN”), which the preparer must list on every customer’s tax return. Kroll’s PTIN is listed on numerous customers’ tax returns from at least 2013 to the present.

19. Kroll also lists PTINs belonging to other tax return preparers or employees on customers’ tax returns that he prepares instead of properly identifying himself as the preparer.

Kroll’s Unlawful Tax Return Preparation Practices

20. Kroll employs approximately 2 to 7 people each filing season to assist with the preparation of tax returns.

21. Kroll instructed employees that it is proper to prepare a customer’s tax return using an end-of-the-year pay stub.

22. Kroll instructed employees to refrain from providing details regarding tax return preparation fees to customers.

23. Kroll prepared and filed the following volume of tax returns from 2013 through 2019:

Year Return Prepared	Tax Year	Federal Tax Returns Filed	Returns Seeking Refund
2013	2012	617	617 (100%)
2014	2013	652	652 (100%)
2015	2014	88	88 (100%)
2016	2015	135	135 (100%)
2017	2016	197	196 (99.5%)
2018	2017	405	402 (99.3%)
2019	2018	30	29 (96.7%)
	TOTAL	2,124	2,119 (99.8%)

24. From 2013 through 2019, Kroll himself filed thousands of false returns and claimed hundreds of thousands of dollars in inflated or inaccurate refunds for his customers. Collectively, Kroll and his employees prepared over 6,000 tax returns during the same time period.

25. By offering improperly inflated refunds, Kroll was able to attract customers and increase the total tax preparation fees he received.

26. Kroll profited from the preparation and filing of such false tax returns by charging customers several hundred dollars per return for his services.

27. Kroll engaged in the following unlawful tax return preparation practices:

- a. claiming false or overstated itemized deductions;
- b. claiming false businesses and business-related profits or losses;

- c. manipulating, maximizing, or falsely claiming the Earned Income Tax Credit (EITC);
- d. claiming false education credits;
- e. claiming false childcare credits;
- f. failing to provide customers with complete copies of their tax returns.
- g. claiming unqualified dependents;
- h. preparing tax returns using paystubs rather than W-2s; and
- i. preparing tax returns without the proper preparer credentials.

False Schedule A Itemized Deductions

28. Kroll improperly reduced customers' taxable incomes by creating and claiming false itemized deductions on Forms Schedule A that are filed with customers' tax returns.

29. Kroll reported on his customers' tax returns false itemized deductions for healthcare expenses, charitable contributions, and unreimbursed employee business expenses.

False Schedule C Business Income and Expenses

30. Individual taxpayers who operate a business as a sole proprietorship must report their business income and expenses on an IRS Form Schedule C (*i.e.*, Profit or Loss from Business Form) that is filed as part of the taxpayer's federal income tax return. The net amount reported on a Schedule C, whether a profit or a loss, is a component of the taxpayer's adjusted gross income (together with any wage income, interest income, etc.).

31. Kroll prepared tax returns that understated his customers' tax liabilities by fabricating Schedule C businesses and the corresponding profit or loss figures.

32. By fabricating Schedule C businesses and reporting fictitious losses, Kroll reduced customers' taxable income, which in turn either reduced the amount of tax customers owed or produced a tax refund.

33. Kroll's practice of manipulating customers' income through fabricated Schedule C businesses served an additional purpose, in that the falsely reported profit or loss figures unlawfully made customers appear eligible for the Earned Income Tax Credit ("EITC") or improperly maximized the EITC amount that customers could claim.

False or Inflated Earned Income Tax Credits

34. The EITC is a refundable tax credit for working people who earn low-to-moderate incomes. The amount of the EITC available per taxpayer is based upon the taxpayer's income, filing status, and number of claimed dependents. Because the EITC is a refundable credit, claiming it can, in certain circumstances, reduce a taxpayer's federal tax liability below zero, thereby entitling the taxpayer to a payment from the U.S. Treasury.

35. The method used to calculate the EITC makes a taxpayer eligible to claim a larger EITC amount if he or she earns income within designated ranges, which vary according to the taxpayer's filing status and the number of dependents claimed.

36. Kroll falsified information reported on customers' tax returns as necessary to claim the EITC for his customers. Kroll concocted fictitious Schedule C businesses and fabricated wage information on returns to increase his customers' taxable income so they would appear to be eligible to claim either the EITC or a higher EITC amount.

False Education Credits

37. Kroll reported false education expenses and claimed false education-related credits, such as the American Opportunity credit, on customers' tax returns. The American Opportunity Credit is a refundable credit that reduces a taxpayer's tax liability and entitles taxpayers who do not owe taxes to receive a payment from the U.S. Treasury of up to \$1,000.

38. Kroll unlawfully reduced his customers' tax liabilities and generated larger refunds by claiming education credits for customers who did not attend college during the relevant tax year, if at all, or for those who had no qualifying education expenses.

False Childcare Credits

39. A childcare credit is available to any taxpayer who paid someone to care for a child or other qualifying person so that the taxpayer could work or look for work during the tax year.

40. Kroll claimed false childcare credits on his customers' tax returns by unlawfully fabricating and reporting fictitious childcare expenses, thereby decreasing customers' tax liabilities by hundreds of dollars.

Failure to Provide Completed Copies of Tax Returns to Customers

41. Kroll failed to provide his customers with complete copies of their tax returns, which often rendered customers unaware that Kroll prepared and filed returns that reported false or improper information.

42. Kroll instructed his tax return preparer employees to refrain from providing customers with copies of their completed tax returns.

Examples of Kroll's Unlawful Tax Return Preparation Practices

Customer 1

43. Kroll prepared Customer 1's federal income tax returns for 2013, 2014, and 2015 at his store in Albany, Georgia. Kroll's PTIN appears only on Customer 1's 2013 return while a separate tax return preparer's PTIN appears on Customer 1's 2014 and 2015 returns.

44. Kroll reported qualified education expenses of \$6,646, \$11,229, and \$7,888 on Customer 1's returns for 2013, 2014 and 2015, respectively, and reported that Customer 1 attended Albany Technical College during each of those years.

45. Customer 1 did not attend Albany Technical College in 2013, 2014, or 2015, and Customer 1 did not tell Kroll that he/she attended Albany Technical College in 2013, 2014, or 2015.

46. Customer 1 did not incur any qualified educational expenses in 2013, 2014, or 2015, and Customer 1 did not tell Kroll that he/she incurred any qualified educational expenses in 2013, 2014, or 2015.

47. Kroll reported that one of Customer 1's dependents attended Darton College in 2013 and 2014, and that Customer 1's other dependent attended Albany Technical College in 2014 and 2015. Neither of Customer 1's dependents attended college in 2013, 2014, or 2015, nor did either incur any qualified education expenses in 2013, 2014, or 2015.

48. Customer 1 did not provide documentation to Kroll to substantiate the education credits Kroll claimed on Customer 1's returns.

49. Based on the fabricated education expenses Kroll reported on Customer 1's returns, Kroll improperly claimed education credits of \$1,865, \$2,923, and \$1,989 on Customer 1's returns for 2013, 2014, and 2015, respectively.

50. Kroll reported that Customer 1 earned household help income in 2013 and 2014.

51. Customer 1 did not earn household help income in 2013 or 2014, and Customer 1 did not tell Kroll that he/she earned household help income in 2013 or 2014.

52. Based on the fictitious household help income Kroll reported on Customer 1's returns, Kroll improperly claimed EITC increases of \$322 and \$1,200 on Customer 1's returns for 2013 and 2014, respectively.

53. Kroll did not provide Customer 1 with completed copies of his/her filed tax return for 2013, 2014, or 2015.

Customer 2

54. Kroll prepared Customer 2's federal income tax returns for 2013, 2014, and 2015 at his store in Albany, Georgia.

55. Kroll reported itemized deduction amounts for medical expenses, charitable contributions, and employee business expenses on Customer 2's 2013, 2014, and 2015 returns. The deduction amounts totaled \$22,104 for 2013, \$17,082 for 2014, and \$20,469 for 2015.

56. Customer 2 did not incur the expenses Kroll reported for 2013, 2014, or 2015, and Customer 2 did not tell Kroll that he/she incurred the reported expense amounts.

57. Customer 2 did not make the charitable contributions Kroll reported for 2013, 2014, and 2015, and Customer 2 did not tell Kroll that he/she made the reported charitable contributions.

58. Customer 2 did not provide documentation to Kroll to substantiate any of the itemized deductions for medical expenses, charitable contributions, or employee business expenses Kroll reported on Customer 2's returns.

59. Kroll fabricated or overstated the following amounts reported on Customer 2's returns for 2013, 2014 and 2015:

Tax Year	Medical and Dental Expenses	Charitable Contributions	Unreimbursed Employee Expenses
2013	\$9,534	\$4,857	\$7,713
2014	\$7,373	\$4,859	\$4,850
2015	\$7,788	\$9,692	\$2,989

60. Based on the false itemized deductions Kroll reported on Customer 2's returns. Kroll improperly reduced Customer 2's taxable income by \$14,182, \$9,119, and \$12,168 for 2013, 2014, and 2015, respectively.

Customer 3

61. Kroll prepared Customer 3's federal income tax returns for 2013, 2014, and 2015 at his store in Albany, Georgia.

62. Kroll reported qualified education expenses of \$3,997 and \$3,968 on Customer 3's 2013 and 2014 returns, respectively, and reported that Customer 3's dependent attended Darton College in 2013 and 2014.

63. Customer 3 did not incur education expenses in 2013 or 2014, and Customer 3 did not tell Kroll that he/she incurred education expenses in 2013 or 2014.

64. Customer 3's dependent briefly attended Darton College in 2013 and 2014, but did not incur any education expenses as a result of his/her attendance.

65. Customer 3 did not provide documentation to Kroll to substantiate any of the education expenses Kroll reported on Customer 3's returns.

66. Based on the fabricated education expenses Kroll reported on Customer 3's returns, Kroll improperly claimed education credits of \$1,000 and \$997 on Customer 3's returns for 2013 and 2014, respectively.

67. Kroll reported qualified childcare expenses of \$3,000 on Customer 3's 2014 return. Customer 3 paid childcare expenses in 2014 for her grandson, but Customer 3 did not pay

more than \$1,000 in childcare expenses in 2014. Customer 3 did not tell Kroll that he/she paid \$3,000 in childcare expenses in 2014.

Customer 4

68. Kroll prepared Customer 4's federal income tax returns for 2014 and 2015 at his store in Albany, Georgia.

69. Kroll fabricated a Schedule C business on Customer 4's 2014 return. Kroll reported that Customer 4 operated a "women's clothing" business in 2014, with gross revenues of \$17,854 and business expenses of \$1,821.

70. Customer 4 did not operate a women's clothing business in 2014, and Customer 4 has never operated a women's clothing business. Customer 4 did not tell Kroll that he/she operated a women's clothing business in 2014.

71. Kroll fabricated a Schedule C business on Customer 4's 2015 return. Kroll reported that Customer 4 operated an "educational services" business in 2015, with gross revenues of \$17,944 and business expenses of \$2,040.

72. Customer 4 provided tutoring services in 2015, but he/she did not receive \$17,944 in revenue or incur \$2,040 in expenses. Customer 4 did not tell Kroll that he/she operated an educational services business in 2015.

73. Customer 4 did not provide documents to Kroll to substantiate the amounts Kroll reported on Customer 4's Schedules C for 2014 and 2015.

74. Based on the fabricated items he reported on Customer 4's Schedules C, Kroll improperly claimed EITC increases of \$5,460 and \$5,548 on Customer 4's returns for 2014 and 2015, respectively.

75. Kroll reported qualified education expenses of \$7,916 and \$7,809 on Customer 4's 2014 and 2015 returns, respectively.

76. Customer 4 did not incur any education expenses in 2014 or 2015, and Customer 4 did not tell Kroll that he/she incurred any education expenses in 2014 or 2015.

77. Kroll reported that Customer 4's dependent incurred education expenses in connection with his/her attendance at Albany Technical College in 2014 and 2015. Customer 4's dependent did not attend Albany Technical College in 2014 or 2015, and Customer 4 did not incur any qualified education expenses in 2014 or 2015. Customer 4 did not tell Kroll that his/her dependent attended Albany Technical College in 2014 or 2015.

78. Customer 4 did not provide any documentation to Kroll to substantiate the education expenses Kroll reported on Customer 4's 2014 and 2015 returns.

79. Based on the fabricated education expenses Kroll reported on Customer 4's returns, Kroll improperly claimed education credits of \$1,992 and \$1,981 on Customer 4's 2014 and 2015 returns, respectively.

Customer 5

80. Kroll prepared Customer 5's federal income tax returns for 2013, 2014 and 2015 at his store in Albany, Georgia.

81. Kroll fabricated a Schedule C business on Customer 5's 2013 return. Kroll reported that Customer 5 operated a "child daycare" business in 2013, with gross revenues of \$7,142 and business expenses of \$101.

82. Customer 5 did not operate a child daycare business in 2013, and Customer 5 did not tell Kroll that he/she operated a child daycare business in 2013.

83. Kroll fabricated a Schedule C business on Customer 5's 2014 return. Kroll reported that Customer 5 operated a "home healthcare" business in 2014, with gross revenues of \$11,254 and business expenses of \$1,419.

84. Customer 5 did not operate a home healthcare business in 2014, and Customer 5 did not tell Kroll that he/she operated a home healthcare business in 2014.

85. Kroll fabricated a Schedule C business on Customer 5's 2015 return. Kroll reported that Customer 5 operated a "beauty salon" business in 2015, with gross revenues of \$8,958 and business expenses of \$1,064.

86. Customer 5 did not operate a beauty salon business in 2015, and Customer 5 did not tell Kroll that he/she operated a beauty salon business in 2015.

87. Customer 5 did not provide documentation to Kroll to substantiate the amounts Kroll reported on Customer 5's Schedules C for 2013, 2014, and 2015.

88. Based on the fictitious amounts Kroll reported on Customer 5's Schedules C, Kroll also improperly claimed EITC increases of \$2,967, \$3,103, and \$3,018 on Customer 5's returns for 2013, 2014, and 2015, respectively.

89. Kroll reported qualified education expenses of \$3,911 and \$3,911 on Customer 5's 2014 and 2015 returns, respectively.

90. Customer 5 did not attend college in 2014 or 2015, did not incur any education expenses in 2014 or 2015, and did not tell Kroll that he/she incurred any education expenses in 2014 or 2015.

91. Customer 5 did not provide documentation to Kroll to substantiate the education expenses he/she reported on Customer 5's 2014 and 2015 returns.

92. Based on the fabricated education expenses Kroll reported on Customer 5's returns, Kroll improperly claimed education credits of \$991 and \$991 in 2014 and 2015, respectively.

Customer 6

93. Kroll prepared Customer 6's federal income tax returns for 2016 and 2017 at his store in Albany, Georgia.

94. Kroll reported itemized deductions for medical expenses, charitable contributions, and employee business expenses on Customer 6's 2016 and 2017 returns. The deductions totaled \$21,112 and \$32,962 for 2016 and 2017, respectively.

95. Customer 6 did not incur the expenses Kroll reported for 2016 or 2017, and Customer 6 did not tell Kroll that he/she incurred the reported expense amounts.

96. Customer 6 did not make the charitable contributions Kroll reported for 2016 or 2017, and Customer 6 did not tell Kroll that he/she made the reported charitable contributions.

97. Customer 6 did not provide documentation to Kroll to substantiate any of the itemized deductions for medical expenses, charitable contributions, or employee business expenses Kroll reported on Customer 6's 2016 and 2017 returns.

98. Kroll fabricated or overstated the following amounts reported on each Schedule A filed with Customer 6's federal income tax return for 2016 and 2017:

Tax Year	Medical and Dental Expenses	Charitable Contributions	Unreimbursed Employee Expenses
2016	\$5,407	\$11,015	\$7,475
2017	\$21,592	\$13,009	\$0

99. Based on the false itemized deductions Kroll reported on Customer 6's returns, Kroll also improperly reduced Customer 6's taxable income by \$11,812 and \$23,612 for 2016 and 2017, respectively.

Customer 7

100. Kroll prepared Customer 7's federal income tax return for 2016 and 2017 at his store in Albany, Georgia.

101. Kroll claimed child and dependent care credits of \$1,128 and \$1,200 on Customer 7's 2016 and 2017 returns, respectively.

102. Customer 7 did not incur child and dependent care expenses in 2016 or 2017, and Customer 7 did not tell Kroll that he/she incurred child and dependent care expenses in 2016 or 2017. The dependents' mother cared for them in 2016 and 2017 while Customer 7 worked.

103. Kroll reported itemized deductions of \$13,544 for charitable contributions and \$9,203 for unreimbursed employee expenses on Customer 7's 2016 return.

104. Customer 7 did not make any charitable contributions in 2016, and Customer 7 did not tell Kroll that he/she made any charitable contributions in 2016.

105. Customer 7 did not have any unreimbursed employee expenses in 2016, and Customer 7 did not tell Kroll that he/she had any unreimbursed employee expenses in 2016.

106. Kroll reported itemized deductions of \$19,674 for charitable contributions and \$10,252 for unreimbursed employee expenses on Customer 7's 2017 return.

107. Customer 7 did not make any charitable contributions in 2017, and Customer 7 did not tell Kroll that he/she made any charitable contributions in 2017.

108. Customer 7 did not have any unreimbursed employee expenses in 2017, and Customer 7 did not tell Kroll that he/she had any unreimbursed employee expenses in 2017.

109. Customer 7 did not provide documentation to Kroll to substantiate the itemized deductions for charitable contributions and unreimbursed employee expenses Kroll reported on Customer 7's 2016 and 2017 returns. Customer 7 did not provide documentation to Kroll to

substantiate the child and dependent care expenses Kroll reported on Customer 7's 2016 and 2017 returns.

110. Based on the itemized deductions Kroll reported on Customer 7's 2016 and 2017 returns, Kroll also improperly reduced Customer 7's taxable income by \$14,313 and \$22,298 for 2016 and 2017, respectively.

111. Kroll did not provide Customer 7 with completed copies of his/her filed tax return for 2016 or 2017.

Customer 8

112. Kroll prepared Customer 8's federal income tax returns for 2013, 2014 and 2015 at his store in Albany, Georgia. Kroll's PTIN does not appear on Customer 8's returns for 2013, 2014, or 2015. A separate preparer's PTIN appears on Customer 8's returns for 2013, 2014, and 2015.

113. Kroll improperly claimed two dependents on Customer 8's returns for 2013, 2014 and 2015. Customer 8 has two dependents – a son and a daughter – but neither lived with Customer 8 in 2013, 2014, or 2015, and Customer 8 did not provide for their support in 2013, 2014, or 2015. Customer 8 did not tell Kroll to claim his/her children as dependents on Customer 8's return for 2013, 2014, and 2015.

114. Kroll claimed child tax credits of \$1,749, \$2,000, and \$2,000 on Customer 8's returns for 2013, 2014, and 2015, respectively.

115. Kroll reported \$1,200 in household help income on Customer 8's 2013 return.

116. Customer 8 did not earn any household help income in 2013, and Customer 8 did not tell Kroll that he/she earned \$1,200 in household help income in 2013.

117. Kroll reported itemized deductions of \$1,941 for medical expenses, \$10,063 for charitable contributions, and \$7,332 for unreimbursed employee expenses on Customer 8's 2015 return.

118. Customer 8 did not incur the expenses Kroll reported for 2015, and Customer 8 did not tell Kroll that he/she incurred the reported expense amounts.

119. Customer 8 did not make the charitable contributions Kroll reported for 2015, and Customer 8 did not tell Kroll that he/she made the reported charitable contributions.

120. Customer 8 did not provide documentation to Kroll to substantiate the itemized deductions for medical expenses, charitable contributions, and unreimbursed employee expenses Kroll reported on Customer 8's 2013, 2014, and 2015 returns. Customer 8 did not provide documentation to Kroll to substantiate the child and dependent care expenses Kroll reported on Customer 8's 2013, 2014, and 2015 returns.

121. Based on the fictitious amounts reported on Customer 8's 2013 return, Kroll also improperly reduced Customer 8's taxable income by \$3,461 and improperly claimed \$7,121 in tax credits, including the EITC and the Childcare Tax Credit.

122. Based on the fictitious amounts Kroll reported on Customer 8's 2014 return, Kroll also improperly reduced Customer 8's taxable income by \$7,783 and improperly claimed \$7,440 in tax credits, including the EITC and the Childcare Tax Credit.

123. Based on the fictitious amounts he reported on Customer 8's 2015 return, Kroll also improperly reduced Customer 8's taxable income by \$18,895 and improperly claimed \$5,218 in tax credits, including the EITC and the Childcare Tax Credit.

124. Kroll did not provide Customer 8 with completed copies of his/her filed tax return for 2013, 2014, or 2015.

Kroll's Improper Tax Return Preparation Practices Cause Serious Harm

125. Kroll harmed and continues to harm customers, the United States, and the public.

126. Kroll harms customers by charging fees for preparing tax returns with fabricated or exaggerated items that understate customers' tax liabilities and claim refunds to which the customers are not entitled. By doing so, Kroll caused customers to incorrectly report their federal tax liabilities and underpay their taxes. Many of Kroll's customers were audited by the IRS and faced large tax deficiencies, including penalties and interest.

127. Kroll harms the United States by causing the loss of substantial tax revenue because he consistently underreports customers' tax liabilities and claims fraudulent refunds on behalf of his customers. Audits of 417 tax returns prepared by Kroll or his employees acting at his direction for tax years 2012, 2013, 2014, 2015 and 2016, 348 resulted in tax deficiencies from improper or fraudulent claims for the EITC and Child Tax Credit, with an average tax deficiency per return of \$5,611 and a total revenue loss of \$1,952,617. Given that Kroll, and those acting at his direction, prepared over 6,000 tax returns from 2013 through to the present, the revenue loss caused by Kroll is likely far greater.

128. Kroll's unlawful practices further harm the United States because the IRS must devote its limited resources to investigate his ongoing fraudulent activities. The IRS expends time and resources to ascertain Kroll's customers' correct tax liabilities, recover any refunds erroneously issued, and collect any additional taxes and penalties.

129. In addition to the direct harm he causes by preparing tax returns that understate customers' tax liabilities, Kroll undermines compliance with the internal revenue laws by preparing false or inaccurate tax returns to inflate his customers' refunds and by failing to provide customers with completed copies of their returns.

130. Kroll's fraudulent conduct also harms honest tax return preparers because, by preparing tax returns that inflate his customers' refunds (albeit, unlawfully), Kroll gains an unfair competitive advantage over tax return preparers who prepare tax returns in accordance with the law. Customers who are satisfied with the tax refunds that they receive—but who are often unaware of Kroll's illegal tax return preparation practices—return to Kroll's stores for subsequent tax seasons.

131. Given the seriousness and pervasiveness of Kroll's illegal conduct, Kroll is likely to continue preparing false tax returns for customers unless he is enjoined. An injunction will serve the public interest by stopping Kroll's illegal practices and the resulting harm.

COUNT I: INJUNCTION UNDER 26 U.S.C. § 7407

132. The United States incorporates by reference the allegations in paragraphs 1 through 131, above, as if set forth herein.

133. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a tax return preparer from, among other things, 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 that a narrower injunction (*i.e.*, prohibiting only such specific 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 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 understatement of liability due to 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 penalizes, among other conduct, a return preparer who prepares

a return or claim for refund that contains an understatement of liability due to the reckless or intentional disregard of IRS rules or regulations;

- c. failing to furnish customers with completed copies of their tax returns at or before the time the customers sign their returns;
- d. engaging in conduct subject to penalty under 26 U.S.C. § 6695(g), which penalizes a return preparer who fails to comply with the IRS's due diligence requirements when determining a customer's eligibility to file as head of household or eligibility to claim the child tax credit, the American Opportunity Tax Credit, the Lifetime Learning Credit, or the Earned Income Tax Credit on a return or claim for refund; or
- e. engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws. *See* 26 U.S.C. § 7407(b)(1)(D).

134. 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.

135. Kroll is a tax return preparer who has repeatedly and continually prepared or submitted tax returns that contain unreasonable positions and that substantially understate customers' tax liabilities. Kroll prepared tax returns for customers that assert unreasonable positions because he regularly fabricates information on his customers' returns. Kroll knew or should have known of the unreasonable positions he repeatedly asserted on customers' tax returns in violation of 26 U.S.C. § 6694(a).

136. Kroll continually and repeatedly filed false tax returns in violation of 26 U.S.C. § 6694(a), and he filed tax returns in intentional or reckless disregard of the tax rules or regulations in violation of 26 U.S.C. § 6694(b).

137. Kroll also continually and repeatedly violated 26 U.S.C. § 6695(a) because he failed to provide a copy of the completed tax return to the taxpayer.

138. Kroll's violations of 26 U.S.C. §§ 6694 and 6695 fall within 26 U.S.C. § 7407(b)(1)(A). Accordingly, injunctive relief is appropriate under 26 U.S.C. § 7407.

139. Kroll's fraudulent and deceptive conduct substantially interferes with the proper administration of the internal revenue laws for purposes of 26 U.S.C. § 7407(b)(1)(D). Accordingly, injunctive relief is appropriate under 26 U.S.C. § 7407.

140. Kroll continued to violate the internal revenue laws even after he received IRS due diligence visits, as described in paragraph 10, above, and even after the IRS assessed \$182,500 in penalties against him, pursuant to 26 U.S.C. § 6694(b), as described above in paragraph 11 above.

141. Kroll's continual and repeated conduct subject to an injunction under 26 U.S.C. § 7407—including the use of fictitious Schedule C businesses and false claims for Schedule A itemized deductions, education credits, and childcare credits—shows that a narrow injunction prohibiting only specific conduct would be inadequate to prevent Kroll's interference with the proper administration of the internal revenue laws.

142. If Kroll is not enjoined from preparing federal tax returns, Kroll is likely to continue preparing and filing false tax returns that cause economic harm to the United States and require the United States to commit resources to the examination of Kroll's customers' returns (exposing such customers to large liabilities that include penalties and interest).

143. Accordingly, Kroll should be permanently barred from acting as a federal tax return preparer under 26 U.S.C. § 7407(b)(2).

COUNT II: INJUNCTION UNDER 26 U.S.C. § 7408

144. The United States incorporates by reference the allegations in paragraphs 1 through 131, above, as if set forth herein.

145. Section 7408(c)(1) of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under 26 U.S.C. § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

146. Section 6701(a) of the Internal Revenue Code penalizes any person who:

- a. aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document;
- b. knows (or has reason to believe) that such document will be used in connection with any material matter arising under the internal revenue laws; and
- c. knows that if such document is so used, it will result in an understatement of another person's tax liability.

147. 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."

148. Kroll prepares federal tax returns. Kroll knows that the tax returns he prepares contain material matters arising under the internal revenue laws (e.g., claims for the EITC, education expenses, itemized deductions, etc.). Kroll knows that the tax returns he prepares will result in an understatement of another person's tax liability.

149. Kroll knowingly prepares federal tax returns that claim false or inflated EITCs, itemized deductions, education credits, and childcare credits. He knowingly creates fictitious Schedule C businesses and reports false profit or loss amounts. Kroll is thus subject to penalty under 26 U.S.C. § 6701(a).

150. To maximize customers' tax refunds, Kroll prepares false or fraudulent tax returns, which, in turn, results in understatements of customers' tax liabilities and gives Kroll a

competitive advantage over law-abiding tax return preparers. Absent an injunction, Kroll is likely to continue violating the law. Injunctive relief is therefore appropriate under 26 U.S.C. § 7408.

COUNT III: INJUNCTION UNDER 26 U.S.C. § 7402

151. The United States incorporates by reference the allegations set forth in paragraphs 1 through 131, above, as if set forth herein.

152. Section 7402(a) of the Internal Revenue Code authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

153. Kroll engages in conduct that substantially interferes with the enforcement of the internal revenue laws, including, but not limited to, intentionally understating customers' tax liabilities and claiming false or inflated credits.

154. Unless enjoined, Kroll is likely to continue to engage in such unlawful conduct and interfere with the enforcement of the internal revenue laws. If Kroll is not enjoined, the United States will suffer irreparable injury by wrongfully issuing federal tax refunds to individuals not entitled to receive them, many of which the United States may never discover or recover. The United States will also suffer irreparable injury because it will have to devote substantial resources auditing Kroll's customers to detect future falsified returns that understate customers' tax liabilities or overstate their refund.

155. Enjoining Kroll is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Kroll's illegal conduct and the harm it causes the United States.

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

COUNT IV: DISGORGEMENT UNDER 26 U.S.C. § 7402

157. The United States incorporates by reference the allegations set forth in paragraphs 1 through 156, above, as if set forth in.

158. Section 7402 authorizes a district court to issue orders, judgments, and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws, including ordering the disgorgement of ill-gotten gains.

159. Kroll profited from the preparation and filing of customer tax returns that claimed improper tax refunds, understated customers' federal tax liabilities, or otherwise included false or fraudulent claims. Specifically, Kroll received ill-gotten gains by charging fees for the preparation and filing of false or fraudulent tax returns, including but not limited to tax returns that:

- a. reported false Schedule C businesses to improperly claim the EITC;
- b. claimed false education credits for customers who did not qualify for the credit;
- c. claimed false childcare credits for his customers by unlawfully fabricating and reporting fictitious childcare expenses;
- d. reported false itemized deductions for healthcare expenses, charitable contributions, and unreimbursed employee expenses; and
- e. included improper claims for tax refunds, or otherwise understated income, according to the taxpayer, or as determined during an IRS audit or taxpayer interview.

160. Kroll is not entitled to these ill-gotten gains. The Court should enter an order under 26 U.S.C. § 7402(a) requiring Kroll to disgorge to the United States the gross receipts that he, and those tax return preparers acting at his direction, received for the preparation of federal tax returns that made false or fraudulent claims because such relief is necessary or appropriate for the enforcement of the internal revenue laws.

Relief Sought

WHEREFORE, Plaintiff, the United States of America, prays for judgment on Counts I through IV of the Complaint as follows:

A. That the Court find that Kroll continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, continually and repeatedly engaged in other deceptive conduct that substantially interferes with the proper administration of the tax laws, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to bar Kroll from acting as a federal tax return preparer or operating any business that prepares federal tax returns to prevent recurrence of that conduct;

B. That the Court find that Kroll engaged in conduct subject to penalty under 26 U.S.C. § 6701, and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent recurrence of that conduct;

C. That the Court find that Kroll engaged in conduct that substantially 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);

D. That the Court, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408, enter a permanent injunction prohibiting Kroll from:

1. acting as a federal tax return preparer 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 himself;
2. 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;
3. training, advising, counseling, instructing, or teaching anyone about the preparation of federal tax returns;

4. maintaining, transferring, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
5. selling, transferring, assigning, disseminating, providing, or giving to any individual or entity a list of customers, or any other personal identifying information of customers, of Kroll or anyone acting at the direction of Kroll;
6. selling, transferring, assigning, disseminating, providing, or giving to any current manager, tax return preparer, employee, or independent contractor a list of customers, or any other personal identifying information of customers, of Kroll or anyone acting at the direction of Kroll;
7. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695, or 6701; and
8. engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;

E. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Kroll, at his own expense, to:

1. Immediately and permanently close all tax return preparation stores that Kroll owns or manages through any entity, whether those stores do business as United Tax Service, American Tax Service, American Tax, Tax Stop, and Tax South or under any other name;
2. Send by U.S. mail or e-mail a copy of the final injunction entered against him in this action to each person for whom he prepared, or any individual acting at his direction prepared, federal tax returns or any other federal tax forms after January 1, 2013;
3. Publish or post on the Facebook page for United Tax Service, American Tax Service, American Tax, Tax Stop, and Tax South a notice to be provided by the United States and approved by the Court, which states that a United States District Court has ordered that Kroll is permanently prohibited by law from preparing tax returns for others from the date of entry of the order;
4. 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, telephone number, and tax period(s) – all persons for whom Kroll prepared federal tax returns beginning on or after January 1, 2012, up through this litigation, including any returns prepared by Kroll's managers, employees or tax return preparers;

5. 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 Kroll from January 1, 2012 to the present; and
6. Within 15 days of the Court's Order, provide a copy of the Court's order to all principals, officers, managers, franchisees, employees, and independent contractors of Kroll, and provide to counsel for the United States within 30 days of the Court's Order a signed and dated acknowledgment of receipt of the Court's order for each person to whom Kroll provided a copy of the Court's order;

F. That the Court, without further proceedings, authorize the IRS to immediately revoke any EFIN and PTIN held by, assigned to, or used by Kroll;

G. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Kroll to disgorge to the United States the gross receipts (the amount of which is to be determined by the Court) that he received (in the form of fees) for the preparation of tax returns that make or report false or fraudulent claims, deductions, credits, income, expenses, or other information that resulted in the understatement of taxes prepared on or since January 1, 2012 at tax preparation stores operated or managed by Kroll;

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

I. That the Court retain jurisdiction over Kroll and over this action to enforce any permanent injunction entered; and

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

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Dated: February 12, 2020

Respectfully submitted,

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/s/ Jordan D. Howlette

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