

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	Case No. 2:17-cv-10055
Plaintiff,	)	
	)	
v.	)	
	)	
DIEASHA DAVIS, and TAX PIONEER CO,	)	
d/b/a Tax Pioneer,	)	
	)	
Defendants.	)	
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**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

The United States of America seeks a permanent injunction against Defendants Dieasha Davis and Tax Pioneer Co., doing business as Tax Pioneer, barring them from further acting as federal tax return preparers. In support of this relief, the United States alleges as follows:

1. Dieasha Davis owns and manages a tax return preparation business located in Detroit Michigan, which she operates through her wholly-owned entity Tax Pioneer Co.
  
2. Defendants intentionally report false information on their customers' federal income tax returns that are filed with the IRS and intentionally manipulate their customers' federal income tax liability to generate higher refunds or higher refundable credits. The United States brings this action to put an end to this illegal conduct and to prevent future harm to the U.S. Treasury.
  
3. The United States brings this Complaint pursuant to 26 U.S.C. (the Internal Revenue Code ("I.R.C.)) §§ 7402, 7407, and 7408 to permanently enjoin Defendants, and all those in active concert or participation with them, from directly or indirectly:
  - a. Acting as federal tax return preparers, or filing, 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 Davis' own personal tax returns;

- b. Filing, providing forms for, or otherwise aiding and abetting the filing of IRS Forms 1040, 1040X, 8867, 8863, Schedule C, or any other IRS forms containing false or fabricated information;
- c. Owning, managing, controlling, working for, profiting from, or volunteering for a tax return preparation business;
- d. Seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS Preparer Tax Identification Number ("PTIN") and/or IRS Electronic Filing Identification Number ("EFIN"), or any other IRS service or program by which one prepares or files tax returns;
- e. Using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN(s) or EFIN(s);
- f. Engaging in conduct subject to penalty under I.R.C. §§ 6694, 6695, or 6701, including: preparing and filing tax returns or other documents that understate the tax liabilities of others, preparing or assisting in preparing federal tax returns that they know or reasonably should know would result in an understatement of tax liability or the overstatement of a taxpayer's entitlement to a federal tax refund, failing to comply with required due diligence procedures, failing to furnish tax-return preparer identifying numbers, and promoting any false tax or tax return scheme;
- g. Representing anyone other than Davis before the IRS; and

- h. Engaging in any other conduct that is subject to penalty under the Internal Revenue Code or that interferes with the proper administration and enforcement of the internal revenue laws.

### **Jurisdiction and Venue**

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

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and 26 U.S.C. §§ 7407(a) and 7408(a) because Defendants maintain a place of business in this district, and a substantial portion of the events giving rise to this action occurred within this judicial district.

### **Authorization**

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

### **The Defendants**

7. Davis resides in Detroit, Michigan and is the founder, owner, sole officer, and director of Tax Pioneer Co. Davis is also a tax return preparer and has used her own IRS-issued Preparer Tax Identification Number (“PTIN”) to prepare and file tax returns for customers.

8. Tax Pioneer Co. is an active domestic for-profit corporation under Michigan law. Tax Pioneer Co.’s registered office address is 1620 East Eight Mile Road in Detroit, Michigan. Davis uses this company to operate a Tax Pioneer-branded tax return preparation store.

9. In 2012, Davis founded Tax Pioneer Co. and opened the Tax Pioneer tax return preparation business that year.

10. Davis' tax return preparation experience dates back to at least 2005. In 2005, Davis worked as a tax return preparer at a Jackson Hewitt location in the Detroit, Michigan area. From 2006 to 2012, Davis was also a tax return preparer and manager for a Liberty Tax Service franchisee in Detroit, Michigan.

11. From 2013 to 2016, Tax Pioneer prepared and filed more than 2,800 federal income tax returns with the IRS. Over 94% of those tax returns claimed a tax refund.

12. From at least 2013 to 2016, Defendants prepared fraudulent tax returns for customers that include, *inter alia*, false or inflated federal Form W-2 income, false or inflated Schedule C income and expenses, bogus dependents, improper filing statuses, and false itemized deductions, all with the purpose of fraudulently maximizing customer refunds and refundable credits, including the Earned Income Tax Credit. Concomitantly, Defendants profit from preparing and filing these fraudulent income tax returns by charging fees for their services.

### **Fraudulent Claims for Earned Income Tax Credits at Tax Pioneer**

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

Regulations.

14. 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 decrease higher income to within the EITC range allows customers to claim a larger EITC.

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

16. Because of the way EITC is calculated, taxpayers who claim one or more dependents can claim a larger EITC.

17. Given the potential for abuse in claiming the EITC, Congress has authorized the Secretary of the Treasury to impose “due diligence” requirements on federal tax return preparers claiming the EITC for their customers. *See* 26 C.F.R. § 1.6695-2. Due diligence requirements mandate that a tax return preparer “must not know, or have reason to know, that any information used by the tax return preparer in determining the taxpayer’s eligibility for, or the amount of, the EITC is incorrect.” *Id.*

18. These due diligence requirements obligate the tax return preparer to make “reasonable inquiries” to ensure the customer is legitimately entitled to the EITC. The tax return preparer “may not ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete.” *See* 26 C.F.R. § 1.6695-2. Tax return preparers must document their compliance with these requirements and keep that

documentation for three years. *Id.*

19. To document compliance with the due diligence requirements, tax return preparers must complete the “Paid Preparer’s Earned Income Credit Checklist” (IRS Form 8867) and, when a tax return is electronically filed, must electronically file the completed Form 8867.

20. Defendants: (a) prepare and file tax returns that include fraudulent claims for the EITC by, *inter alia*, reporting inflated or fictitious income and expenses, as well as false family statuses, such as improper claims for head-of-household status and non-qualifying individuals as dependents; and (b) fail to comply with due diligence requirements and, instead, take affirmative steps to falsify compliance with due diligence requirements.

*False Income on Tax Returns to Claim the EITC*

21. Among the methods used to concoct false income for their customers in order to inflate claims for the EITC, Defendants prepare tax returns that report fictitious employee and household income. In instances where Defendants claim non-existent employee W-2 income, they also transmit copies of fake W-2s to the IRS when filing customer tax returns. For example:

- a. From 2013 to 2015, Customer 1 earned no wages and did not provide Forms W-2 reporting wages or tell her preparer at Tax Pioneer that she had earned wages. Nonetheless, Customer 1’s 2015 and 2014 federal income tax returns, prepared by Tax Pioneer in January 2016 and February 2015, respectively, report fictitious W-2 wages exceeding \$12,500 for 2015 and \$14,500 for 2014. Both tax returns falsely claim Customer 1 was an employee of the State of Michigan. For Customer 1’s 2013 tax return, Davis prepared it and reported that Customer 1 had no W-2 income. But Davis fraudulently reported that Customer 1 earned over \$15,500 of non-existent household income. Combined, Customer 1’s 2013, 2014,

and 2015 tax returns improperly claim EITC credits exceeding \$15,000. Davis and her preparers entirely manufactured the reported income that enabled Customer 1 to improperly claim the EITC.

- b. In January 2016, Davis prepared Customer 2's 2015 tax return. Customer 2 had a Schedule C business in 2015 as a hair stylist and worked from her home. Davis claimed the EITC on Customer 2's 2015 tax return. Davis inflated Customer 2's EITC by also reporting over \$6,800 of fictitious W-2 wages on the tax return. Customer 2 did not provide a Form W-2 to Davis or tell Davis that she had earned any wages in 2015. But Davis concocted a Form W-2 that falsely reports that Customer 2 was an employee of the "Dept of Human Service" of Lansing, Michigan in 2015 and manufactured Customer 2's wages that appear on the Form W-2.
  - c. Customer 3 was a part-time student in 2015 and did have reportable W-2 income. In February 2016, Tax Pioneer prepared Customer 3's 2015 tax return and inflated Customer 3's reported W-2 income from approximately \$5,200 of bona fide wages to over \$9,400 by including fraudulent wages attributed to the State of Michigan. But Customer 3 did not actually receive approximately \$4,400 of such wages, was not an employee of the State of Michigan, and did not tell his preparer that he was. Tax Pioneer also improperly claimed head-of-household status and two false dependents for Customer 3 (*see infra*, ¶ 23(c)), and, when added together with the fictitious W-2 income, contributed to a fraudulent EITC refund claim exceeding \$3,000.
22. Defendants also report false income and expenses on federal Forms Schedule C in

order to fraudulently claim and/or increase EITC refunds for their customers. Schedule C's are used when individuals do business as sole proprietorships and have income and/or expenses from these businesses. Defendants prepare Schedule C's for customers that either misreport actual income from customer businesses or report fictitious businesses, including:

- a. Customer 4 had her 2012 and 2013 federal income tax returns prepared at Tax Pioneer. Both of Customer 4's tax returns report a fictitious Schedule C child care business with gross receipts exceeding \$14,500 for 2012 and \$12,000 for 2013. In order to make Customer 4's fraudulent child care business appear legitimate, Tax Pioneer prepared Schedule C forms with bogus expenses from the non-existent business, including advertising and office expenses. As a result, Customer 4's 2012 and 2013 tax returns claim fraudulent EITC refunds exceeding \$10,000. The IRS audited the 2012 and 2013 tax returns Tax Pioneer prepared for Customer 4, and Customer 4 returned to Tax Pioneer to seek assistance. Davis and the preparer who completed the 2012 and 2013 tax returns: (1) provided Customer 4 with blank worksheets, including a "12 Month Income Statement," as well as an "In Home Office" expense worksheet and a "Business Worksheet" with blanks for "Gas/Electricity," "Phone," "Rent," "Repairs/Maintenance," "Mortgage Interest/Real Estate Taxes," "Insurance," as well as other potential expenses typical of a valid Schedule C business; and (2) advised Customer 4 to add false information onto the worksheets, using different color pens to make the false records appear like they were written on different occasions. Davis' scheme was to have Customer 4 submit these bogus documents to the IRS in response to the audit in effort to fraudulently convince the IRS that the bogus expenses were,



in fact, legitimate. Customer 4 retained the blank worksheets, but declined to submit them to the IRS with false information. Due to the fraudulent 2012 and 2013 tax returns prepared by Tax Pioneer, the IRS assessed income tax deficiencies and over \$2,000 in penalties against Customer 4.

- b. In February 2016, Customer 5 had her 2015 federal income tax return prepared at Tax Pioneer. Customer 5, a 77 year old resident of Detroit, had no income in 2015 other than payments from her late-husband's pension, social security benefits, and did no paid work outside her home. Nonetheless, Customer 5's 2015 federal tax return reports a fictitious "Home Health Housekeeping" business with over \$9,500 in gross receipts and over \$1,000 of expenses in order to fraudulently claim an EITC refund exceeding \$2,800. In February 2015, the same preparer who completed the 2015 tax returns prepared Customer 5's 2014 tax return. The 2014 tax return also falsely reports the same "Home Health Housekeeping" business, claims a fraudulent EITC refund exceeding \$3,700, and reports that Customer 5 had precisely the same dollar amount of gross receipts and expenses as in 2015. Similarly, Customer 5's 2013 tax return, prepared by Davis at Tax Pioneer in February 2014, reports a fictitious "Home Health Care" business with fake gross receipts exceeding \$8,500 and over \$950 of expenses listed as "supplies." Among false entries on Customer 5's Forms 8867 for these tax years, the 2013 tax return reports that Customer 5 provided records of expenses to Davis as support for Customer 5's non-existent Schedule C business. Customer 5 never operated a "Home Health Housekeeping" or "Home Health Care" business and never told her tax return preparer that she did. The business

was concocted entirely by Defendants.

- c. In February 2016, Customer 6 had her 2015 federal income tax return prepared at Tax Pioneer. She also had her 2014 and 2013 federal income tax returns prepared by Tax Pioneer. For each of these tax years, Customer 6 was unemployed, but estimated that she earned \$4,000 to \$5,000 each year by providing manicuring services to individuals from her home. However, Customer 6's tax returns for 2013, 2014, and 2015 reports exactly \$15,575 of income each year on a Schedule C with no associated business expenses. Customer 6 did not earn this income for any of these tax years and did not tell her tax return preparer that she did. Customer 6 does not know how the reported income was determined by her tax return preparer. The fraudulently inflated income for 2013 to 2015 contributed to improper EITC refund claims exceeding \$16,000 for these tax years.
- d. In February 2016, Customer 7 had her 2015 tax return prepared at Tax Pioneer. Customer 7 was ill during portions of 2015, but estimated that she earned approximately \$4,000 as a manicurist. Customer 7's 2015 federal income tax return, however, reports over \$10,500 in gross receipts from a non-existent "Child Care" business, including over \$2,200 in expenses. As a result, Customer 7's 2015 tax return claims an improper EITC exceeding \$2,600. Customer 7 did not own or operate a child care business that year and did not tell her tax return preparer that she did. Tax Pioneer concocted the non-existent business for Customer 7 and made up the income and expenses.

*False Family Statuses to Inflate Claims for the EITC*

23. In order to fraudulently claim or inflate claims for the EITC on behalf of their customers, Defendants and their preparers report false dependents and improperly claim head-of-household status on tax returns they prepare. Examples include:

- a. In February 2016, a Tax Pioneer preparer fraudulently listed two dependents on Customer 8's 2015 federal income tax return. Tax Pioneer previously reported the same two dependents as belonging to Customer 8's mother on the mother's 2012 and 2013 federal income tax returns. Tax Pioneer used these false dependents to improperly claim head-of-household status, the EITC, and the child tax credit on Customer 8's 2015 tax return. During 2015, Customer 8 lived at the same address as her mother, earned approximately \$6,800, did not have the financial means to support two dependents, and in fact did not support the dependents claimed on her 2015 tax return. Tax Pioneer fraudulently reported the dependents on Customer 8's tax return because:
  - (i) Customer 8's mother (identified as Customer 4 in ¶ 22(a), above) owed the IRS over \$17,000 of unpaid tax deficiencies and penalties for improper federal income tax returns for tax years 2011, 2012, and 2013.
  - (ii) Customer 8's Tax Pioneer preparer knew that Customer 8's mother was ineligible to receive any federal tax refund for 2015 because of these deficiencies and penalties. Therefore, reporting the dependents on the 2015 tax return of Customer 8's mother, which Tax Pioneer also prepared, would provide no tax refund.
  - (iii) Customer 8's Tax Pioneer preparer knew reporting the dependents on

Customer 8's 2015 federal income tax return would result in an improper tax refund.

- b. Customer 9 had her 2015 federal income tax return prepared at Tax Pioneer in January 2016. Customer 9 owned and operated a Schedule C cosmetology business with approximately \$15,000 of income in 2015. The Tax Pioneer preparer did not ask Customer 9 required due diligence questions to claim the EITC on Customer 9's tax return. However, Customer 9 did inform her preparer that she was married and lived with her husband. Despite that information, the preparer falsely reported on Customer 9's tax return that Customer 9 qualified for head-of-household status. Customer 9's preparer also falsely reported on a Form 8867, attached to Customer 9's tax return, that she was not married. Moreover, Customer 9's preparer included a deduction for entirely fictitious mortgage interest on the 2015 return. In sum, Customer 9 claimed a fraudulent EITC refund exceeding \$6,000.
- c. Regarding Customer 3 (*see supra* ¶ 21(c)), Tax Pioneer improperly claimed head-of-household status and two dependents, a nephew and a parent, to increase Customer 3's refund claim on his 2015 federal income tax return. Despite the implausibility of Customer 3 being able to support two dependents on his actual 2015 income of approximately \$5,000, which Tax Pioneer also fraudulently inflated to over \$9,000, his preparer failed to comply with due diligence regulations by neglecting to request documentation and/or ask questions of Customer 3 to verify the claimed head-of-household status and dependents. Customer 3's Form 8867 sent to the IRS falsely reported responses to due

diligence questions that the preparer never asked Customer 3.

### **Use of Bogus Deductions, Losses, and Expenses at Tax Pioneer**

24. For customers who owe federal income taxes from bona fide income, Defendants and their preparers claim fake deductions, business losses, and expenses to fraudulently reduce their customers' reported federal income tax liabilities. These bogus items are reported on federal income tax returns either as Schedule C expenses, or on Schedule A, which is used by taxpayers to report, among other things, payment of mortgage interest, real estate taxes, medical expenses, unreimbursed employee expenses, and charitable contributions. Examples include the following:

- a. Customer 10 had her 2015, 2014, and 2013 tax returns prepared at Tax Pioneer. Customer 10 received over \$50,000 of W-2 wages working for a law firm each of those years. In January 2016, Davis prepared Customer 10's 2015 tax return. Davis falsely reduced Customer 10's reported income tax liability and claimed a fraudulent tax refund on the 2015 tax return by including over \$9,800 in fake mortgage interest expenses on Customer 10's Schedule A. The 2015 tax return also includes a Schedule C that reports a non-existent "Property Management Real Estate" business with over \$18,500 in losses and lists bogus expenses for advertising, insurance, office expense, repairs and maintenance, supplies, taxes and licenses, as well as utilities. On Customer 10's 2014 tax return, prepared in January 2015, Davis reported the same fictitious "Property Management Real Estate" business on Schedule C, including the identical sum for gross receipts (\$3,250) that is reported on Customer 10's 2015 tax return. The 2014 tax return

claims over \$3,500 in fake Schedule C losses. The Schedule A of Customer 10's 2014 tax return also reports bogus expenses as deductions, including over \$5,000 for medical expenses, more than \$14,000 in mortgage interest, and \$1,521 in unreimbursed employee expenses. And on Customer 10's 2013 tax return, completed in January 2014, a Tax Pioneer preparer similarly claimed made-up deductions on Schedule A, including fake mortgage interest exceeding \$13,000. Customer 10 never owned or operated a "Property Management Real Estate" business and did not tell her tax return preparer that she did. Tax Pioneer concocted the business and the claimed expenses for Customer 10.

- b. In January 2016, Davis prepared Customer 11's 2015 federal income tax return. Customer 11 earned over \$64,000 in W-2 wages in 2015 as a teacher for a local school district. But to reduce Customer 11's reported income tax liability, Davis reported fraudulent Schedule A deductions, including more than: (1) \$6,600 for mortgage interest expenses; (2) \$4,200 for real estate taxes; and (3) \$6,200 for charitable contributions. Similarly, Customer 11's 2014 and 2013 federal income tax returns claim bogus Schedule A deductions that totaled over: (1) \$22,000 for mortgage interest; (2) \$8,900 for real estate taxes; and (3) \$11,000 for charitable contributions. Customer 11's 2014 tax return also claims a deduction for over \$9,500 of fake medical expenses on Schedule A. Customer 11 never paid these Schedule A deductible expenses for 2013, 2014, and 2015 and did not tell his tax return preparer that he did. Tax Pioneer manufactured the deductions on Customer 11's behalf. Moreover, Davis prepared Customer 11's 2015 and 2014 tax returns, but falsely reported the Preparer Tax Identification Number ("PTIN")

of a different preparer on the returns.

- c. Customer 12's 2015, 2014, and 2013 federal income tax returns, prepared in February 2016, February 2015, and February 2014, respectively, report fake expenses each year. Davis prepared the 2015 and 2014 tax returns, and another Tax Pioneer preparer completed the 2013 tax return. For each of these years, Customer 12 had W-2 wage income as well as income from a janitorial franchise business he owned and operated. Customer 12 had no office, employees, or subcontractors as part of the janitorial business. Nonetheless, both Customer 12's 2015 and 2014 Schedule C report over \$26,000 of fictitious contract labor expenses. The 2013 Schedule C claims over \$30,000 of fake contract labor expenses. Customer 12 never discussed contract labor expenses with his preparers and does not know how those expenses were determined. Similarly, all three of Customer 12's tax returns falsely claim office expenses on Schedule C.

### **Davis' Fraudulent Conduct While Working at Liberty Tax Service**

25. Davis' fraudulent tax return preparation practices pre-date her operation of Tax Pioneer. For example, while working for a Liberty Tax Service franchisee in Detroit prior to 2013, Davis prepared the following fraudulent tax returns:

- a. Customer 13 had her 2011 tax return prepared by Davis at Liberty Tax Service in January 2012. In 2011, Customer 13 worked as a nurse and received income as W-2 wages. Davis fraudulently reduced Customer 13's reported income tax liability for 2011 by reporting a fictitious Schedule C business with over \$7,000 in losses from car/truck expenses, office expenses, supplies, and utilities. Customer

13 also followed Davis to Tax Pioneer after Davis ceased working for Liberty Tax Service. Davis prepared Customer 13's 2012 tax return at Tax Pioneer, although a different Tax Pioneer preparer is improperly identified on the return as preparer, and again included a bogus Schedule C to claim over \$9,500 in losses (from office expenses, supplies and utilities). Based on an audit of Customer 13's 2011 and 2012 tax returns, the IRS calculated deficiencies exceeding \$2,500 for 2011 and \$4,000 for 2012.

- b. While working at Liberty Tax Service in January 2012, Davis prepared Customer 14's 2011 tax return. Davis claimed a fraudulent EITC and child tax credit on Customer 14's 2011 tax return that exceeds \$5,000. On the 2011 tax return, Davis improperly claimed two dependents who did not live with Customer 14 and inflated Customer 14's W-2 wages by reporting over \$7,500 of fictitious income from the U.S. Department of Commerce. Customer 14 followed Davis to Tax Pioneer after Davis ceased working for Liberty Tax Service. At Tax Pioneer, Davis also prepared Customer 14's 2012 tax return, but failed to identify herself as the preparer on the return. Davis improperly claimed two dependents, the EITC, a child tax credit, and an education credit on Customer 14's 2012 tax return. The IRS assessed Customer 14 with over \$17,000 of income tax deficiencies for the 2011 and 2012 tax returns Davis prepared.

26. While at Liberty Tax Service, Davis prepared federal income tax returns that improperly claim the EITC on hundreds of customer tax returns. The IRS conducted an EITC due diligence review of 250 tax returns that Davis prepared for tax year 2009 at Liberty Tax Service. Davis failed to comply with EITC due diligence requirements for 218 of these tax



returns (*i.e.*, a non-compliance rate of 87.2%), and the IRS assessed 218 separate EITC penalties against her. The bases for Davis' EITC due diligence violations include:

- a. Insufficient information to claim dependents who were used as a basis for the EITC;
- b. Failure to retain adequate documentation to report Schedule C business expenses;
- c. Adults listed as customer dependents with no explanation how those adults qualified for dependent status;
- d. Preparation of tax returns that report information that is inconsistent with documents in customer files retained by Liberty Tax Service; and
- e. EITC claims for customers without any Liberty Tax Service customer file containing records to support a claim for the EITC.

### **Other Misconduct**

27. Individuals who prepare or assist in preparing federal tax returns for compensation must have a valid PTIN issued by the IRS. *See* 26 U.S.C. § 6109(a)(4); 26 C.F.R. § 1.1609-2(d). Paid federal income tax preparers must include their PTIN on each tax return they prepare and file with the IRS. PTINs serve as an essential part of tax administration and the Government's effort to ensure compliance with the internal revenue laws by allowing the IRS to identify paid tax preparers on tax returns. Defendants knowingly violate IRS PTIN rules by filing tax returns with incorrect PTINs. (*See supra*, ¶ 24(b) (Customer 11); ¶ 25(a) (Customer 13), and ¶ 25(b) (Customer 14).)

### **Harm Caused by Defendants**

28. The preparation of fraudulent tax returns by Defendants has harmed the public and the United States. These practices harm the public because Defendants have prepared false or fraudulent tax returns that understate many customers' correct income tax liabilities and/or overstate the refunds due, thus illegally causing these customers to incorrectly report their federal tax liabilities.

29. The preparation of fraudulent tax returns by Defendants has harmed their customers by illegally causing them to incorrectly report their federal tax liabilities and underpay their taxes. These customers are liable for taxes owed and may be liable for sizeable penalties and interest.

30. Defendants' fraudulent practices likewise harm the United States Treasury in the form of lost tax revenue.

31. Defendants' misconduct further harms the United States and the public by requiring the IRS to devote scarce public resources to detecting that misconduct and to assessing and collecting lost tax revenues from Defendants' customers.

32. 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.

33. Davis' harm not only spans the entire period she owned and operated Tax Pioneer, it pre-dates the existence of Tax Pioneer given Davis' preparation of fraudulent tax returns while working as a preparer and manager at Liberty Tax Service. Moreover, despite being assessed with penalties for 218 EITC violations in 2011, Davis continued to violate EITC

due diligence requirements, employed others to prepare improper tax returns, and personally prepared fraudulent tax returns.

34. The harm to the government and the public will increase unless Defendants are enjoined because—given the seriousness and pervasiveness of Defendants’ improper conduct—without an injunction, Defendants are likely to continue preparing false and fraudulent federal income tax returns. An injunction will serve the public interest because it will put a stop to Defendants’ conduct and to the harm that such conduct causes the United States and its citizens.

#### **COUNT I: INJUNCTION UNDER I.R.C. § 7407**

35. The United States incorporates by reference the allegations contained in paragraphs 1 through 34.

36. Under I.R.C. § 7407, the United States may seek an injunction against any tax return preparer who has engaged in any “fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws,” or who has “engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title.”

37. If a return preparer’s misconduct is continual or repeated and the court finds that a narrower injunction (*e.g.*, prohibiting specific enumerated conduct) would not be sufficient to prevent the preparer’s interference with the proper administration of federal tax laws, the court may enjoin the person from further acting as a return preparer.

38. Defendants have continually and repeatedly prepared and filed with the IRS false federal income tax returns on behalf of their customers. As a result, Defendants have continually

and repeatedly engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws.

39. Defendants are tax return preparers who have repeatedly and continually prepared or submitted returns or portions of returns that contained unreasonable positions and substantially understated the liability for tax on the return.

40. Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal tax returns that understated their customers' liabilities based on unrealistic, frivolous, and reckless positions. Defendants, through the actions described above, recklessly or intentionally disregard IRS rules or regulations.

41. Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695. The Treasury Regulations promulgated under § 6695(g) prohibit a return preparer from claiming the EITC without first conducting proper due diligence and documenting his or his compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6695-2. Defendants do not comply with these due diligence requirements by ignoring, disregarding, or failing to adequately verify information provided by customers.

42. Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695(c) by knowingly furnishing false PTINs on their customers' tax returns.

43. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, Defendants will be free to prepare or assist in preparing more false federal income tax returns and engage in other misconduct as described in this complaint.

44. Defendants should be permanently enjoined under I.R.C. § 7407 from acting as federal tax return preparers because a more limited injunction would be insufficient to stop them

from further violations of I.R.C. § 6694 and I.R.C. § 6695, as well as interfering with the proper administration of the tax laws.

**COUNT II: INJUNCTION UNDER I.R.C. § 7408**

45. The United States incorporates by reference the allegations contained in paragraphs 1 through 44.

46. Under I.R.C. § 7408(c)(1), a district court may enjoin any person from, *inter alia*, engaging in conduct subject to penalty under I.R.C. § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

47. Section 6701 penalizes any person who aids or assists in, procures, or advises with respect to the preparation of any portion of a federal tax return, refund claim, or other document who knows (or has reason to believe) that such portion 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 I.R.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."

48. Davis and her preparers, acting under her supervision, caused the preparation of false and fraudulent tax returns and other documents, including preparing, assisting, and/or advising with respect to the presentation and preparation of federal tax returns for customers that they knew would understate the customers' correct tax liabilities. Defendants knowingly prepare, assist, and/or advise with respect to the presentation and preparation of returns claiming bogus income and bogus expense deductions. Defendants procured and assisted the preparation of false and fraudulent tax returns by preparing and filing tax returns that they knew or should

have known were false or fraudulent, and by encouraging the filing of tax returns they knew or had reason to know were false or fraudulent. As a result, Defendants have engaged in conduct subject to penalty under I.R.C. § 6701.

49. If the Court does not enjoin Defendants, they are likely to continue engaging in conduct subject to penalty under I.R.C. § 6701. The preparation of fraudulent tax returns by Defendants is widespread throughout Defendants' store and encompasses multiple tax years. Injunctive relief is therefore appropriate under I.R.C. § 7408.

**COUNT III: INJUNCTION UNDER I.R.C. § 7402(a)**

50. The United States incorporates by reference the allegations contained in paragraphs 1 through 49.

51. Under I.R.C. § 7402(a), a court may issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

52. Defendants have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws, including intentionally understating customers' tax liabilities and filing false federal tax returns on behalf of customers, preparing fake W-2's, and providing false documents to at least one customer to conceal their fraud from the IRS and obstruct an IRS audit.

53. Unless enjoined, Defendants are likely to continue engaging in improper conduct, including filing false and fraudulent returns on behalf of taxpayers. If not enjoined from engaging in fraudulent-filing conduct, Defendants will inflict irreparable injury upon the United States because the government will wrongfully provide federal income tax refunds to individuals

not entitled to receive them or will collect less than the correct amount of tax from individuals who owe taxes to the United States. Injunctive relief is therefore appropriate under I.R.C. § 7402(a).

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

A. That the Court find that Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694, 6695, and 6701, and that injunctive relief is appropriate under I.R.C. §§ 7402, 7407, and 7408;

B. That the Court find that Defendants have substantially interfered with the enforcement and administration of the internal revenue laws, and that injunctive relief against them is appropriate to prevent further misconduct pursuant to I.R.C. §§ 7402(a), 7407(b)(2), and 7408(b)(2);

C. That the Court permanently enjoin Defendants and their representatives, agents, servants, preparers, and anyone in active concert or participation with them, from directly or indirectly:

- a. Acting as federal tax return preparers, or filing, 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 Davis' own personal tax returns;
- b. Filing, providing forms for, or otherwise aiding and abetting the filing of IRS Forms 1040, 1040X, 8867, 8863, Schedule C, or any other IRS forms containing false or fabricated information;
- c. Owning, managing, controlling, working for, profiting from, or volunteering for a tax return preparation business;

- d. Seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS Preparer Tax Identification Number (“PTIN”) and/or IRS Electronic Filing Identification Number (“EFIN”), or any other IRS service or program by which one prepares or files tax returns;
- e. Using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN(s) or EFIN(s);
- f. Engaging in conduct subject to penalty under I.R.C. §§ 6694, 6695, or 6701, including: preparing and filing tax returns or other documents that understate the tax liabilities of others, preparing or assisting in preparing federal tax returns that they know or reasonably should know would result in an understatement of tax liability or the overstatement of a taxpayer’s entitlement to a federal tax refund, failing to comply with required due diligence procedures, failing to furnish tax return preparer identifying numbers, and promoting any false tax or tax-return scheme;
- g. Representing anyone other than Davis before the IRS; and
- h. Engaging in any other conduct that is subject to penalty under the Internal Revenue Code or that interferes with the proper administration and enforcement of the internal revenue laws.

D. That the Court, pursuant to I.R.C. §§ 7402, 7407, and 7408, enter an order requiring Defendants, within 30 days of receiving the Court’s order, to contact by U.S. mail and, if an e-mail address is known, by e-mail, all persons for whom Defendants have prepared federal tax returns, amended tax returns, or claims for refund since January 1, 2013, enclosing a copy of



the executed injunction. The injunction should require that: (i) other than the executed injunction, no additional materials may be included in the notification to Defendants' customers unless approved by the United States or the Court; and (ii) Defendants shall file with the Court, within 10 days thereafter, a sworn certificate stating that they have complied with this requirement;

E. That this Court order Defendants to provide to the United States a list of all individuals and entities for whom they have provided tax preparation services since January 1, 2013;

F. That this Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order appointing a receiver to sell all the hard assets, such as computers (after any and all taxpayer information has been removed), electronics, and furniture, of Defendants' tax preparation business;

G. That this Court, pursuant to I.R.C. § 7402, enter an order barring Defendants from: (1) selling or transferring to any individual or entity a list of customers, or any customer information they obtained from operation of their tax return preparation business; and (2) selling to any individual or entity any proprietary information pertaining to the Tax Pioneer brand or Defendants' tax preparation business;

H. That this Court allow the government full post-judgment discovery to monitor Defendants' compliance with the injunction;

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

J. That this Court grant the United States such additional relief as the Court deems just and appropriate.

Dated: January 9, 2017.

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/s/ Russell J. Edelstein

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