

- e. Preparing or assisting in the preparation of any portion of federal tax returns, amended returns or other related documents and forms that they know or have reason to believe will be used in connection with any material matter arising under the internal revenue laws and that they know will result in the understatement of tax liability for another person, as prohibited by I.R.C. §6701.
- f. Engaging in any other activity subject to penalty under I.R.C. §§ 6694 or 6701;
- g. Allowing others the use of a personal or business EFIN, EIN, TIN, P-TIN or any other federally issued identification number to prepare or file federal income tax returns; and
- h. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

2. This action has been requested 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 the provisions of IRC §§ 7401, 7407, and 7408.

Jurisdiction and Venue

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

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because Almanzar resides within this district, prepares tax returns within this district, and a substantial portion of the events giving rise to this claim occurred within this district.

Defendant's Activities

5. Almanzar resides in Doral, Florida. He has a Bachelors degree in Accounting from the Technological University of Santiago in the Dominican Republic and a Masters degree in Financial Administration from Apex University.

6. Almanzar is a paid commercial tax return preparer, as defined in IRC § 7701(a) (36), and the owner of Almanzar Tax, Accounting, & Consulting Corp. (“Almanzar Tax”) and Almanzar Financial Services Corp. (“Almanzar Financial”). Almanzar has prepared tax returns for customers of Almanzar Tax and Almanzar Financial since 2004.

7. Almanzar currently operates Almanzar Tax out of an office located at 1411 NW 79th Avenue, Suite 15-0, Doral, Florida and he is in position to prepare federal income tax returns during the 2015 filing season.

8. Since at least 2008, most of the income tax returns prepared by Almanzar have understated his customer's liability or overstated their income by falsely claiming credits or creating or inflating deductions.

9. The returns prepared by Almanzar understated his customer's liability or overstated their refund through five primary schemes.

10. First, Almanzar improperly claimed the First-Time Homebuyer credit on his client's returns to generate erroneous tax refunds. The First-Time Homebuyer credit was available to certain taxpayers who purchased a home as their primary residence in 2008, 2009, and 2010 and was a refundable credit. The credit allowed first-time homebuyers a credit against their federal income tax of the lesser of ten percent of the home's purchase price or \$8,000.

11. During the 2009 filing season (i.e., for tax year 2008) 73 of the returns prepared by Almanzar claimed the First-Time Homebuyer credit. Out of a sample of 12 taxpayers, 10 of the taxpayers showed no indication of a home purchase. If extrapolated to the 73 returns prepared by Almanzar for 2008 claiming the First-Time Homebuyer tax credit, approximately 60 of the returns erroneously claimed the credit. Almanzar indicated to the IRS that he gave the credit to any customers who stated they "were going to buy a home in the near future."

12. In a second scheme, Almanzar prepared returns that falsely claim tax credits for education expenses that were not actually incurred by the taxpayer. Almanzar claimed the American Opportunity Education credit on 37 percent of the returns he prepared for tax year

2011. Of the returns examined by the IRS, none of the taxpayers could substantiate the education credit through records of attendance at an educational institution.

13. Third, Almanzar improperly claimed deductions for charitable contributions that were without support. Almanzar generally claimed a combination of \$500 cash and \$500 non-cash for a total deduction of \$1,000. Non-cash deductions exceeding \$500 would have required Almanzar to complete Form 8283, which generally requires a signature from an independent third-party, but Almanzar was able to avoid this verification requirement by claiming the maximum amount of non-cash deductions that would not trigger third-party reporting. Almanzar claimed these charitable deductions despite the fact that his clients did not provide him with any evidence of charitable donations.

14. Fourth, Almanzar claimed false deductions for employee business expenses. These expenses included excessive vehicle mileage as well as improper expenses for meals, clothes, dry cleaning, and cell phone use.

15. In a fifth scheme, Almanzar prepared Form 1040 Schedule Cs listing fictitious expenses to improperly reduce his clients' taxable income and fictitious income to generate credits, including the Earned Income Tax Credit, for which the taxpayers were not qualified.

16. The Internal Revenue Service (IRS) interviewed several of Almanzar's customers, who stated that the improper deductions and credits were not based on information they provided to Almanzar, and that they did not know the improper deductions and credits had been taken on their tax return until after their return was filed.

17. Almanzar continued to file fraudulent tax returns even after he learned that he was under investigation in 2010.

18. IRS records show that, from 2009 through 2014, Almanzar prepared at least 1,753 returns, comprised of the following number of returns in each year:

<u>Year</u>	<u>Number of Returns</u>
2009	282
2010	273
2011	379
2012	350
2013	293
2014	176

19. However, Almanzar likely prepared many more returns because he used PTIN and EFIN of other tax preparers.

20. To date, the IRS has completed examinations of 277 returns prepared by Almanzar.

21. Based upon the examinations concluded to date, the IRS estimates that returns prepared by Almanzar understate each filer's liability or overstate their refund by an average of \$3,249 each.

22. By applying the average understatement to the number of returns that Almanzar is known to have filed, the IRS estimates that the harm to the United States from Almanzar's tax-return preparation from 2009 through 2014 (for tax years 2008 through 2013) could be over \$5 million.

Examples of Almanzar's Fraudulent Tax Preparation

23. The returns described in paragraphs 24 through 67, below, demonstrate the schemes employed by Almanzar on hundreds of returns he prepared for other taxpayers.

Tax return prepared for Y.G.

24. Almanzar prepared the 2011 federal income tax return of Y.G. of Miami Gardens, Florida.

25. Y.G.'s 2011 tax return, as prepared by Almanzar, claimed the following false or fraudulent credits or deductions:

Credit or deduction	Amount Claimed
Vehicle Expense Deduction (Form 2106)	\$6,681
American Opportunity Education Credit	\$2,066
Goods Charitable Deduction (Schedule A)	\$500
Cash Charitable Donation Deduction (Schedule A)	\$500

26. Y.G. was not entitled to the deductions or credits identified in the table in paragraph 25, above, and did not provide any information to Almanzar to suggest otherwise.

27. In particular, the \$6,681 vehicle expense deduction resulted from Almanzar claiming that Y.G. drove 13,100 out of 13,500 miles in 2011 for work, even though Y.G. did not indicate to Almanzar that she did any driving for work besides her commute and that she did not know how far her commute was. Likewise, Y.G. expressly told Almanzar that she did not donate any money to charity.

28. Almanzar included the false itemized deductions without Y.G.'s knowledge or consent.

29. The IRS examined Y.G.'s 2011 income tax return and disallowed the itemized deductions and education credits in the table in paragraph 25, above.

30. Y.G. agreed to the IRS' determination of her 2011 income tax liabilities and provided an affidavit stating that the deductions and credit identified in the table in paragraph 25, above, were false.

31. The corrections in Y.G.'s 2011 return resulted in Y.G. owing the United States a deficiency of \$2,534, plus interest.

32. The paid preparer on Y.G.'s 2011 income tax return was identified as Eleuterio Almanzar, PTIN P01512723.

Tax return prepared for J.M.

33. Almanzar prepared the 2011 federal income tax return of J.M. of Miami Gardens, Florida.

34. J.M.'s 2011 tax return, as prepared by Almanzar, claimed the following false or fraudulent credits or deductions:

Credit or deduction	Amount Claimed
Vehicle Expense Deduction (Form 2106)	\$8,211
Miscellaneous Deductions (Schedule A)	\$6,168
Goods Charitable Deduction (Schedule A)	\$500
Cash Charitable Donation Deduction (Schedule A)	\$500

35. J.M. was not entitled to the deductions or credits identified in the table in paragraph 34, above, and did not provide any information to Almanzar to suggest otherwise.

36. In particular, the \$8,211 vehicle expense deduction resulted from Almanzar claiming that J.M. drove 16,100 out of 16,500 miles in 2011 for work.

37. In addition, the Miscellaneous deductions in the table in paragraph 34, above, included undocumented deductions for cell phone expenses, clothes for work, dry cleaning, and meals.

38. Almanzar included the false itemized deductions without J.M.'s knowledge or consent.

39. J.M. provided an affidavit stating that he provided Almanzar his W-2, documents regarding property he owns in Texas and his student loans.

40. The IRS examined J.M.'s 2011 income tax return and disallowed the itemized deductions in the table in paragraph 34, above.

41. J.M. agreed to the IRS' determination of his 2011 income tax liabilities.

42. The corrections in J.M.'s 2011 return resulted in an increase in tax due of \$1,485.

43. The paid preparer on J.M.'s 2011 income tax return was identified as Eleuterio Almanzar, PTIN P01512723.

Tax return prepared for A.G.

44. Almanzar prepared tax returns for A.G., of Doral, Florida, for the years 2010, 2011 and 2012.

45. For tax year 2010, Almanzar overstated A.G.'s income by failing to account for the fact that A.G. did not become a U.S. resident until September 2010.

46. For tax years 2011 and 2012, Almanzar deducted expenses on A.G.'s Schedule C that did not exist. Almanzar also, without A.G.'s knowledge, underreported gross receipts for both tax years 2011 and 2012 and did not include any self-employment tax on the 2012 return. These understatements enabled Almanzar to claim the Earned Income Tax Credit (EITC) for both years.

47. A.G. agreed to the IRS' determination of his 2011 and 2012 tax liabilities and provided an affidavit stating that he provided Almanzar with bank account statements, supporting documents for company loans, medical invoices and monthly deductibles.

48. The corrections in A.G.'s 2011 and 2012 returns resulted in an increase in tax due of \$8,332 for 2011 and \$14,451 for 2012. Because A.G. was a U.S. resident for only part of 2010, he received a refund of \$1,479 upon adjustment.

49. The paid preparer on A.G.'s 2011 income tax return was identified as Eleuterio Almanzar, PTIN P01512723.

Tax return prepared for C.M.

50. Almanzar prepared tax returns for C.M., a middle school teacher, for the years 2010 and 2011.

51. C.M.'s 2010 tax return, as prepared by Almanzar, claimed the following false or fraudulent credits or deductions:

Credit or deduction	Amount Claimed
Vehicle Expense Deduction (Form 2106)	\$6,550
Miscellaneous Deductions (Schedule A)	\$2,584
Goods Charitable Deduction (Schedule A)	\$350
Cash Charitable Donation Deduction (Schedule A)	\$500

52. C.M. was not entitled to the deductions or credits identified in the table in paragraph 51, above, and did not provide any information to Almanzar to suggest otherwise.

53. In C.M.'s case, the \$6,550 vehicle expense deduction resulted from Almanzar claiming that she drove 13,100 out of a total of 13,500 miles for work even though Almanzar told C.M. that she could not deduct mileage for commuting to and from work.

54. Almanzar included the false itemized deductions without C.M.'s knowledge or consent.

55. The IRS examined C.M.'s 2010 income tax return and disallowed the itemized deductions in the table in paragraph 51, above.

56. C.M. agreed to the IRS' determination of her 2010 income tax liabilities.

57. The corrections in C.M.'s 2010 return resulted in an increase in tax due of \$285.

58. C.M.'s 2011 return, as prepared by Almanzar, claimed the following false or fraudulent credits or deductions:

Credit or deduction	Amount Claimed
Vehicle Expense Deduction (Form 2106)	\$7,701
Miscellaneous Deductions (Schedule A)	\$2,018
Goods Charitable Deduction (Schedule A)	\$500
Cash Charitable Donation Deduction (Schedule A)	\$500
American Opportunity Education Credit (Form 8863)	\$2,370

59. C.M. was not entitled to the deductions or credits identified in the table in paragraph 58, above, and did not provide any information to Almanzar to suggest otherwise.

60. Almanzar included the false itemized deductions without C.M.'s knowledge or consent.

61. Specifically, the \$7,701 vehicle expense deduction resulted from Almanzar claiming that C.M. drove 15,100 out of 15,500 miles for work. Again, this was after Almanzar told C.M. that she could not deduct mileage for commuting to and from work.

62. The Miscellaneous Deductions in the table in paragraphs 51 and 58, above, included undocumented deductions for school supplies, despite of the availability of a special deduction of up to \$250 for school teachers to purchase school supplies. The Miscellaneous Deductions also included unsubstantiated cell phone expenses.

63. C.M. provided an affidavit stating that she provided no documentation of mileage expenses for business or cell phone expenses for either tax year 2010 or 2011.

64. C.M. explained to the IRS that \$2,633 of the \$3,950 in her son's education expenses claimed by Almanzar on Form 8863 were covered by grants. Thus, C.M. was only entitled to a \$118 credit based on her out of pocket education expenses.

65. C.M. agreed to the IRS' determination of her 2011 income tax liabilities.

66. The corrections in C.M.'s 2011 return resulted in an increase in tax due of \$2,510.

67. The paid preparer on C.M.'s 2010 and 2011 income tax return was identified as Eleuterio Almanzar, PTIN P01512723.

Harm Caused by Almanzar

68. Almanzar's customers have been harmed by their actions because they paid Almanzar fees to prepare proper tax returns, but he improperly created or inflated tax refunds. Many of Almanzar's customers may be liable to pay back the refunds they received, plus penalties and interest.

69. Almanzar's preparation of false and fraudulent tax returns has resulted in customers

claiming and receiving substantial federal income tax refunds to which they are not entitled. The IRS has identified 277 income tax returns filed in 2009 through 2014 that were prepared by Eleuterio Almanzar which contain false, fictitious, or frivolous claims for a variety of credits and deductions. The average tax deficiency of the sample population of 277 returns was \$3,249 per return. Applying this average deficiency to the total population of returns prepared by Almanzar, both directly and under his oversight, suggests Almanzar may be responsible for the United States losing more than \$5 million in tax revenue.

70. In addition to the direct harm caused by preparing tax returns that understate his customers' tax liabilities, Almanzar's activities undermine public confidence in the administration of the federal tax system and encourage noncompliance with the internal revenue laws.

71. Almanzar has further harmed the United States because the IRS must devote its limited resources to identifying his customers, ascertaining their correct tax liability, recovering any refunds erroneously issued, and collecting any additional taxes and penalties.

**Count I:
Injunction Under IRC § 7407**

72. The United States incorporates by reference the allegations in paragraphs 1 through 71.

73. Section 7407, I.R.C, authorizes a district court to enjoin a tax return preparer from, *inter alia*, (1) engaging in conduct subject to penalty under IRC § 6694, which penalizes a return preparer who prepares a return that contains an understatement of tax liability or overstatement of a refund that is due to an unreasonable position which the return preparer knew or should have known was unreasonable; (2) engaging in conduct subject to penalty under IRC § 6695, which penalizes a return preparer who does not sign the return or provide his or her tax preparer

identification number; or (3) engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

74. In order for a court to issue such an injunction, the court must find (1) that the preparer has engaged in conduct subject to penalty under IRC §§ 6694 or 6695 and (2) that injunctive relief is appropriate to prevent reoccurrence of the conduct.

75. The court may permanently enjoin the person from further acting as a federal tax return preparer if it 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.

76. Almanzar has continually and repeatedly engaged in conduct subject to penalty under IRC § 6694 by preparing federal income tax returns that understate his customers' liabilities and/or overstate their refunds based on positions that Almanzar knew, or should have known, were unreasonable and reckless. Specifically, it was unreasonable and reckless for Almanzar to prepare returns claiming a variety of credits and deductions which improperly understated his customers' tax liabilities or overstated their refunds when he knew that his customers did not qualify for those credits and deductions.

77. Almanzar's repeated violations of IRC §6694 fall within IRC § 7407(b)(1)(A) and thus are subject to an injunction under IRC § 7407.

78. If he is not enjoined, Almanzar is likely to continue to file false and fraudulent tax returns.

79. Almanzar's continued and repeated conduct subject to an injunction under IRC §

7407 demonstrates that a narrow injunction, prohibiting only specific conduct, would be insufficient to prevent their interference with the proper administration of the internal revenue laws. Almanzar continued to claim false deductions and credits even after he knew he was under investigation by the IRS for fraudulent tax return preparation. Moreover, the breadth of his fraudulent schemes makes it difficult to design a narrow injunction. Almanzar Tax Accounting & Consulting Corp is still active and is in position to conduct business during the 2015 filing season unless he is enjoined. Thus, Almanzar should be permanently barred from acting as a tax return preparer.

**Count II:
Injunction Under IRC § 7408**

80. The United States incorporates by reference the allegations in paragraphs 1 through 79.

81. Section 7408(a)-(c), IRC, authorizes a district court to enjoin any person from engaging in conduct subject to penalty under IRC § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

82. Section 6701(a), I.R.C., penalizes any person who aids or assists in the preparation of any portion of a federal tax return, refund claim, or other document knowing (or having a 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.

83. As detailed above, Almanzar has knowingly and willfully prepared false federal tax returns for customers that he knew would understate the customers' correct tax liabilities. He intentionally filed false First-Time Homebuyer credits, false education tax credits, and improperly inflated claims for the EITC, among others. Almanzar's conduct is thus subject to penalty under I.R.C. § 6701.

84. If the Court does not enjoin Almanzar, he is likely to continue engaging in conduct subject to penalty under IRC § 6701. Injunctive relief is therefore appropriate under I.R.C. § 7408.

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

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

86. Section 7402, IRC, authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of internal revenue laws.

87. Almanzar, through the actions described above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws by preparing and filing tax returns which intentionally claim false credits and deductions in order to artificially create and inflate unwarranted refunds to his customers.

88. Unless enjoined, Almanzar is likely to continue engaging in this improper conduct. If Almanzar is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully issuing federal income tax refunds to individuals not entitled to receive them, much of which will never be discovered or recovered. The United States will also suffer irreparable injury because it will have to devote substantial unrecoverable time and resources auditing the Almanzar's customers to detect future returns understating their customers' tax liabilities or overstating their refunds.

89. While the United States will suffer irreparable injury if Almanzar is not enjoined, he will not be harmed by being compelled to obey the law.

90. Enjoining Almanzar is in the public interest because an injunction, backed by the

Court's contempt powers if needed, will stop the illegal conduct and the harm it causes to the United States, as well as the continued undermining of public confidence in the administration of the federal tax system.

91. The Court should impose injunctive relief under IRC § 7402(a).

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

- A. That the Court find that Eleuterio Almanzar, Almanzar Tax, Accounting & Consulting Corp. and Almanzar Financial Services Corp. have continually and repeatedly engaged in conduct subject to penalty under IRC § 6694, and have continually and repeatedly engaged in other fraudulent and deceptive conduct that substantially interferes with the administration of the tax laws, and that injunctive relief is appropriate under IRC § 7407 to bar Eleuterio Almanzar, Almanzar Tax, Accounting & Consulting Corp. and Almanzar Financial Services Corp. from acting as federal tax return preparers to prevent reoccurrence of that conduct;
- B. That the Court find that Eleuterio Almanzar, Almanzar Tax, Accounting & Consulting Corp. and Almanzar Financial Services Corp. have engaged in conduct subject to penalty under IRC § 6701, and that injunctive relief is appropriate under IRC §§ 7402 and 7408 to bar Eleuterio Almanzar, Almanzar Tax, Accounting & Consulting Corp. and Almanzar Financial Services Corp. to bar them from continuing to engage in that conduct;
- C. That the Court find that Eleuterio Almanzar, Almanzar Tax, Accounting & Consulting Corp. and Almanzar Financial Services Corp. have 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 IRC § 7402(a);

D. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Eleuterio Almanzar, Almanzar Tax, Accounting & Consulting Corp. and Almanzar Financial Services Corp., and all those in active concert or participation with them, 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 themselves;
2. Preparing or assisting in the preparation of federal tax returns, amended returns, or other related documents and forms that understate federal tax liability or overstate a federal tax refund based on positions they know or should know are unreasonable, as prohibited by IRC § 6694;
3. Using a false or fictitious Electronic Filing Identification Number (EFIN), Employer Identification Number (EIN), Taxpayer Identification Number (TIN), Preparer Tax Identification Number (P-TIN), social security number (SSN), or any other federally issued identification number to file or remit federal income tax returns;
4. Using an EFIN, EIN, TIN, P-TIN, SSN, or any other federally issued identification number that belongs to another person to file or remit federal income tax returns;
5. Preparing or assisting in the preparation of any portion of a federal tax return, amended return or other related documents and forms that they know or have reason to believe will be used in connection with any material matter arising under the internal revenue laws and that they know will result in the understatement of tax liability for another person, as prohibited by I.R.C. §6701;
6. Engaging in any other activity subject to penalty under IRC §§ 6694 or 6701;
7. Allowing others the use of a personal or business EFIN, EIN, TIN, P-TIN or any other federally issued identification number to prepare or file federal income tax returns; and
8. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

E. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter an injunction requiring that Eleuterio Almanzar, within 30 days of entry of the injunction, contact by United States mail and, if an e-mail address is known, by e-mail, all persons for whom he prepared a federal tax return to inform them of the permanent injunction entered against defendants, including sending a copy of the executed permanent injunction against them, but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the

Court, and file with the Court a sworn certificate stating that he has complied with this requirement;

F. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter an injunction requiring Eleuterio Almanzar to produce to counsel for the United States within 30 days a list that identifies by name, social security number, address, e-mail address, telephone number and tax period(s) all persons for whom defendants prepared federal tax returns or claims for refund since January 1, 2009;

G. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter an injunction requiring the defendants to produce to counsel for the United States within 30 days copies of all federal income tax returns and amended returns they have prepared and/or filed since January 1, 2009;

H. That the Court retain jurisdiction over Eleuterio Almanzar, Almanzar Tax, Accounting & Consulting Corp. and Almanzar Financial Services Corp., and over this action to enforce any permanent injunction entered against the defendants;

I. That the United States be entitled to conduct discovery to monitor the defendants' compliance with the terms of any permanent injunction entered against them; and

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

Dated: March 12, 2015

Respectfully submitted,

CAROLINE D. CIRAULO
Acting Assistant Attorney General

By: /s/ Christopher M. Whitcomb
Christopher M. Whitcomb
Trial Attorney, Tax Division
New York Bar No. 4009056
U.S. Department of Justice
Post Office Box 14198
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-5915
Facsimile: (202) 514-4963
Christopher.M.Whitcomb@usdoj.gov

Of counsel:
WILFREDO FERRER
United States Attorney