

1 2. This is a civil action brought by the United States pursuant to Sections 7402,
2 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (“I.R.C.”) to enjoin Defendants
3 from the following activities:

4 (a) Preparing or filing, or assisting in, or directing the preparation or filing of
5 any federal tax return, amended return, or other federal tax documents or
6 forms for any other person or entity;

7 (b) Directly or indirectly organizing, promoting, marketing, or selling any plan
8 or arrangement that advises or helps taxpayers to violate internal revenue
9 laws or unlawfully evade the assessment or collection of their federal tax
10 liabilities, including promoting, selling, or advocating the misuse of false
11 Internal Revenue Service Forms 1040, 1040X, 1099, 4852, Schedules A or
12 B, or other IRS forms under the false claims that:

13 I. Taxpayers have an account with the Treasury Department which
14 they can use to pay their debts and tax liabilities or on which they
15 can draw for refunds through a process known as “redemption” or
16 “commercial redemption.”

17 ii. Taxpayers can name the U.S. Treasury Secretary as their fiduciary or
18 can draw on the U.S. Treasury to pay their debt or tax liabilities
19 using IRS Forms 1099, bonded promissory notes, sight drafts or
20 other documents;

21 iii. Taxpayers can issue IRS forms 1099-OID to a creditor and report the
22 amount on the form as federal income tax withheld on their behalf;

23 iv. Taxpayers can issue other IRS forms that overstate federal tax
24 withholding or purport to appoint U.S. government officials as their
25 fiduciaries;

26 v. Taxpayers can use the Uniform Commercial Code (UCC) or other
27 methods to “accept for value” a document dealing with a debt, or
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1 that stamping a document with “accept for value” or similar wording
2 will somehow satisfy that debt, including tax debt;

3 vi. Taxpayers may file false IRS Forms 4852 to reduce or eliminate
4 income; and,

5 vii. Taxpayers may report false itemized deductions under I.R.C. §§
6 165(g) and 1001, claiming they are entitled to such deductions
7 because he or she received worthless securities and, thus, never
8 received money for income, or based on the theory that labor is the
9 taxpayer’s property.

10 (c) Engaging in conduct subject to penalty under I.R.C. § 6700, including
11 organizing or selling a plan or arrangement, and making or furnishing a
12 statement regarding the excludability of income or securing any other tax
13 benefit that Defendants know or have reason to know is false or fraudulent
14 as to any material matter;

15 (d) Engaging in conduct subject to penalty under I.R.C. § 6701, including
16 preparing and filing tax returns and other documents that understate the tax
17 liabilities of others;

18 (e) Preparing their own federal income tax returns that claim fabricated income
19 tax withholding and refunds based on amounts shown in false Forms 1099
20 or other documents issued to Defendants’ creditors;

21 (f) Filing, providing forms for, or otherwise aiding and abetting the filing of
22 frivolous IRS Forms 1040, 1040X, 1099, 4852, Schedules A or B, or any
23 other IRS forms for themselves or others, including the notarization or
24 signing of certificates of service or similar documents in connection with
25 the frivolous tax returns;

26 (g) Representing anyone other than themselves before the Internal Revenue
27 Service;

28 (h) Engaging in any other conduct that is subject to penalty under the I.R.C. or

1 that interferes with the proper administration and enforcement of the
2 internal revenue laws.

3 **JURISDICTION AND VENUE**

4 3. This action has been authorized by the Chief Counsel of the Internal Revenue
5 Service and commenced at the direction of the Attorney General of the United States
6 pursuant to I.R.C. §§ 7401, 7402, 7407, and 7408.

7 4. The Court has jurisdiction over this action pursuant to 28 U.S.C §§ 1340 and
8 1345, and I.R.C. §§ 7402, 7407, 7408.

9 5. Venue is proper in this Court pursuant to 28 U.S.C. § 1396 because Shelia
10 Young, Deane Young, and Kenneth Defoor all reside in this judicial district, and further
11 because the Defendant companies, Accurate Consulting, LLC, and D4 Accounting,
12 Consulting, Tax Services, Inc. have provided tax advice and tax return preparation
13 services within the jurisdiction of this Court.

14 **PARTIES**

15 6. Defendant Shelia Young resides in Overgaard, Navajo County, Arizona. Shelia
16 Young married her husband, Deane Young, on November 13, 1982. Previously licensed
17 as an attorney in the State of Texas, Shelia Young is now the registered agent for
18 Accurate Consulting, LLC and a ninety-percent owner of the business. As a member of
19 Accurate Consulting, Shelia Young dispenses tax advice and prepares federal tax returns
20 for individuals, partnerships, and companies in exchange for compensation.

21 7. Defendant Deane Young resides with his wife, Shelia, in Overgaard, Navajo
22 County, Arizona. As a member of Accurate Consulting, Deane Young dispenses tax
23 advice and prepares federal tax returns for individuals, partnerships, and companies in
24 exchange for compensation. Deane Young is a ten-percent owner of Accurate
25 Consulting.

26 8. Defendant Kenneth Defoor and his wife, Helen, reside in Heber, Navajo
27 County, Arizona. Ken Defoor is the father of Shelia Young. Defoor is the president of
28 Accurate Consulting and D4 Accounting, Consulting, Tax Services, Inc. Through these

1 companies, Defoor dispenses tax advice and prepares federal tax returns for individuals,
2 partnerships, and companies in exchange for compensation.

3 9. Accurate Consulting, LLC is an accounting and tax preparation service located
4 at 3007 Hwy 277, Overgaard, Arizona. Shelia Young and Deane Young are both partial
5 owners of Accurate Consulting. Ken Defoor is the CEO of Accurate Consulting. Shelia
6 and Deane Young and Defoor each provide tax advice and tax preparation services under
7 Accurate Consulting's trade name. Defoor's wife, Helen Defoor, also works for Accurate
8 Consulting as an office representative. The IRS has identified Accurate Consulting as a
9 "paid preparer" of federal income tax returns that uses a unique Preparer Tax
10 Identification Number issued to the company by the IRS.

11 10. D4 Accounting, Consulting, Tax Services, Inc. ("D4 ACTS") is an accounting
12 and tax preparation service located in Overgaard, Arizona. Defoor is the CEO of D4
13 ACTS, and his daughter, Shelia Young, was the registered agent for D4 ACTS. Shelia
14 and Deane Young and Defoor each provide tax advice and tax preparation services under
15 D4 ACTS's trade name. The IRS has identified D4 ACTS as a "paid preparer" of federal
16 income tax returns that uses a unique Preparer Tax Identification Number issued to the
17 company by the IRS.

18 11. Upon information and believe, Defendants also do business under the trade
19 name "One Day Tax Cash." Defoor owns One Day Tax Cash, and the company uses the
20 same physical address as Accurate Consulting to provide accounting and tax preparation
21 services.

22 **DEFENDANTS PROMOTE FRAUDULENT TAX SCHEMES**

23 12. The pernicious nature of Defendants' misconduct harms the United States and
24 makes Defendants a hazard to their community.

25 **Defendants Prey on a Small Community in a Secluded Region of Arizona**

26 13. The Youngs and Ken Defoor reside in Heber-Overgaard, a census-designated
27 place within Navajo County, Arizona. Accurate Consulting, D4 ACTS, and One Day Tax
28 Cash all operate within Heber-Overgaard. According to the United States Census

1 Bureau's 2000 report, Heber-Overgaard has a total population of 2,722 people.

2 14. Shelia and Deane Young are active members of their local church, Grace
3 Fellowship Church of Heber. Shelia Young is a Worship Leader with the church. Deane
4 Young is an Associate Pastor and leader of the Mountain Men of Grace Ministry.

5 15. As frequently seen in affinity scams, Shelia and Deane Young use their
6 leadership positions within the church to promote their business and peddle their
7 fraudulent tax schemes.

8 16. When the IRS rejected as frivolous the 2008 tax return that Defendants
9 prepared for Brandy Morris and Jeremy Wilson, Shelia Young prayed with her clients and
10 assured them that God was on their side. Shelia Young told Morris and Wilson that her
11 church had filed taxes this way and that it would all work out. It did not: Morris and
12 Wilson eventually filed an amended return for tax year 2008 without the substantial
13 overstatement of federal tax withholding initially claimed by Defendants.

14 17. Defendants have prepared and filed tax returns that assert false and frivolous
15 tax arguments for many of Grace Fellowship Church's members, including the church's
16 Senior Pastors.

17 18. Defendants have similarly infected the local law enforcement community with
18 their fraudulent tax schemes.

19 19. Prior to his time as a tax preparer, Deane Young worked as the evidence
20 custodian for the Navajo County Sheriff's Office. Shelia and Deane Young's son, Chris
21 Young, currently works as a detention officer at the Navajo County Detention Center.

22 20. Although Chris Young has no formal business connection with Accurate
23 Consulting or D4 ACTS, he actively recruits clients for Defendants' fraudulent tax
24 preparation schemes.

25 21. Defendants have prepared and filed tax returns that assert false and frivolous
26 arguments for nearly a dozen members of the local law enforcement community,
27 including Navajo County sheriff's deputies and detention officers and officials at the
28 Navajo County Detention Center.

1 tax positions in their clients' tax returns that substantially overstated their clients' federal
2 tax withholdings.

3 **Defendants Intentionally Obstruct the IRS's Enforcement of the Tax Laws**

4 27. Defendants' misconduct belies their assurances to their clients that the
5 frivolous tax positions Defendants promote are valid.

6 28. In many cases, Defendants prepare two or more versions of a tax return for
7 their clients: a version or versions asserting the fraudulent tax scheme and a correct
8 version. For example, when Defoor prepared a 2008 tax return for Matthew Castillo, he
9 prepared two versions. The first version calculated a modest refund of approximately
10 \$1,800 dollars. The second version calculated a refund of \$105,656. With Defoor's
11 assurance that the second version of the 2008 tax return was "perfectly legal," Castillo
12 selected the second version to be filed.

13 29. Similarly, when Defendants prepared a 2008 tax return for the Carter family,
14 Defoor prepared different versions of the tax return and offered the Carters four options.
15 With Defoor's representation that the 2008 tax return claiming a \$39,352 refund was
16 legal, the Carter family chose to file the return claiming the largest refund.

17 30. In some cases, Defendants file multiple versions of tax returns for the same tax
18 year for the same client. For example, Defendants submitted as many as four tax returns
19 for the 2008 tax year for Tanner Bingham. One return was filed electronically; the other
20 three were sent to different processing centers. All four returns were substantially
21 similar. Tax defiers often file multiple copies of the same tax return believing that it
22 increases the odds of sneaking a frivolous return past an IRS examiner.

23 31. Defendants also counsel their clients on ways to obstruct the IRS's collection
24 of erroneously issued refunds. For example, Deane Young prepared a return for the 2008
25 tax year for Adam and Stacey McNichols, which significantly overstated the
26 McNicholses' federal tax withholdings and claimed a refund of approximately \$47,000.
27 Defendants filed the McNicholses' 2008 tax return, and the McNicholses elected to have
28 the refund deposited electronically in their bank account. Deane Young instructed the

1 McNicholses to quickly move the refund money into another account once the U.S.
2 Treasury deposited it.

3 32. Similarly, when Defendants filed a 2008 tax return for Brandy Morris and
4 Jeremy Wilson, they elected to have the refund deposited electronically in their bank
5 account. Shelia Young instructed Morris and Wilson to move the refund to another
6 account once deposited in case the IRS tried to get the money back. Instructions like the
7 ones Defendants give to their clients serve no purpose except to obstruct the IRS's ability
8 to recover erroneous refunds.

9 33. Further, when the IRS contacts Defendants' clients to retrieve erroneous
10 refunds, Defendants instruct their clients not to speak with the IRS. For example,
11 Defendants prepared a frivolous tax return for Chris Jones that resulted in the IRS
12 erroneously refunding \$94,310 to Jones for tax year 2008. When the IRS levied Jones'
13 bank account to retrieve the fraudulent refund, Jones turned to Defendants for an
14 explanation. Deane Young told Jones that he should have known better than to have left
15 the refund in the bank account, and instructed Jones not to speak with the IRS.

16 34. Defendants gave Matthew Castillo similar instructions. When Defendants
17 prepared the 2008 tax return for Matthew Castillo, it significantly overstated Castillo's
18 federal tax withholdings. The fraudulent return prepared by the Defendants fraudulently
19 induced the IRS to erroneously refund \$105,656 to Castillo. When the IRS realized that
20 the refund should not have been issued, the IRS commenced collection activities against
21 Castillo, including seizing his bank account, garnishing his wages, and filing a lien
22 against Castillo's home. Castillo contacted Shelia Young when the IRS began trying to
23 collect the erroneously issued refund. Shelia Young instructed Castillo not to speak with
24 the IRS, and told Castillo that she would take care of the issue for him. To date, neither
25 Shelia Young nor any of the other Defendants have contacted the IRS on behalf of
26 Castillo.

27 35. After learning that Darla Werner, one of the Defendants' clients, spoke with
28 IRS agents about a fraudulent return that Defendants prepared for the Werner family for

1 tax year 2008, Shelia Young admonished Werner for talking to the IRS. Calling Werner
2 “stupid” and “ignorant,” Shelia Young told Werner that she would not have any problems
3 with the IRS if she just kept her mouth shut.

4 **THE MECHANICS OF DEFENDANTS’ FRAUDULENT SCHEMES**

5 36. Defendants’ fraudulent tax schemes are relatively straightforward. Defendants
6 prepare fraudulent tax returns that either (I) frivolously assert that the taxpayer has not
7 earned any income for the tax year, and therefore claim a refund for any federal tax
8 withheld, or (ii) fraudulently inflate the amount of income and federal tax withheld on
9 behalf of the taxpayer for a given tax year, and then claim a refund for the inflated
10 withholding amount.

11 37. As discussed herein, Defendants’ tax schemes have evolved over time,
12 evincing Defendants’ longstanding commitment to defrauding the government.

13 **The Hendrickson or Zero-Income Scheme**

14 38. The Hendrickson scheme is named after Peter E. Hendrickson, a now infamous
15 tax defier, convicted criminal, and author of the book, *Cracking the Code: The*
16 *Fascinating Truth About Taxation in America*. The Hendrickson scheme was premised
17 on misconstruing terms such as “wages” and “employee” in the found in the I.R.C. and
18 other tax regulations. Hendrickson asserted that the federal government could only tax
19 income from the salaries of government employees and from income from the exercise of
20 "federal privileges." On October 26, 2009, a jury found Hendrickson guilty on ten felony
21 counts in connection with his use of his "Cracking the Code" scheme on his own tax
22 returns. The Court sentenced Hendrickson to two years and nine months in prison.

23 39. Other “zero-income” schemes include the frivolous assertion that labor is a
24 taxpayer’s property, and, therefore, wages received in an even exchange for labor cannot
25 be taxable income because the that taxpayer has a one-hundred percent basis in own their
26 labor.

27 40. An alternate zero-income theory asserts that wages paid in United States
28 dollars are worthless securities. As discussed in more detail below, some tax defiers

1 contend that the United States declared bankruptcy in 1933, and thereby completely
2 devalued federal reserve notes, which they believe are akin to corporate bonds. Based on
3 these faulty premises, tax defiers conclude that the United States dollars are securities
4 with no value. Thus, the tax defiers claim, any wages paid in dollars are worthless and,
5 therefore, not included in taxable income.

6 41. In practice, these tax defier theories are often conflated and asserted in
7 tandem. By claiming that the taxpayer has not received any taxable income, fraudulent
8 tax preparers file returns that report little or no tax liability and claim a refund of all
9 federal taxes withheld.

10 42. Defendants have used these schemes as part of their tax return preparation
11 services for their clients. The following are merely examples of Defendants' misconduct.

12 The Kuhbander Amended Tax Returns

13 43. On or about August 3, 2006, Defendants prepared false and fraudulent
14 amended tax returns and frivolous documents on behalf of Linda Kuhbander of Tempe,
15 Arizona.

16 44. Defendants prepared IRS Forms 1040X for Kuhbander, which amended prior
17 returns filed for tax years 2002, 2003, and 2005. Each of the amended tax returns
18 claimed that Kuhbander received zero income for the taxable year, and demanded a
19 refund of federal taxes withheld.

20 45. The Kuhbander returns for tax years 2002, 2003, and 2005 each contained the
21 same explanation for the change to the taxpayer's income:

22 NOTE: See 4852 forms. Obtained records and the statutory language behind IRC
23 Sections 3401 and 3121 and others. Corrected forms not obtained from the
24 companies reflecting CORRECTLY listed payments of "wages" as defined in
3401(a) and 3121(a) for fear of IRS retaliation. The amounts listed as withheld on
the W-2's / 1099R's the submitted appear correct however.

25 Defendants rely on this language to assert that the wages Kuhbander earned in exchange
26 for labor are not taxable income. Defendants claimed that the original IRS Forms W-2
27 and 1099 issued to Kuhbander were incorrect because the issuers did not apply the
28 definition of "wages" that Defendants have divined from I.R.C. 3401(a) and 3121(a).

1 46. In furtherance of their fraudulent scheme, Defendants also prepared false IRS
2 Forms 4852 for Kuhbander for tax years 2002, 2003, and 2005.

3 47. According to the IRS, the purpose of IRS Form 4852 is as follows:

4 Form 4852 serves as a substitute for Forms W-2, W-2c, and 1099-R and is
5 completed by taxpayers or their representatives when (a) their employer or payer
6 does not give them a Form W-2 or Form 1099-R, or (b) when an employer or
7 payer has issued an incorrect Form W-2 or Form 1099-R.

8 48. Defendants, however, used these IRS Forms 4852 to fraudulently assert that
9 Kuhbander received zero income for tax years 2002, 2003, and 2005, and to claim that
10 Kuhbander was owed a refund of federal taxes withheld for those years. The chart below
11 depicts the fraudulent claims Defendants made on Kuhbander's amended returns for tax
12 years 2002, 2003, and 2005:

Tax Year	Source of Income	Income Alleged	Federal Tax Withholding Claimed
2002	State Street Retiree Services	\$0	\$728
	Home Depot	\$0	\$3,542
	Total	\$0	\$4,270
2003	Casino AZ at Salt River	\$0	\$3,377
	Home Depot	\$0	\$502
	Total	\$0	\$3,880
2005	Casino AZ at Salt River	\$0	\$5,323
	Fidelity Investments	\$0	\$152
	Total	\$0	\$5,475

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19 49. Line 8 of IRS Form 4852 instructs whoever is preparing the form to explain
20 how they determined the amounts of wages, compensation, and taxes withheld as they are
21 listed on Line 7 of the form. Line 9 of IRS Form 4852 instructs the preparer to explain
22 the preparer's efforts to obtain IRS Forms W-2, 1099-R, or W-2c (Corrected Wage and
23 Tax Statement).

24 50. For each IRS Form 4852 submitted for each tax year, Defendants attached an
25 Exhibit 1 to provide explanations for Lines 8 and 9. Exhibit 1 to each of the IRS Forms
26 4852, attached to Kuhbander's amended returns for tax years 2002, 2003, and 2005, was
27 identical. Each contained the same statement asserting the legitimacy of Defendants'
28 scheme:

1 See Line 8: Company or other provided records and the Statutory Language behind
2 IRC Sections 3401, 3121, and others.

3 See Line 9: Request [sic], but the company(s) refuses to issue forms correctly
4 listing payments of “wages” as defined in 3401(a) and 3121(a) for fear of
5 IRS retaliation. The amounts listed as withheld on the W-2's / 1099R's the
6 submitted appear correct however.

7 51. IRS records show that Kuhbander earned taxable income for each of the tax
8 years 2002, 2003, and 2005, and that federal taxes were properly withheld:

Tax Year	Source of Income	Actual Income	Actual Federal Taxes Withheld
2002	State Street Retiree Services	\$3,640	\$728
	Home Depot	\$20,680	\$3,540
	AZ Dept. of Revenue	\$342	\$0
	Total	\$24,662	\$4,268
2003	Casino AZ at Salt River	\$19,319	\$3,376
	Home Depot	\$2,996	\$500
	Total	\$22,315	\$3,876
2005	Casino AZ at Salt River	\$30,186	\$5,320
	E-Trade	\$1	\$0
	Fidelity Investments	\$1,524	\$152
	Total	\$31,711	\$5,472

15 52. Defendants asserted the zero-income tax scheme on behalf of Kuhbander, and
16 thereby fraudulently claimed an aggregate refund of \$13,333: \$4,140 for tax year 2002,
17 \$3,536 for tax year 2003, and \$5,657 for tax year 2005.

The Lacey Tax Returns

19 53. On or about February 23, 2008, Defendants prepared a false and fraudulent
20 return for the 2007 tax year for Timothy and Rose Mary Lacey. On or about September
21 6, 2008, Defendants prepared a false and fraudulent amended return for tax year 2006 for
22 the Lacey family. Both the 2007 tax return and the 2006 amended return list Rose Mary
23 Lacey's occupation as a police officer.

24 54. Both the 2007 tax return and the 2006 amended return prepared by Defendants
25 show that the Laceys earned income for tax years 2006 and 2007. However, using the
26 zero-income scheme, Defendants fraudulently deducted all of the Laceys' income, and
27 thereby claimed an aggregate refund of over \$21,000.
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1 55. The 2006 amended tax return for the Lacey family contains the typical zero-
2 income scheme language:

3 TAX PAYER DID NOT RECEIVE "MONEY" FOR "INCOME". TAX PAYER
4 RECEIVED WORTHLESS SECURITIES ACCORDING TO IRC SECTION
5 165(g) WHICH IS A LOSS ACCORDING TO IRC PROPERTY EXCHANGE
6 SECTION 1001.

7 56. On Line 27 (Other Miscellaneous Deductions) of IRS Form Schedule A,
8 Defendants further asserted that the money the Lacey family received from their
9 employers were "worthless" securities:

10 WORTHLESS SEC 165(g)
11 PROP EXCHANGE 1001

12 57. For both 2006 and 2007, Defendants claimed a miscellaneous deduction equal
13 to the amount of wages earned that were reported on Line 7 of the Lacey's IRS Forms
14 1040. When combined with permissible deductions for state taxes, this scheme allowed
15 the Lacey family to claim zero taxable income, despite earning over \$100,000 each year.
16 The chart below depicts the effect of Defendants' fraudulent practices:

Tax Year	IRS Form	Wages Reported	Miscellaneous Deduction Claimed	Taxable Income Claimed	Fraudulent Refund Claimed
2006	1040X	\$137,047	\$137,047	\$0	\$9,369
2007	1040	\$113,227	\$113,227	\$0	\$11,896
	Total	\$250,774	\$250,774	\$0	\$21,265

17 58. Defendants asserted the zero-income tax scheme on behalf of Timothy and
18 Rose Mary Lacey, and thereby fraudulently claimed an aggregate refund of \$21,265:
19 \$9,369 for tax year 2006, and \$11,896 for tax year 2007.

20 59. The IRS erroneously issued a tax refund to Timothy and Rose Mary Lacey for
21 \$11,408, which was the aggregate federal income tax withheld from the Laceys for tax
22 year 2007.

23 The Bingham Amended Tax Return

24 60. On or about August 8, 2008, Defendants prepared a false and fraudulent
25 amended return for tax year 2007 for Tanner Bingham. The Bingham return is
26 substantially similar to the amended tax return that Defendants prepared for the Lacey
27
28

1 family.

2 61. The 2007 amended return prepared by Defendants shows that Bingham earned
3 income for tax year 2006. However, relying on the zero-income scheme, Defendants
4 fraudulently claimed a refund of over \$7,000 for Bingham.

5 62. The Defendants' explanation of changes for Bingham's 2007 amended tax
6 return contains nearly identical language to the frivolous position asserted in the Lacey
7 amended return:

8 TAX PAYER DID NOT RECEIVE "MONEY" FOR "INCOME". TAX PAYER
9 RECEIVED WORTHLESS SECURITIES ACCORDING TO IRC SECTION
10 165(g); WHICH IS A LOSS ACCORDING TO IRC PROPERTY EXCHANGE
11 SECTION 1001.

12 63. For tax year 2007, Defendants claimed a miscellaneous deduction of \$55,173,
13 one dollar more than the wages that were reported on Line 7 of the Bingham's IRS Form
14 1040. Application of this scheme allowed Bingham to claim zero taxable income, despite
15 earning over \$53,035 for tax year 2007. Defendants fraudulently claimed a refund of
16 \$7,493.

17 64. Consequently, the IRS erroneously issued a tax refund to Tanner Bingham for
18 \$7,493.

19 **The IRS and Courts Have Rejected the Zero-Income Scheme as Frivolous**

20 65. When correctly applied, I.R.C. § 165(g) determines when a worthless capital
21 asset may be treated as a loss; I.R.C. § 1001 relates to gain or loss upon the sale or
22 disposition of property. Neither of these provisions permit a deduction for wages paid in
23 exchange for labor.

24 66. The IRS has explicitly identified the zero-income tax argument as frivolous.
25 On April 2, 2007, the IRS issued Revenue Ruling 2007-19, 2007-14 I.R.B. 843, which
26 advises taxpayers that wages and other compensation received in exchange for personal
27 services are taxable income. The ruling warns taxpayers of the consequences of making
28 frivolous arguments to the contrary. Further, the IRS discusses the zero-income tax
argument in its January 1, 2010 publication, "The Truth About Frivolous Tax

1 Arguments.”

2 67. Similarly, courts have consistently rejected the Hendrickson or zero-income
3 arguments. *See e.g., United States v. Buras*, 633 F.2d 1356, 1361 (9th Cir. 1980) (“Treas.
4 Reg. § 1.61-2(a)(1) clearly includes wages within the definition of income.”); *United*
5 *States v. Romero*, 640 F.2d 1014, 1016 (9th Cir. 1981) (“Romero’s proclaimed belief . . .
6 that the wages he earned as a carpenter were not “income” is fatuous as well as obviously
7 incorrect. . . . Compensation for labor or services, paid in the form of wages or salary, has
8 been universally held by the courts of this republic to be income, subject to income tax
9 laws currently applicable.”); *Williams v. Commissioner*, T.C. Memo. 1988-368 (1988)
10 (rejecting the position that taxpayer had a basis in labor and that taxpayers wages are a
11 nontaxable even exchange); *Abrams v. Commissioner*, 82 T.C. 403, 407 (1984) (citing
12 various cases finding that all wages earned in exchange for labor are taxable income);
13 *Rowlee v. Commissioner*, 80 T.C. 1111, 1119-22 (1983) (the position that wages from
14 labor are not taxable has been repeatedly rejected); *Reading v. Commissioner*, 70 T.C.
15 730 (1938) (holding that the entire amount received from the sale of one’s services
16 constitutes income within the meaning of the Sixteenth Amendment), *aff’d*, 614 F.2d 159
17 (8th Cir. 1980).

18 68. This Court has enjoined preparers who asserted the zero-income scheme or
19 Hendrickson scheme. *See United States v. Hill*, 2005 U.S. Dist. LEXIS 38086, *13-14 (D.
20 Ariz. 2005) (“The Court concludes that there is no genuine issue as to whether
21 Defendants have repeatedly violated IRC §§ 6694 and 6695. Defendants have submitted
22 numerous filings with the IRS seeking the return of taxes based on the frivolous position
23 that wages are not taxable income under the IRC. Defendants knew that the IRS
24 considered their position frivolous and that there was no realistic possibility that it would
25 be sustained. Defendants nonetheless continued to submit frivolous filings to the IRS.”)
26 (internal citations omitted). Other courts have also enjoined preparers who promote these
27 fraudulent schemes, including Peter Hendrickson himself. *See United States v.*
28 *Hendrickson*, 2007 WL 2385071, *4 (granting summary judgment based on findings that

1 this scheme would “impose an immediate and irreparable injury . . .” and that
2 “[d]efendants will not be harmed by entry of an injunction against them because they will
3 only be required to obey the law”), *aff’d*, No. 07-1510, (6th Cir. 2008) (characterizing
4 defendant’s assertions as “plainly baseless tax protestor arguments”).

5 The Commercial Redemption Scheme

6 69. Beginning in 2008, Defendants began to transition from the zero-income
7 schemes to a newer, equally frivolous, fraudulent tax scheme.

8 70. Defendants now promote a tax-fraud scheme in which they send the IRS
9 fraudulent tax returns and frivolous documents that grossly overstate their customers’
10 income and withholding to get grossly inflated tax refund checks.

11 71. Under the federal tax withholding system, employers must withhold taxes
12 from a taxpayer’s pay. Additionally, a taxpayer may have tax withheld from other
13 sources such as gambling winnings. Later, when a taxpayer files his or her year-end tax
14 return, the IRS refunds the amount, if any, of withholding in excess of the taxpayer’s tax
15 liability.

16 72. Defendants’ scheme exploits the withholding system by overstating income
17 and withholding amounts to improperly obtain refund checks for their customers.

18 73. Defendants’ scheme promotes a rejected tax-defier theory called “redemption”
19 or “commercial redemption.” Promoters of this theory, sometimes called
20 “redemptionists,” contend that the United States declared bankruptcy in 1933, and that,
21 pursuant to Joint House Resolution 192, the government made the repayment of any debt
22 contrary to public policy. When Defendant Ken Defoor introduced himself at a hearing
23 in an unrelated case before the United States District Court for the District of Arizona,
24 Defoor identified himself as a redemptionist:

25 THE COURT: Will the parties and counsel please state their appearances for the
26 record?

27 Mr. DEFOOR: My name is Ken Defoor. I'm a sovereign upon this soil, a trustee
in the bankruptcy for the House Joint Resolution 192, Policy 7310.

28 *Defoor, et al. v. Fremont Investment & Loan Company, et al.*, 09-8209-PCT-DKD (D.
Ariz. Apr. 12, 2010), Clerk’s No. 30.

1 74. Redemptionists claim that the United States government maintains for each
2 taxpayer a secret treasury account worth millions of dollars. Redemptionists say that
3 these fictional, “strawman” accounts can be accessed through the taxpayer’s alter ego,
4 which is often a combination of the taxpayer’s name, spelled in all capital letters, and the
5 taxpayer’s social security number. By sending government officials and banks
6 unsolicited documents and various IRS forms, promoters claim that this nonexistent
7 secret treasury account can be used to satisfy a person’s debts and liabilities, including tax
8 liabilities.

9 75. In some cases, Defendants submit frivolous documents to the IRS that purport
10 to appoint the U.S. Treasury Secretary and other government officials as fiduciaries of
11 Defendants and their customers. Defendants then file tax returns and other IRS forms
12 that overstate their customers’ income and withholding under the belief that the U.S.
13 Treasury Secretary is now obligated to pay their customers’ tax liability with funds from
14 their secret shadow accounts, and refund a portion of the excess secret withholding.

15 76. For example, in June 2009, Defendants prepared a tax return for Tanner
16 Bingham for tax year 2008. Defendants attached several frivolous documents to
17 Bingham’s 2008 return, including a cover letter, Affidavit of Individual Surety, and
18 Release of Personal Property from Escrow (Optional Form 91). All three of these
19 documents are mainstays of the redemption scheme.

20 77. The body of the cover letter to the IRS read:

21 The above forms are filed to the best of my knowledge. Since the I.R.S. is the tax
22 expert and knows the I.R.S. tax codes, in the event you feel these are filed
23 incorrectly, please notify me within ten (10) days and please inform me how to file
correctly to claim my credit for return to source for settlement and closing in
exchange, Treasury Account # [SSN REDACTED].

24 This filing is for a return of funds to the source for settlement and closing in
25 exchange with U.S. Taxpayer TANNER BINGHAM [SSN REDACTED].

26 Typical of the redemption scheme, Defendants use Bingham’s social security number as
27 his “Treasury Account” number. Defendants also write Bingham’s name in all capitals
28 letters, as well as his social security number, in reference to Bingham’s purported

1 strawman or alter ego.

2 78. The Affidavit of Individual Surety is frequently used in furtherance of the
3 redemption scheme. The document, signed under oath, purports to “induce the United
4 States of America to accept [the affiant] as surety on the attached bonds.” Promoters of
5 the redemption scheme use the Affidavit of Individual Surety claim an interest in the
6 taxpayer’s fictional, strawman account and to instruct the government to issue the tax
7 refund claimed against that account.

8 79. Defendants prepared an Affidavit of Individual Surety for Bingham for tax
9 year 2008. The affidavit purports to direct the United States to issue Bingham a tax
10 refund of \$250,036 from Bingham’s purported strawman account. Shelia Young
11 notarized the form for Bingham.

12 80. Finally, the Release of Personal Property from Escrow, Optional Form 91,
13 served as the documentation of the pledged asset necessary to complete the fraudulent
14 affidavit. The release purports to direct the IRS to process Bingham’s fraudulent tax
15 refund claim of \$250,036. At Defendants’ direction, Bingham executed the release,
16 which states that Bingham is “a duly authorized representative of the United States
17 government as a warranted contracting officer.” Shelia Young notarized the release on
18 June 19, 2009.

19 81. Defendants’ redemption theory is complete fiction. Nonetheless, Defendants
20 have injured real people, the United States, and United States taxpayers, who have paid at
21 least \$2,050,194 in erroneous refunds because of Defendants’ overstated and fabricated
22 withholding figures. The following are merely examples of Defendants’ misconduct.

23 The 2008 Bingham Tax Returns

24 82. Between February and June 2009, Defendants prepared false and fraudulent
25 tax returns and frivolous documents on behalf of Tanner Bingham for tax year 2008.

26 83. Defendants prepared at least two versions of IRS Form 1040 for Bingham for
27 tax years 2008; each fraudulently requested over a quarter of a million dollars in tax
28 refunds. These returns were submitted at least four times to the IRS: one version was

1 transmitted electronically to the IRS, and the other version was mailed to three separate
2 processing centers. All four returns identify Accurate Consulting as the return preparer.

3 84. The version of IRS Form 1040 that Defendants filed electronically claimed
4 that Bingham had \$364,164 in interest and ordinary dividend income, and \$378,505 in tax
5 withholding. This version demanded a refund of \$250,036.

6 85. The other version of IRS Form 1040, which Defendants mailed to three
7 separate IRS processing centers, claimed that Bingham had \$364,164 in interest and
8 ordinary dividend income, and \$378,520 in tax withholding. This version demanded a
9 refund of \$250,051. The numbers entered on the two versions of Bingham's IRS Form
10 1040 for tax year 2008 are otherwise identical.

11 86. Defendants attached a Schedule B, a statement of Interest and Ordinary
12 Dividends, to Bingham's 2008 tax return that purportedly showed \$364,164 in interest
13 income.

Institution Paying Interest	Amount of Interest Claimed
AmTrust Bank	\$142,500
Countrywide Bank FSB	\$156,000
AZ State Savings & Credit Union	\$65,664
Total	\$364,164

14
15
16
17
18 87. The same 2008 tax year, however, Arizona State Savings and Credit reported
19 to the IRS that Bingham's account yielded interest income of just \$19. Zero dollars in
20 interest income was withheld for federal taxes.

21 88. Neither AmTrust Bank nor Countrywide Bank reported paying any interest to
22 Bingham for tax year 2008. The figure represented as interest paid by AmTrust Bank to
23 Bingham – \$142,500 – was actually Bingham's original mortgage amount on a loan made
24 by AmTrust. Similarly, the \$156,000 reported as interest paid to Bingham by
25 Countrywide actually reflected the amount of the refinanced mortgage that Countrywide
26 loaned to Bingham.

27 89. IRS records for 2008 reflect only \$14,354 in federal income withholding for
28 Bingham – \$364,166 less than his claimed withholding of \$378,520. Nonetheless,

1 Defendants claimed a refund of as much as \$250,051 on behalf of Bingham based on the
2 overstated income and withholding.

3 The 2008 Lacey Tax Return

4 90. Defendants also prepared a false and fraudulent return for tax year 2008 for
5 Timothy and Rose Mary Lacey that asserted the redemption scheme.

6 91. The IRS Form 1040, which Defendants submitted electronically on behalf of
7 the Lacey family for tax year 2008, claimed that the Laceys had \$127,000 in taxable
8 interest income, and \$142,439 in tax withholding.

9 92. According to IRS records for the 2008 tax year, Arizona State Savings and
10 Credit was the only financial institution that reported paying Rose Mary Lacey interest
11 income on a bank account. For tax year 2008, Rose Mary Lacey earned \$26 in interest
12 income; zero dollars in interest income was withheld. Similarly, Arizona State Savings
13 and Credit was the only financial institution that reported paying Timothy Lacey interest
14 income on a bank account. For tax year 2008, Timothy Lacey earned \$13 in interest
15 income, with zero dollars withheld for taxes.

16 93. IRS records for 2008 reflect only \$16,106 in combined federal income
17 withholding for the Laceys – \$126,333 less than their claimed withholding of \$142,439.
18 Nonetheless, Defendants claimed a refund of \$83,718 on behalf of the Laceys based on
19 the overstated income and withholding.

20 The 2008 Strickland Tax Returns

21 94. In February 2009, Defendants prepared a false and fraudulent tax return and
22 frivolous documents on behalf of Jonathan and Pennie Strickland for tax year 2008.

23 95. Defendants submitted the Strickland's 2008 tax return to the IRS at least
24 twice, once electronically and once by mail. Both versions identify Accurate Consulting
25 as the return preparer.

26 96. The IRS Forms 1040 that Defendants prepared for the Stricklands claimed
27 \$114,976 of interest and ordinary dividend income, and \$129,659 in tax withholding.

28 97. Defendants attached a Schedule B, a statement of Interest and Ordinary

1 Dividends, to the Stricklands' 2008 tax return that purportedly showed \$114,976 in
2 interest income:

Institution Paying Interest	Amount of Interest Claimed
Bank of America	\$88,903
Chase Auto Finance	\$20,673
Merchants Acceptance	\$5,400
Total	\$114,976

6
7 98. According to IRS records for the 2008 tax year, the only interest income
8 reported to the IRS for the Stricklands for tax year 2008 was paid by the U.S. Treasury
9 Department, which reported paying \$475 in interest income to the Stricklands, with zero
10 dollars in tax withholding.

11 99. Bank of America, Chase Auto Finance, and Merchants Acceptance did not
12 report to the IRS paying any interest to the Stricklands for tax year 2008. Upon
13 information and belief, the figure represented as interest paid by Chase Auto Finance to
14 the Stricklands – \$20,673 – was actually the amount of an auto loan to the Stricklands
15 made by Chase Auto Finance. Upon information and belief, the \$88,903 reported as
16 interest paid to the Stricklands by Bank of America actually reflects consumer spending
17 by the Stricklands made on their Bank of America credit or debit card. Similarly, upon
18 information and belief, the \$5,400 reported as interest paid to the Stricklands by
19 Merchants Acceptance actually reflects purchases that the Stricklands made using their
20 Merchants Acceptance account.

21 100. IRS records for 2008 reflect only \$14,683 in combined federal income
22 withholding for the Stricklands – \$114,976 less than their claimed withholding of
23 \$129,659. Nonetheless, Defendants claimed a refund of \$77,535 on behalf of the
24 Stricklands based on the overstated income and withholding.

25 **The IRS and Courts Have Rejected the Redemption Scheme as Frivolous**

26 101. The IRS has explicitly denounced the commercial redemption arguments as
27 frivolous. On March 22, 2004, the IRS issued Revenue Ruling 2004-31, advises
28 taxpayers:

1 This revenue ruling emphasizes to individuals, and to promoters and return
2 preparers who assist individuals with these schemes, that there is no authority
3 under any U.S. law that supports the argument that an individual can be “removed”
4 or “redeemed” from the federal tax system to avoid tax liabilities or that an
individual can satisfy debts, including tax liabilities, by making “chargeback” or
other similar arguments. Removal and redemption arguments have no merit and
are frivolous.

5 102. On April 4, 2005, the IRS issued another Revenue Ruling, 2005-21, that
6 “emphasizes to taxpayers and to promoters and return preparers that a taxpayer cannot
7 avoid income tax on the erroneous theory that the government has created a ‘straw man.’
8 This argument has no merit and is frivolous.”

9 103. On October 10, 2008 The IRS issued a nationwide “problem alert” warning
10 taxpayers about the very same tax scheme that Defendants are promoting in this case. *See*
11 <http://www.irs.gov/newsroom/article/0,,id=98129,00.html> Most recently, the IRS
12 discusses the redemption tax scheme in its January 1, 2010 publication, “The Truth About
13 Frivolous Tax Arguments.”

14 104. Courts have condemned the redemption tax scheme. *Ray v. Williams*, 2005
15 WL 697041, *5-6 (March 24, 2005 D. Or.) (in considering prison’s bar on the delivery of
16 the book “Cracking the Code, Third Edition,” held that book contained fraudulent claim
17 of “Redemptionists” that direct treasury account exists that has a balance equal to the
18 monetary value the government places on the life of an individual). *See also Monroe v.*
19 *Beard*, 2007 WL 2359833, *2 (Aug. 16, 2007 E.D. Pa.) (characterized Redemption as an
20 “anti-government scheme that utilizes commercial law to harass and terrorize its targets”).

21 105. Other courts have enjoined tax return preparers for promoting the same tax
22 schemes and for preparing the same false tax returns and supporting documentation that
23 Defendants are preparing here. *See, e.g., United States v. Marty*, 2010 U.S. Dist. LEXIS
24 2783 (January 14, 2010 E.D. Cal. 2010). *See also United States v. Kahn*, 2004 U.S. Dist.
25 LEXIS 7348, *1-3 (March 30, 2004 M.D. Fla.) (holding defendants in violation of
26 injunction that arose from defendants’ promotion of abusive tax schemes including
27 “outlandish mechanisms” such as using counterfeit bonds and checks to draw on fictitious
28 treasury accounts supposedly in their customers’ name).

Defendants Improperly Guaranteed Refunds to Their Customers

106. In return for their tax advice and tax preparation services, Defendants charged their clients a contingent fee in the amount of ten percent of the claimed refund.

107. The IRS expressly prohibits practitioners from charging contingent fees for tax preparation services. *See* 31 CFR §10.27(b).

108. Defendants know that they are prohibited from charging a contingent fee for their tax preparation services. Shelia Young told Joseph and Kathy Wilson that she could not legally charge a percentage of the Wilson's anticipated refund, so she made up "per document fees" in an amount equal to Defendants' contingent fee.

109. Defendants are also aware that the IRS examines taxpayer returns to identify those tax returns that assert fraudulent schemes. Consequently, Defendants anticipate that some returns will be rejected by the IRS as frivolous.

110. Defendants instruct their clients to write them a check for payment in the amount of ten percent of the claimed refund. Defendants then agree not to cash the customers' checks until the client has confirmed that they have received their refund from the IRS. Defendants' deferred payment system inexorably ties Defendants' compensation to their clients' receipt of claimed refunds.

111. Defendants' contingent fee system is inherently corrupt: the system improperly incentivizes Defendants to claim as large of a refund as possible for their clients because it directly increases Defendants' compensation. *See United States v. Baxter*, 372 F. Supp. 2d 1326, 1328 (M.D. Ala. 2005) (where the court permanently enjoined Baxter from preparing taxes, finding "Baxter had an incentive to generate higher refunds for his clients because he took a percentage of his clients' refunds.").

112. Moreover, Defendants' deferral of payment until the Defendants' customer has received their fraudulent refund is essentially a guarantee of a refund: Defendants do not get paid if Defendants' clients do not get paid. Defendants' contingent fee plan, combined with their deferred payment system, is in direct contravention to I.R.C.

7407(b)(1)(C)

HARM CAUSED BY DEFENDANTS' FRAUDULENT SCHEMES

1
2 113. It is difficult to accurately measure the total harm Defendants' tax schemes
3 have inflicted upon the United States because Defendants often fail to sign returns that
4 they prepared. For instance, Defendants did not sign the amended tax returns they
5 prepared for Linda Kuhbander for tax years 2002, 2003, and 2005. However, when
6 Kuhbander contacted the IRS's Taxpayer Advocate Service, she named Shelia Young and
7 Ken Defoor as the return preparers with whom she dealt.

8 114. In some cases, Defendants would prepare an original return and several
9 amended tax returns for a client, but only sign one of the forms. For example, Defendants
10 prepared a IRS Form 1040 for Bruce Miller for tax year 2008 that overstated Miller's
11 federal tax withholdings by over \$50,000 and fraudulently claimed a refund \$38,121. The
12 2008 return, which asserted the commercial redemption argument, was electronically
13 filed with the IRS by Accurate Consulting. However, in the same time period,
14 Defendants filed two amended tax returns for tax years 2005 and 2007. Although no paid
15 preparer was listed on Miller's amended tax returns, Deane Young was listed as Miller's
16 third party designee, which authorized Deane Young to discuss Miller's return with the
17 IRS on his behalf.

18 115. While the IRS is able to detect and stop most fraudulent refund claims,
19 Defendants have prepared frivolous tax returns that cumulatively claim almost \$25
20 million in fraudulent refunds, and has resulted in the IRS's issuance of approximately
21 \$2.3 million in erroneous refunds.

22 116. To date, the IRS has identified 337 returns prepared and/or filed by
23 Defendants since 2001 that request refunds based on Defendants' fraudulent tax schemes.
24 Many of the fraudulent claims for tax refunds exceed \$100,000. Defendants prepared a
25 fraudulent tax return for the 2006 tax year for one of their clients, Kenneth Wenrick,
26 which overstated Wenrick's federal tax withholdings by over \$2,600,000 and fraudulently
27 claimed a refund \$1,746,468.

28 117. The IRS has identified 248 returns prepared by Defendants that assert the

1 redemption scheme. These 248 frivolous returns claimed approximately \$24.6 million in
2 fraudulent refunds. To date, the IRS erroneously issued \$2,015,040 in refunds due to
3 Defendant's redemption scheme.

4 118. The IRS has identified an additional 89 returns prepared by Defendants that
5 assert the other fraudulent tax schemes, including the zero-income argument. These 89
6 frivolous returns claimed approximately \$450,000 in fraudulent refunds. To date, the IRS
7 erroneously issued \$256,708 in refunds due to Defendant's other fraudulent schemes.

8 119. Defendants' schemes are part of a growing trend among tax defiers
9 nationwide to file frivolous tax returns and other forms with the IRS and courts in an
10 attempt to escape their federal tax obligations and steal from the U.S. Treasury.

11 120. In reliance upon Defendants' services, customers have failed to file proper
12 federal income tax returns, which has either deprived the customers of proper tax refunds
13 to which they may have been entitled, or deprived the United States of additional tax
14 revenue owed by those customers.

15 121. The false Forms 1040, 1040X, 1099, 4852 Schedules A and B, and other IRS
16 documents prepared and submitted by Defendants may result in the assessment of
17 penalties against Defendants' customers. The false Forms 1099-OID submitted with
18 Defendants' returns may also result in the assessment of erroneous penalties against
19 creditors identified in the false Forms 1099-OID for failing to timely submit those forms
20 to the IRS.

21 122. In addition to the lost revenue due to the issuance of erroneous refunds, the
22 government has also incurred the expense of conducting the investigation of Defendants'
23 fraudulent return preparation and responding to and processing the frivolous documents
24 Defendants submitted to the IRS.

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

26 123. The United States incorporates by reference the allegations contained in
27 paragraphs 1 through 122.

28 124. Under I.R.C. § 7407, the United States may seek an injunction against any

1 tax return preparer who has engaged in any “fraudulent or deceptive conduct which
2 substantially interferes with the proper administration of the Internal Revenue laws,” who
3 has “guaranteed the payment of any tax refund or the allowance of any tax credit,” or who
4 has “engaged in any conduct subject to penalty under section 6694 or 6695.”

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

9 126. Defendants have continually and repeatedly prepared and filed with the IRS
10 false and frivolous federal income tax returns on behalf of their customers.

11 127. As a result Defendants have continually and repeatedly engaged in fraudulent
12 or deceptive conduct which substantially interferes with the proper administration of the
13 Internal Revenue laws.

14 128. Defendants charged their clients a fixed percentage of the fraudulent refund
15 obtained from the United States, and accepted payment from their clients only after the
16 fraudulent refunds were issued. Defendants thereby guaranteed their clients a refund
17 despite being expressly prohibited from doing so under I.R.C. § 7407.

18 129. Defendants have continually and repeatedly prepared and filed federal tax
19 returns that understate their customers’ tax liabilities as a result of unreasonable and
20 frivolous claims and has thus engaged in conduct subject to penalty under I.R.C. § 6694.

21 130. Defendants have continually and repeatedly prepared and filed federal tax
22 returns that understate their customers’ tax liabilities as a result of Defendants’ willful
23 attempt to understate their customers’ tax liabilities and Defendants’ reckless or
24 intentional disregard of internal revenue laws and regulations.

25 131. Injunctive relief is appropriate to prevent this misconduct because, absent an
26 injunction, Defendants are likely to prepare more false and fraudulent federal income tax
27 returns and engage in other misconduct as described in this complaint.

28 132. Additionally, Defendants have continually and repeatedly prepared returns

1 that include fraudulent refund claims.

2 133. Defendants should be permanently enjoined under I.R.C. § 7407 from acting
3 as federal tax return preparers because a more limited injunction would be insufficient to
4 stop them from interfering with the proper administration of the tax laws.

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

6 134. The United States incorporates by reference the allegations contained in
7 paragraphs 1 through 133.

8 135. Under I.R.C. § 7408, a district court may enjoin any person from, *inter alia*,
9 engaging in conduct subject to penalty under I.R.C. §§ 6700 or 6701 if injunctive relief is
10 appropriate to prevent recurrence of that conduct.

11 136. Section 6700 imposes a penalty on any person who organizes or participates
12 in the sale of a plan or arrangement and in so doing makes a statement with respect to the
13 allowability of any deduction or credit, the excludability of any income, or the securing of
14 any tax benefit by participating in the plan or arrangement which that person knows or
15 has reason to know is false or fraudulent as to any material matter.

16 137. As recently as 2009, Defendants organized or assisted with the organization
17 of a plan or arrangement and in doing so made or caused another person to make false and
18 fraudulent statements with respect to the tax benefits of participating in the plan or
19 arrangement which Defendants knew or had reason to know were false.

20 138. In particular, Defendants prepared tax returns for others that fraudulently
21 requested large tax refunds from the Government, despite the fact that Defendants knew
22 or had reason to know that any such refunds were predicated on the submission of
23 fraudulent documents to the IRS.

24 139. As a result, Defendants engaged in conduct subject to penalty under I.R.C. §
25 6700.

26 140. Section 6701 imposes a penalty on any person who aids or assists in,
27 procures, or advises with respect to, the preparation of any portion of a return, affidavit,
28 claim, or other document, who knows (or has reason to believe) that such portion will be

1 used in connection with any material matter arising under the internal revenue laws, and
2 who knows that such portion (if so used) would result in an understatement of the liability
3 for tax of another person.

4 141. Defendants prepared and aided or assisted in the preparation and filing of
5 federal income tax returns and other documents that resulted in the understatement of
6 their customers' tax liabilities.

7 142. As a result Defendants have engaged in conduct subject to penalty under
8 I.R.C. § 6701.

9 143. Defendants have shown no remorse for their actions and continue to file false
10 and fraudulent tax returns and frivolous documents even after their clients have been
11 warned by the IRS that Defendants' positions are frivolous.

12 144. Injunctive relief is appropriate to prevent recurrence of Defendants'
13 misconduct.

14 **COUNT III: INJUNCTION UNDER I.R.C. § 7402**

15 145. The United States incorporates by reference the allegations contained in
16 paragraphs 1 through 144.

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

20 147. Defendants substantially interfere with the enforcement of the internal
21 revenue laws by promoting his "redemption" or "commercial redemption" tax-fraud
22 scheme and filing fraudulent and frivolous federal tax returns and other documents on
23 behalf of their customers.

24 148. As a result of Defendants' misconduct and their fraudulent refund claims,
25 their customers fail to file proper tax returns, and, consequently, may be penalized under
26 I.R.C. § 6676 for up to 20 percent of the excessive and fraudulent refund claim.
27 Additionally, the U.S. Treasury has issued millions of dollars in erroneous refunds, and
28 IRS employees have spent taxpayer money investigating Defendants' conduct, halting the

1 issuance of erroneous refunds, and recovering erroneous refunds that have already been
2 issued.

3 149. Defendants' conduct results in irreparable harm to the United States and to
4 the public for which there is no adequate remedy at law.

5 150. Defendants' conduct interferes with the proper administration of the Internal
6 Revenue Code because it results in frivolous filings with the IRS that harass public
7 officials and hinder the IRS's ability to determine the correct tax liabilities of Defendants'
8 customers.

9 151. Unless enjoined by this Court, Defendants will continue to promote and
10 administer his tax-fraud scheme.

11 152. The United States is entitled to injunctive relief under I.R.C. § 7402(a) to
12 prevent the recurrence of this misconduct.

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

15 A. That the Court find that Defendants have continually and repeatedly
16 engaged in conduct subject to penalty under I.R.C. §§ 6694, 6695, 6700, and 6701 and
17 that injunctive relief is appropriate under I.R.C. § 7402, 7407, and 7408 to bar Defendants
18 from acting as tax return preparers and from engaging in conduct subject to penalty under
19 I.R.C. §§ 6700 and 6701;

20 B. That the Court find that Defendants have engaged in conduct that
21 substantially interferes with the enforcement and administration of the internal revenue
22 laws, and that injunctive relief against them is appropriate to prevent the recurrence of
23 that misconduct pursuant to I.R.C. §§ 7407 and 7402(a);

24 C. That the Court, under I.R.C. §§ 7402 and 7407, enter a permanent
25 injunction permanently barring Defendants from acting as federal tax return preparers and
26 from preparing or filing federal tax returns or forms for others, from representing others
27 before the IRS, and from advising anyone concerning federal tax matters;

28 D. That the Court, under I.R.C. §§ 7402 and 7407, enter a permanent

1 injunction prohibiting Defendants and their representatives, agents, servants, employees,
2 attorneys, independent contractors, anyone in active concert or participation with them,
3 from directly or indirectly;

4 (1) Preparing or filing, or assisting in, or directing the preparation or filing of
5 any federal tax return or amended return or other related documents or
6 forms for any other person or entity;

7 (2) Engaging in activity subject to penalty under I.R.C. §§ 6694 or 6695;

8 (3) Engaging in any other activity subject to penalty under the Internal Revenue
9 Code; and

10 (4) Engaging in other conduct that substantially interferes with the proper
11 administration and enforcement of the internal revenue laws;

12 E. That this Court, under I.R.C. §§ 7402 and 7408, enter a permanent
13 injunction prohibiting Defendants and their representatives, agents, servants, employees,
14 and anyone in active concert or participation with his, from directly or indirectly by
15 means of false, deceptive, or misleading commercial speech:

16 (1) Organizing or selling plans or arrangements that advise or assist taxpayers
17 to attempt to evade the assessment or collection of such taxpayers' correct
18 federal tax;

19 (2) Engaging in any other activity subject to penalty under I.R.C. § 6700,
20 including organizing or selling a plan or arrangement and making a
21 statement regarding the excludability of income or securing of any other tax
22 benefit by participating in the plan that he knows or has reason to know is
23 false or fraudulent as to any material matter;

24 (3) Engaging in any activity subject to penalty under I.R.C. § 6701; and

25 (4) Directly or indirectly organizing, promoting, marketing, or selling any plan
26 or arrangement that advises or encourages taxpayers to attempt to violate
27 internal revenue laws or unlawfully evade the assessment or collection of
28 their federal tax liabilities, including promoting, selling, or advocating that

1 taxpayers overstate federal income tax withholding and misuse Forms 1099-
2 OID under false claims that:

- 3 I. Taxpayers have an account with the Treasury Department which
4 they can use to pay their debts and tax liabilities or which they can
5 draw on for refunds through a process that is often called
6 “redemption” or “commercial redemption.”
- 7 ii. Taxpayers can name the U.S. Treasury Secretary as their fiduciary or
8 can draw on the U.S. Treasury to pay their debt or tax liabilities
9 using IRS Forms 1099, bonded promissory notes, sight drafts or
10 other documents;
- 11 iii. Taxpayers can issue IRS forms 1099-OID to a creditor and report the
12 amount on the form as federal income tax withheld on their behalf;
- 13 iv. Taxpayers can issue other IRS forms that overstate income
14 withholding or purport to appoint U.S. government officials as their
15 fiduciaries; and
- 16 v. Taxpayers can use the Uniform Commercial Code (UCC) or other
17 methods to “accept for value” a document dealing with a debt, and
18 that stamping a document with “accept for value” or similar wording
19 will somehow satisfy that debt, including tax debt;
- 20 vi. Taxpayers may file false IRS Forms 4852 to reduce or eliminate
21 income; and,
- 22 vii. Taxpayers may report bogus itemized deductions under I.R.C. §§
23 165(g) and 1001, claiming they are entitled to such deductions
24 because he or she received worthless securities and, thus, never
25 received money for income, or based on the theory that labor is
26 property.

27 F. That this Court under I.R.C. § 7402, enter a permanent injunction
28 prohibiting Defendants from preparing their own federal income tax returns and/or tax

1 returns for entities that they own or control claiming false income tax withholding and
2 overstated refunds based on their “redemption” or “zero-income” theories;

3 G. That this Court under I.R.C. § 7402, enter a permanent injunction
4 prohibiting Defendants from filing, providing forms for, or otherwise aiding and abetting
5 the filing of frivolous Forms 1040, Forms 1099 or other IRS forms for themselves or
6 others, including the notarization or signing of certificates of service or similar documents
7 in connection with the frivolous tax returns;

8 H. That this Court, under I.R.C. § 7402, enter an injunction requiring
9 Defendants to contact by mail and email all persons who have purchased any products,
10 services or advice associated with the false or fraudulent tax scheme described in this
11 complaint and inform those persons of the Court’s findings concerning the falsity of
12 Defendants’ prior representations and attach a copy of the permanent injunction against
13 Defendants;

14 I. That this Court, under I.R.C. § 7402, enter an injunction requiring
15 Defendants and their representatives, agents, servants, employees, attorneys, and those
16 persons in active concert or participation with them, to remove all content from any
17 websites and replace that content with a copy of the Court’s injunction for a period of
18 three years.

19 J. That this Court, under I.R.C. § 7402, order Defendants to provide to the
20 United States a list of all persons who have purchased any products, services or advice
21 from them in the past three years;

22 K. That this Court allow the government full post-judgment discovery to
23 monitor Defendants’ compliance with the injunction; and

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

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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA,

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) U.S. Department of Justice, Tax Division, Sean P. Beaty, Trial Atty.

DEFENDANTS

SHEILA YOUNG, et al.,

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excl. Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise, PERSONAL INJURY, PERSONAL INJURY, PERSONAL PROPERTY, 610 Agriculture, 620 Other Food & Drug, 625 Drug Related Seizure of Property 21 USC 881, 630 Liquor Laws, 640 R.R. & Truck, 650 Airline Regs., 660 Occupational Safety/Health, 690 Other, 710 Fair Labor Standards Act, 720 Labor/Mgmt. Relations, 730 Labor/Mgmt. Reporting & Disclosure Act, 740 Railway Labor Act, 790 Other Labor Litigation, 791 Empl. Ret. Inc. Security Act, 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157, 440 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 810 Selective Service, 850 Securities/Commodities/Exchange, 875 Customer Challenge 12 USC 3410, 890 Other Statutory Actions, 891 Agricultural Acts, 892 Economic Stabilization Act, 893 Environmental Matters, 894 Energy Allocation Act, 895 Freedom of Information Act, 900 Appeal of Fee Determination Under Equal Access to Justice, 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity): 26 U.S.C. Sections 7402, 7407, AND 7408.

Brief description of cause: Enjoin defendants from filing fraudulent tax scheme.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

10/4/2010

[Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE