

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. ) Civil No. 4:11-cv-458  
)  
CHRISTOPHER J. HELTON and MARCIA A. )  
JOHNSON, individually, and d/b/a M.C. Tax )  
Service; M.C. Tax Interprise; M.J. Tax Service, )  
)  
Defendants. )

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

The United States of America seeks a permanent injunction against Christopher Helton and Marcia Johnson, individually, and doing business as M.C. Tax Service, M.C. Tax Interprise, and M.J. Tax Service (“defendants”), permanently barring defendants from preparing tax returns for others, and other relief.

1. This action has been requested by the Chief Counsel of the Internal Revenue Service (“IRS” or “the 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 26 U.S.C. (“I.R.C.”) §§ 7401, 7402, 7407 and 7408.

**Jurisdiction And Venue**

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§ 7402(a), 7407, and 7408.

3. This is a civil action brought by the United States under I.R.C. §§ 7402(a), 7407, and 7408 to enjoin defendants and anyone in active concert or participation with them from:

A. acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns for any person or entity other than themselves, or appearing as representatives on behalf of

any person or organization whose tax liabilities are under examination by the Internal Revenue Service;

- B. preparing or filing (or helping to prepare or file) federal tax returns, amended returns, or other related documents and forms for others;
- C. understating customers' liabilities as subject to penalty under I.R.C. § 6694;
- D. engaging in conduct subject to penalty under I.R.C. § 6695;
- E. engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision of the I.R.C.;
- F. engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;
- G. representing others before the IRS; and,
- H. using electronic identification numbers (EIN), taxpayer identification numbers (TIN), preparer identification numbers (P-TIN), social security numbers (SSN), or any other federally-issued identification number that belongs to another person(s), or is not valid or correct, to prepare, file, or remit federal tax returns.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because a substantial portion of the activities occurred within this district.

### **Defendants**

5. Christopher Helton is a paid federal tax return preparer operating in the Houston, Texas, area. Helton owns and operates M.C. Tax Service (also known as M.C. Tax Interprise, and M.J. Tax Service) as a sole proprietorship. Helton opened M.C. Tax Service in 2004, and has three employees.

6. According to IRS records, Helton is the "Principal and Responsible Official" associated with the electronic filing identification number (EFIN) of M.C. Tax Service. Nearly all returns prepared and filed with the IRS by defendants were filed electronically using Helton's

EFIN.

7. Marcia Johnson is a paid federal tax return preparer who works under Helton at M.C. Tax Service. Johnson is listed with the IRS as the “alternate contact” for the EFIN associated with M.C. Tax Service.

8. Defendants have prepared and filed at least 1,258 returns since 2004.

### **Fuel Tax Credit Fraud**

9. In 2007, the Service’s Ogden, Utah Frivolous Return Program requested an investigation of defendants after it became aware of problems with numerous returns prepared by them. In particular, the IRS observed numerous instances in which returns prepared by the defendants had falsely claimed fuel tax credits.

10. Investigation by the IRS revealed that, since 2005, defendants have prepared at least 207 blatantly fraudulent federal income tax returns for customers using Form 4136, “Credit for Federal Tax Paid on Fuels.” In using and preparing these forms, defendants fraudulently applied I.R.C. §§ 6421(a) and 6427.

11. The fuel tax credit under I.R.C. § 6421(a) is available only to taxpayers who operate farm equipment or other off-highway business vehicles. Moreover, the equipment or vehicles using the fuel must not be registered for highway uses. Defendants improperly claim the credit for customers who do not meet these requirements.

12. The fuel tax credit under I.R.C. § 6427, which is also claimed on Form 4136, is available only to taxpayers who operate vehicles for off-highway business use, and for certain other uses, such as qualified local buses, school buses, qualified blood collector organizations,

and aircraft or vehicles owned by aircraft museums.

### **Overview Of I.R.C. §§ 6421 And 6427**

13. Fraudulently claiming fuel tax credits is a widespread tax scam, presenting a serious enforcement problem for the Service. As part of this scheme, defendants improperly claimed the fuel tax credit for their customers' purported business-related fuel purchases.

14. I.R.C. § 6421(a) provides a tax credit for fuel used in an off-highway business use. Off-highway business use is any use of fuel in a trade or business or in an income-producing activity where the equipment or vehicle is not registered and not required to be registered for use on public highways. IRS Publication 225 provides the following examples of off-highway business fuel use: (1) in stationary machines such as generators, compressors, power saws, and similar equipment; (2) for cleaning purposes; and (3) in forklift trucks, bulldozers, and earthmovers. *See* IRS Publication 225 (2006), *Farmer's Tax Guide*, Chapter 14 (2006) (available online at: <http://www.irs.gov/publications/p225/ch14.html#d0e1948>).

15. By contrast, vehicles that are used on "highways" are not qualified for the fuel tax credit. IRS Publication 510 defines a highway vehicle as any "self-propelled vehicle designed to carry a load over public highways, whether or not it is also designed to perform other functions." A public highway includes any road in the United States that is not a private roadway. This includes federal, state, county, and city roads and streets. These highway vehicles are not eligible for the fuel tax credit. IRS Publication 510 provides the following as examples of highway vehicles which are not eligible for the fuel tax credit: passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. *See* IRS Publication 510 (2006), *Excise Taxes for 2006*, Chapter 2 (2006) (available online at: <http://www.irs.gov/publications/p5>

10/ch02.html#d0e3533).

16. IRS Publication 510 provides the following example of an appropriate application of the fuel tax credit:

Caroline owns a landscaping business. She uses power lawn mowers and chain saws in her business. The gasoline used in the power lawn mowers and chain saws qualifies as fuel used in an off-highway business use. The gasoline used in her personal lawn mower at home does not qualify.

17. Additionally, I.R.C. § 6427 provides a tax credit for undyed diesel fuel used for off-highway business use, and for certain other uses, such as qualified local buses, school buses, qualified blood collector organizations, and aircraft or vehicles owned by aircraft museums. *See* IRS Publication 510.

18. In short, the fuel tax credit does not apply to passenger cars, trucks, or other vehicles that are registered or required to be registered for lawful operation on public highways.

#### **Defendants' Fraudulent Fuel Tax Credit Claims**

19. Defendants prepared federal income tax returns for customers and improperly reduced their reported tax liabilities by claiming bogus fuel tax credits under I.R.C. §§ 6421 and 6427. In support of their bogus fuel tax credit claims, defendants prepared false Forms 4136 for customers, falsely claiming that those customers had used gasoline for qualified off-highway business purposes and in nontaxable uses of undyed diesel fuels.

20. The IRS has determined that defendants prepared and filed at least 207 federal income tax returns claiming false fuel tax credits. Defendants fraudulently claimed that their customers purchased large quantities of fuel for off-highway business purposes and nontaxable undyed diesel fuel uses.

21. For example, the defendants repeatedly claimed fuel tax credits for individuals

like Theresa Williams, whose 2006 return plainly stated that she was employed in a position (“day care provider”) in which it was highly unlikely she ever used fuel in an off-highway capacity at all. The defendants also included the fuel tax credit claim for customers who were employed in transit-oriented positions, such as “truck driver” and “limo driver,” but whose use of fuel in connection with their employment was plainly *not* off-highway oriented, therefore making them ineligible for the credit as well.

22. The magnitude of the fuel tax credits claimed in the returns prepared by the defendants were also obviously fraudulent. In most cases, the fuel tax credits claimed by the defendants on behalf of their customers would only have been legitimate if the customers had purchased thousands of dollars of fuel or had driven hundreds of miles a day.

23. Cedric Griffin’s 2006 return, for example, claimed a purchase of over 52,000 gallons of gas. At two dollars per gallon, the claimed fuel purchase would have cost over \$100,000. Tellingly, Mr. Griffin’s total income – as disclosed on that same 2006 return – was \$29,570. Likewise, on her 2005 return, Davina Guillary claimed to have purchased over 52,000 gallons of gas. A gasoline purchase of that magnitude would have entailed her driving 2,879 miles every day. And notwithstanding her claim that her total income for tax year 2005 was a loss of over \$6,000, her claimed fuel purchase would have cost over \$100,000.

24. The following chart provides five additional examples of defendants’ fraudulent fuel tax credit claims on 2005 and 2006 returns for customers from Houston, Texas:

<b>Name; Profession</b>	<b>Amount of Gasoline Claimed on Form 4136</b>	<b>Cost of Claimed Business Use of Gasoline<sup>1</sup></b>	<b>Estimated Yearly/Daily /Hourly Mileage<sup>2</sup></b>	<b>Total Income</b>	<b>Amount of Gasoline Credit</b>	<b>Refund Requested</b>
<b>Andrus;</b> driver/ charter service	20,461 gallons (undyed diesel fuel)	\$40,922	409,220 miles per year / 1121 miles per day / 47 miles per hour	\$1,950	\$4,972	\$4,172
<b>Arscott;</b> driver/ charter service	20,141 gallons (undyed diesel fuel)	\$40,282	402,820 miles per year / 1,104 miles per day / 46 miles per hour	\$6,477	\$4,894	\$4,288
<b>Hennigton;</b> truck driver	52,572 gallons	\$105,144	1,051,440 miles per year / 2,881 miles per day / 120 miles per hour	(\$29,284)	\$9,653	\$9,653
<b>Nelson;</b> clerk/ delivery service	56,297 gallons	\$112,594	1,125,940 miles per year / 3085 miles per day / 129 miles per hour	\$19,495	\$10,302	\$8,220

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<sup>1</sup> Estimated total cost based on \$2.00 per gallon.

<sup>2</sup> Estimated mileage based on 20 miles per gallon.

<b>White;</b> manager/ trucking	54,208 gallons	\$108,416	<i>1,084,160</i> miles per year / <i>2,970</i> miles per day / <i>124</i> miles per hour	\$31,189	\$9,961	\$8,669
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25. Other returns that defendants prepared contain similar, blatantly fraudulent claims of the fuel tax credit. In sum, in at least 207 instances, defendants claimed absurdly large credits by falsely reporting purchases of large quantities of gasoline – and thus fraudulently applied I.R.C. §§ 6421(a) and 6427.

**Defendants Claim Fraudulent Earned Income Tax Credits (“EITC”)**

26. Another rampant problem at M.C. Tax Service is the use of the EITC to generate fraudulent tax refunds for customers.

27. Defendants have continuously prepared tax returns containing material misrepresentations of fact, which defendants knew or should have known were false. In particular, defendants routinely prepare returns that either claim the EITC for taxpayers who do not qualify for the credit or overstate the credit to which the taxpayer is entitled. As a result of these misrepresentations, defendants have systematically under-reported their customers’ tax liabilities and increased their customers’ claims for refunds.

28. The EITC is a refundable tax credit available to certain low-income individuals. Because the EITC is a refundable credit, claiming an EITC can reduce a taxpayer’s federal tax liability below zero, entitling the taxpayer to a refund from the United States Treasury. The requirements for claiming an EITC are set forth at 26 U.S.C. § 32.

29. The amount of the credit depends on a variety of factors, including the

individual's filing status, annual wages, and the number of dependents for whom the taxpayer is responsible. Due to the method used to calculate the EITC, an individual can claim a larger EITC by claiming at least two dependents. Also, because of the method used to calculate the EITC, for certain income ranges, individuals with higher annual income are entitled to a larger credit than those with lower annual incomes

30. An IRS investigation revealed that, during tax years 2007, 2008, and 2009, nearly 80% of the returns prepared by defendants included a claim for the EITC. The returns prepared by defendants during tax years 2007, 2008, and 2009 alone claimed a total of \$1,586,866 in EITCs.

31. As these numbers suggest, defendants routinely prepare false and/or fraudulent returns that report false (or exaggerated) income amounts on their customers' returns so their customers will qualify (falsely) for the EITC – and receive fraudulent tax refunds.

32. For example, defendants prepare and file false Schedules C for customers which rely on bogus businesses to fraudulently increase their customers' income and maximize their EITC claims.

33. Many of the returns prepared by defendants which claim EITCs were obviously fraudulent because defendants used *the same three addresses* on over 100 Schedules C and Forms 1040:

- A. 7303 Vale View, Houston, TX: defendants used this address on at least 62 different Schedules C and Forms 1040.
- B. 3101 N. MacGregor Way, Apt. 3, Houston, TX: defendants used this address on at least 52 different Schedules C and Forms 1040.
- C. 301 N. MacGregor Way, Apt. 3, Houston, TX: defendants used this

address on at least 4 different Schedules C and Forms 1040.

34. Investigation by the IRS revealed that neither “3101 N. MacGregor Way, Apt. 3”<sup>3</sup> nor “7303 Vale View, Houston, TX” are the home or business address of either the defendants or their customers.

35. Over 100 Schedules C on returns submitted by defendants use these same bogus addresses. Clearly, the Schedule C businesses referenced in the customers’ returns are entirely fictitious – and the businesses’ profit or loss was completely fabricated for the purpose of maximizing the customers’ EITC claims.

36. Defendants also prepare and file income tax returns for customers which fraudulently increase their customers’ income in order to maximize their EITC claims. The defendants repeatedly include EITC claims in many of their customers’ returns, even though the income listed on the return is exaggerated or altogether illegitimate and, as a result, the customer is not eligible for the EITC. In such cases, defendants reported false or exaggerated Form W-2 income amounts on their customers’ returns so their customers would falsely qualify for the EITC, and receive fraudulent tax refunds.

37. In addition, defendants prepare and file income tax returns for customers that provide false information as to the customer’s filing status and/or number of dependent exemptions. In such cases, defendants reported false information as to the customer’s filing status and/or number of dependent exemptions on their customers’ returns so their customers would falsely qualify for the EITC, and receive fraudulent tax refunds.

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<sup>3</sup> Upon information and belief, “301 N. MacGregor Way, Apt. 3, Houston, TX” is a typographical error and returns listing this address on their Schedule C intended to list “3101 N. MacGregor Way, Apt. 3, Houston, TX.”

38. Defendants repeated these fraudulent schemes – reporting fabricated or exaggerated income amounts, and claiming fraudulent EITCs – for many of their customers. Indeed, as noted above, for the tax years 2007, 2008, and 2009 alone, 80% of the defendants’ customers claimed an EITC for a total of \$1,586,866 in claimed tax credits.

**Lack of Due Diligence For Earned Income Tax Credits**

39. Defendants also failed to satisfy the due diligence requirements under I.R.C. § 6695(g).

40. Because of the potential for abuse in claiming the EITC, Congress has authorized the Secretary of the Treasury to impose “due diligence” requirements on federal income tax return preparers claiming the EITC for their customers.

41. These “due diligence” requirements obligate the return preparer to obtain certain types of information from the customer and to ask the customer questions to ensure the customer is legitimately entitled to the EITC. Return preparers must document their compliance with these requirements and keep that documentation for three years. *See* 26 C.F.R. § 1.6695-2 (2008).

42. Among the due diligence requirements under Treasury Regulations § 1.6695-2(b)(3), return preparers must:

- A. not know or have reason to know that any information used by the tax return preparer in determining the taxpayer’s eligibility for, or the amount of, the EITC is incorrect; and
- B. not ignore the implications of information furnished to, or known, and must make reasonable inquiries if the information furnished to or known by the preparer appears to be incorrect, inconsistent, or incomplete.

43. Defendants have continually and repeatedly prepared and filed with the IRS returns claiming improper EITCs, while knowing (or having reason to know) that the information they used in determining customers' eligibility for, or the amount of, the EITC, was incorrect. For instance, defendants knowingly reported false income amounts on customers' returns to qualify those customers for the EITC, or to increase the size of the customers' EITC.

44. Defendants also knowingly ignore suspicious and inconsistent EITC-related information provided by their customers.

45. During an interview with IRS officials on November 14, 2007, defendant Marcia Johnson admitted that she never questions any information provided by customers and, instead, claimed that she always uses the information customers give her to prepare their returns.

46. Thus, in claiming EITCs on customers' federal income tax returns, defendants have continually and repeatedly failed to satisfy the EITC due diligence requirements imposed by 26 U.S.C. § 6695(g) and Treasury Regulation § 1.6695-2(b)(3).

#### **Additional Misconduct By Defendants**

47. Defendants continually and repeatedly fail to provide proper identification numbers on returns they prepare for customers, as required by I.R.C. §§ 6695(c) and 6109(a)(4). For example, defendants use an invalid preparer tax identification number (P-TIN) when preparing returns for their customers.

48. Defendants failed to comply with an IRS request, pursuant to I.R.C. § 6107(b), for a list of customers for whom they prepared tax returns for tax years 2004, 2005, and 2006. Defendants did not provide that list to the IRS.

49. Defendants also prepare returns which direct the IRS to deposit their customers' refunds directly into the defendants' personal bank accounts, in violation of I.R.C. § 6695(f).

Defendants list their bank account numbers in the refund section of their customers' income tax returns, which causes the IRS to deposit electronically the customers' refund into the defendants' listed bank account.

### **Harm To The Government**

50. The IRS has determined that the defendants prepared and filed returns under the name MC Tax Service (using Christopher Helton's SSN, P-TIN, and/or his EIN) with the following exorbitant, and therefore questionable, refund rates in prior tax years:

<b>Year Returns Were Processed</b>	<b>Volume of Returns</b>	<b>Refund Rate</b>
2009	2	50%
2008	4	75%
2007	674	99%
2006	428	99%
2005	126	97%
2004	24	100%

51. The amount of taxes lost as a result of the defendants' conduct is significant. The 207 returns prepared by defendants and reviewed by the IRS included false fuel tax credit claims exceeding \$1.5 million. In addition, for the tax years 2007, 2008, and 2009 alone, 80% of the defendants customers claimed an EITC for a total of \$1,586,866 in claimed tax credits.

52. Defendants have harmed their customers by continually and repeatedly preparing returns that substantially understated their customer's actual tax liability. Their conduct further harms the United States by fraudulently reducing customers' reported tax liabilities and resulting in improper and inflated refunds. The IRS must then dedicate scarce resources to detecting and examining inaccurate returns, to conducting audits, and to attempting to collect unpaid taxes.

53. The repeated inclusion of false and fraudulent deductions in the returns prepared by the defendants – and in particular, the improper claiming of fuel tax credits – contributes to the under-reporting of taxes. Such return-preparer fraud is on the IRS's "Dirty Dozen" list of tax

scams. See IR-2008-41 March 13, 2008 (<http://www.irs.gov/newsroom/article/0,,id=180075,00.html>).

54. Furthermore, defendants' schemes were not isolated; rather, the fraudulent conduct recurred over several years. The defendants' extensive involvement in these elaborate tax-fraud schemes over the past several years strongly indicates that the misconduct described in this complaint, or other similar misconduct, is likely to recur unless the defendants are permanently enjoined from the preparation of tax returns.

**Count I: Injunction Under I.R.C. § 7407**

55. The United States incorporates by reference the allegations in paragraphs 1 through 54.

56. I.R.C. § 7407 authorizes a district court to enjoin a tax return preparer from:

- A. engaging in conduct subject to penalty under I.R.C. § 6694;
- B. engaging in conduct subject to penalty under I.R.C. § 6695; or
- C. engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

if the court finds that the preparer has engaged in such conduct and that injunctive relief is appropriate to prevent the recurrence of the conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a federal tax return preparer entirely.

57. Defendants have continually and repeatedly engaged in conduct subject to penalty

under I.R.C. § 6694 by willfully and knowingly preparing federal income tax returns for customers that improperly understate customers' tax liabilities based on unrealistic, frivolous, and reckless positions.

58. Defendants have continually and repeatedly violated I.R.C. § 6694 by preparing and filing federal income tax returns claiming fraudulent fuel tax credits for off-highway business uses and nontaxable uses of undyed diesel fuel.

59. Defendants have continually and repeatedly violated I.R.C. § 6694 by preparing and filing federal income tax returns reporting false income to maximize their customers' EITC claims.

60. Defendants have continually and repeatedly violated I.R.C. § 6695(g) by failing to conduct due diligence with respect to EITC claims and, more specifically, knowingly claiming false income amounts for customers to decrease their tax liabilities and receive fraudulent tax refunds.

61. Defendants have continually and repeatedly violated I.R.C. § 6695(c) by failing to furnish correct identification numbers on returns they prepare and file.

62. Defendants violated I.R.C. § 6695(d) by failing to comply with the IRS's request for a customer list.

63. Defendants violated I.R.C. § 6695(f) by directing the IRS to deposit their customers' refunds directly into the defendants' personal bank accounts.

64. Defendants' continual and repeated violations of I.R.C. §§ 6694 and 6695 fall within I.R.C. § 7407(b)(1)(A) and (D) and, thus, defendants are subject to an injunction under I.R.C. § 7407.

65. If they are not enjoined, defendants are likely to continue filing false and

fraudulent tax returns and other tax-related documents.

**Count II: Injunction Under I.R.C. § 7408**

66. The United States incorporates by reference the allegations in paragraphs 1 through 65.

67. I.R.C. § 7408(a)-(c) authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

68. I.R.C. § 6701(a) penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having 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.

69. As detailed above, defendants have knowingly and willfully prepared false federal tax returns that they knew would understate their customers' correct tax liabilities. They intentionally claimed false fuel tax credits based on false Forms 4136. Defendants also knowingly reported false income amounts on their customers' tax returns to increase EITCs and decrease their customers' tax liabilities. Finally, defendants prepared and filed false Schedules C. Accordingly, defendants are subject to penalty under I.R.C. § 6701.

70. If the Court does not enjoin defendants, they are likely to continue engaging in conduct subject to penalty under I.R.C. § 6701. Injunctive relief is therefore appropriate under I.R.C. § 7408.

**Count III: Injunction Under I.R.C. § 7402**

71. The United States incorporates by reference the allegations of paragraphs 1

through 70.

72. I.R.C. § 7402 authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

73. Defendants, through the actions described above, have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws. They intentionally filed returns falsely seeking fuel tax credits, knowingly reported false income amounts on returns to increase EITCs, repeatedly failed to provide correct return preparer identification numbers on returns they prepared for customers, and prepared false Schedules C.

74. Unless enjoined, defendants are likely to continue engaging in this improper conduct. If defendants are not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them.

75. Enjoining defendants 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 the United States.

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

**WHEREFORE**, the United States prays for the following:

1. That the Court find that defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and have continually and repeatedly engaged in other fraudulent and deceptive conduct that substantially interferes with the administration of the tax laws;

2. That the Court find that defendants have engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a

recurrence of that conduct;

3. That the Court find that defendants have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

4. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting defendants and all those in active concert or participation with them from:

- A. acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns for any person or entity other than themselves, or appearing as representatives on behalf of any person or organization whose tax liabilities are under examination by the Internal Revenue Service;
- B. preparing or filing (or helping to prepare or file) federal tax returns, amended returns, or other related documents and forms for others;
- C. understating customers' liabilities as subject to penalty under I.R.C. § 6694;
- D. engaging in conduct subject to penalty under I.R.C. § 6695;
- E. engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision of the I.R.C.;
- F. engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws;
- G. representing others before the IRS; and,
- H. using electronic identification numbers (EIN), taxpayer identification numbers (TIN), preparer tax identification numbers (P-TIN), social security numbers (SSN), or any other federally-issued identification number that belongs to another person(s), or is not valid or correct, to prepare, file, or remit federal tax returns.

5. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring that defendants, within 30 days of entry of the injunction, contact by U.S. Mail and, if an e-mail address is known, by e-mail, all persons for whom they prepared a federal tax return since January 1, 2005, enclosing a copy of the executed permanent injunction order against

defendants, and then, within 45 days of entry of the permanent injunction order, file with the Court a certificate stating under penalty of perjury that defendants have complied with this requirement;

6. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring defendants to produce to counsel for the United States, within 30 days of entry of the permanent injunction order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom defendants have prepared federal tax returns or claims for a refund since January 1, 2005;

7. That the Court retain jurisdiction over defendants and over this action to enforce any permanent injunction order entered against defendants;

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

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

DATED: February 7, 2011

Respectfully submitted,

JOSÉ ANGEL MORENO  
United States Attorney

/s/ Richard G. Rose  
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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 n/a  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c)** Attorney's (Firm Name, Address, and Telephone Number)  
 see attached sheet

**DEFENDANTS**  
 Christopher J. Helton, et al.

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

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

Attorneys (If Known)  
 Unknown

**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) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Emp. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) <b>FEDERAL TAX SUITS</b> <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609	

**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. §§ 7401, 7402, 7407 and 7408

Brief description of cause:  
Defendants have repeatedly prepared income tax returns that falsely claim fuel tax and other credits

**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 7 Feb 2011 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY: RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFF \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

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