

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:12-cv-95
)	
FESUM OGBAZION;)	
ITS FINANCIAL, LLC;)	
TCA FINANCIAL, LLC; and)	
TAX TREE, LLC)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America seeks a permanent injunction pursuant to 26 U.S.C. §§ 7402(a) and 7408 against Fesum Ogbazion, ITS Financial, LLC, TCA Financial, LLC, and Tax Tree, LLC (collectively, “defendants”). The United States of America states as follows:

1. Defendant Fesum Ogbazion owns, operates and controls ITS Financial, LLC. ITS Financial is headquartered in Dayton, Ohio, and is the national franchisor of Instant Tax Service. Instant Tax Service is a brand and nationwide tax preparation franchise business started by Ogbazion in 2004 and marketed by ITS Financial throughout the United States.

2. According to its website, Instant Tax Service is the “4th largest tax preparation company” in America, one of “the fastest growing franchises,” and the “number one new franchise” brand in the country as of 2009. Potential new franchisees are told, among other things, that, “[n]o tax experience [is] necessary!” Instant Tax Service also claims to have “hundreds of locations in 34 states.” Today, those locations are owned by franchisees who have contracted with ITS Financial. Many of Instant Tax Service’s most profitable franchises—

including five of its six largest—engage in systemic and pervasive tax fraud. Defendants are aware of, and even enable, much of the fraud engaged in by these franchisees.

3. Ogbazion is the founder and sole owner of TCA Financial, LLC, the holding company for ITS Financial.

4. Ogbazion also wholly owns Tax Tree, LLC, an entity he created and operates to finance false and deceptive loan products, including Instant Cash Loans (ICLs) and Refund Anticipation Loans (RALs), marketed nationwide to Instant Tax Service customers. Tax Tree's relationship to Instant Tax Service is not disclosed to customers. Rather, documentation provided to Instant Tax Service customers falsely suggests that Tax Tree is an independent, third-party lender.

5. Instant Tax Service uses its false and deceptive loan products principally to lure customers into its local stores so that franchisees may charge them unconscionably high tax preparation fees and added fees. Ogbazion calls the added fees “junk fees” and “revenue generators.” The junk fees include bogus charges for: “service bureau,” “document preparation,” “refund estimate,” “technology/software,” “account set up,” “check printing,” and “Efile/electronic transmission.” Collectively, the tax preparation and junk fees charged by Instant Tax Service typically average \$400–\$500, and sometimes run as high as \$1,000 or more, for as little as 15 minutes of return preparation.

6. Although Instant Tax Service boasts of being one of the fastest growing tax preparation franchises and “Entrepreneur Magazine's top new franchise,” it has been overwhelmed for years with complaints from taxpayer customers about poor service, incompetence, and most predominantly, fraud. For instance, in the past 36 months consumers

filed over 900 complaints with the Better Business Bureau in 48 service areas across the country covering Instant Tax Service stores nationwide. Hundreds of additional complaints have been posted to online consumer protection forums such as “The Ripoff Report.” And Instant Tax Service offices nationwide have been the subject of numerous local TV news consumer fraud reports. Most of the complaints focus on Instant Tax Service stores filing tax returns without the customers’ knowledge or consent, making false and deceptive representations to customers, and charging unconscionably high and undisclosed fees. Moreover, IRS audits of individual Instant Tax Service customers, as well as other efforts by the IRS to monitor Instant Tax Service’s compliance with the internal revenue laws, demonstrate systemic misconduct by Instant Tax Service locations nationwide.

7. Despite knowing of these widespread and pervasive complaints, as well as having actual knowledge of much of the franchises’ illegal conduct, defendants have not taken any meaningful steps to stop the misconduct. Indeed, defendants deliberately and purposely ignore their customers’ protests because, claims Ogbazion, if he or his company monitored them, he “wouldn’t be able to sleep” at night.

8. Moreover, ITS Financial has little incentive to stop the wrongdoing, because it directly profits from its franchisees’ misconduct by taking a percentage (approximately 18%) of all franchisee gross revenues. And all or most of the junk fees for “transmission,” “technology,” “account set up,” and “check-print” are ITS Financial and/or Tax Tree fees, not franchisee fees, that ITS Financial and Tax Tree retain. Accordingly, ITS Financial promotes a culture among its franchisees that favors volume and profits over accuracy and integrity, and creates an environment where fraudulent tax return preparation and violations of federal tax laws flourish.

9. Examples of franchisee misconduct that significantly and illegally increase franchisee and ITS Financial gross revenues and result in losses to the U.S. Treasury include: (1) reporting false or inflated Schedule C income on tax returns to obtain improper Earned Income Tax Credits (“EITC”); (2) preparing and filing tax returns prematurely with paycheck stubs that omit income and distributions, rather than with employer-issued Forms W-2 (“W-2s”); (3) claiming improper education credits; (4) claiming false filing status; (5) filing tax returns without customer authorization; and (6) improperly marketing Tax Tree’s deceptive and misleading loan products to customers.

10. Prior to selling corporate-owned Instant Tax Service offices throughout Ohio in 2010, defendants engaged in some of the same fraudulent activity that is now rampant throughout Instant Tax Service franchise stores, including filing returns prepared with paystubs, e-filing returns without customer authorization, and fabricating W-2s to evade IRS fines or penalties in the event of an IRS audit or compliance visit.

11. The United States brings this complaint pursuant to 26 U.S.C. §§ 7402 and 7408 of the Internal Revenue Code, to enjoin defendants, and anyone in active concert with them, from preparing or directing or assisting in the preparation of federal tax returns, from engaging in and facilitating tax fraud, and from engaging in any other conduct that substantially interferes with the administration or enforcement of the tax laws, including the conduct described in this complaint.

Jurisdiction and Venue

12. The Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. (I.R.C.) § 7402(a).

13. Venue is proper pursuant to 28 U.S.C. § 1391(b) because defendants reside or conduct business within this judicial district, and because a substantial part of the events or omissions giving rise to this suit occurred and are taking place in this judicial district.

Authorization

14. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7401, 7402, and 7408.

Nature of Action

15. The United States commences this action to stop defendants from engaging in and facilitating extensive and pervasive tax fraud. Specifically, the government seeks to enjoin defendants, and all those in active concert or participation with them, from directly or indirectly:

- a. Acting as federal tax return preparers, supervising or managing federal tax return preparers, or assisting with, or directing the preparation or filing of federal tax returns, amended returns, claims for refund, or other related documents, 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 or investigation by the Internal Revenue Service;
- b. Engaging in conduct subject to penalty under I.R.C. § 6701, including aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising, managing or directing others who aid, instruct, assist, encourage, enable, incite, or advise) with respect to the preparation or presentation of any portion of a tax return, claim, or other document, that defendants know or have reason to know will be used as to a material matter arising under federal tax law, and will result in the understatement of the liability for tax of another person;
- c. Organizing, promoting, selling, advising, implementing, carrying out, assisting, supervising, or managing abusive plans or arrangements that violate the Internal Revenue laws;
- d. Improperly aiding, instructing, assisting, encouraging, enabling, inciting,

or advising (or supervising, managing or directing others who improperly aid, instruct, assist, encourage, enable, incite, or advise) customers to avoid the assessment or collection of their federal tax liabilities or to claim improper tax refunds;

- e. Organizing, promoting, providing, advising, or selling (or supervising, managing or directing others who organize, promote, provide, advise or sell) business or tax services that facilitate or promote noncompliance with federal tax laws;
- f. Organizing, promoting, providing, offering, or selling false, deceptive or misleading loan products or cash advances to any person in connection with the preparation or filing of federal tax returns, amended returns, claims for refund, or other related documents;
- g. Providing, transferring, distributing, or sharing (or helping others provide, transfer, distribute or share) IRS Electronic Filing Identification Numbers (“EFINs”) to others who are not authorized to use those EFINs; and
- h. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

16. Separate injunction suits are being filed simultaneously in other cities across the country against Instant Tax Service franchises that routinely prepare false or fraudulent tax returns.

Fesum Ogbazion’s Background and Instant Tax Service’s Structure

17. Ogbazion currently resides and works in Dayton, Ohio. He has a Bachelors of Science degree in finance and accounting from the University of Cincinnati. Ogbazion founded and is the sole owner and CEO of ITS Financial, TCA Financial, and Tax Tree.

18. Although Ogbazion makes his living facilitating the preparation of tax returns for others—and took in millions of dollars in operating revenue last year as CEO and owner of ITS Financial, TCA Financial, and Tax Tree—he failed to pay all of his own income taxes in 2011. On his personal federal income tax return for tax year 2010, Ogbazion self-reported that he owed

\$17,000 in tax above what was withheld from his wages, yet he made no payments toward that liability.

19. In addition, Ogbazion willfully failed, in violation of federal law, to pay over federal employment taxes that ITS Financial and affiliates withheld from employee pay in 2009 and 2010 and held in trust for the United States. Instead, Ogbazion illegally used those trust monies to fund ITS Financial operations and to make preferential payments to select creditors. As recently as March 1, 2012, Ogbazion's personal liability for those taxes and interest was nearly \$1 million.

20. Defendants' violation of the tax laws and failure to pay its own tax liabilities is not limited to federal taxes. The Ohio Department of Taxation has filed 15 state liens against ITS Financial since 2010 for the company's failure to pay over \$200,000 in state taxes. *See* <http://www.clerk.co.montgomery.oh.us/pro/>.

21. Ogbazion has been overseeing, facilitating, and profiting from tax return preparation for over a decade. Ogbazion founded TCA Financial as a tax preparation company in Dayton, Ohio in 2000. According to Ogbazion, that same year he began licensing Instant Tax Service offices to family members and close friends in other cities throughout the United States, including Indianapolis, Chicago, and Washington, D.C. Licensees operated Instant Tax Service stores in those and other locations from 2000 to 2004.

22. In 2004, Ogbazion created ITS Financial and began franchising Instant Tax Service offices throughout the country. All franchisees sign (or are supposed to sign) a franchise agreement with ITS Financial that defines the relationship between the parties.

23. Under the franchise agreement, in addition to paying an original franchising fee of \$34,000, all franchisees pay a royalty fee. This fee ranges from 12% to 20% of gross revenues, depending on when the franchisees entered their franchising agreement. Recent franchisees pay a higher royalty than older franchisees. The current blended average royalty rate is 18%.

24. Franchisees are not required to, and rarely do, have any tax preparation experience. Indeed, under the “franchising” tab of its website, ITS Financial claims “[n]o tax experience necessary! We provide all the training you need.”

25. Although franchisees are required to attend 40 hours of training from ITS Financial in Dayton, only seven of those 40 hours relate to tax instruction. Consequently, Instant Tax Service franchisees open tax preparation stores with little or no knowledge of federal tax law or how to properly prepare tax returns.

26. As the national franchisor of Instant Tax Service stores, ITS Financial determines who qualifies to own a franchise. ITS Financial purports to have minimum standards for who may be a franchisee. But in its quest for profits and to expand its enterprise, ITS Financial even ignores the criminal background checks it runs on potential franchisees. In 2008, for example, after running a criminal background check on a potential Michigan franchisee, ITS Financial learned that the applicant had been convicted of felony theft in 2004. Despite knowing this, ITS Financial sold her a franchise and Ogbazion personally signed the final franchise documents.

27. ITS Financial also offers guidance to its franchisees regarding how to deceive government authorities. For example, in the “IRS Audit Guide” that ITS Financial issues to all franchisees, ITS Financial encourages franchisees to lie to the IRS in the event of an audit. It recommends falsely telling IRS auditors, for instance, that corporate policy, in conformance with

IRS regulations, prohibits filing tax returns based on paycheck stubs rather than W-2s. Internal ITS Financial documents, however, reveal that the company's actual paystub filing policy is "don't ask, don't tell." ITS Financial also recognizes that some of its franchisees cannot survive financially without engaging in improper paystub filing. Apart from the startling fact that ITS Financial encourages its franchisees to lie to the IRS about anything, the company's internal paystub policy exacerbates the nationwide problem of Instant Tax Service franchisees illegally filing returns based on paystub information rather than W-2s.

28. The same IRS Audit Guide further recommends that franchisees lie to the IRS about their tax preparation fees. ITS Financial tells franchisees to inform IRS employees that their tax preparation fees range from "FREE to \$140." ITS Financial knows, however, that virtually all of its franchisees charge fees far above that range. Defendants know this because they closely monitor all franchisee fees. Indeed, a spreadsheet maintained by ITS Financial dated January 28, 2009 ranks Instant Tax Service's 276 franchisees according to their average fees. More than 80 of those franchisees—including nearly all of its highest grossing franchisees—had average fees of over \$400.

29. ITS Financial has been in dire financial condition for years. In fact, in its audited financial statement for 2009—the company's last audited financial statement—the outside auditors expressed "substantial doubt about the Company's ability to continue as a going concern." As further evidence of its financial instability, between 2009 and the present, judgments from over 40 civil lawsuits have been entered against ITS Financial, totaling over \$2.7 million. According to court records, most of these judgments remained unpaid as of late 2011. Even when ITS Financial makes payments in fulfillment of certain judgments, it

deliberately fails to correct court records showing satisfaction of those judgments so that other creditors are not emboldened to file suit against it.

30. ITS Financial's dire financial condition further fuels the culture that favors volume and profits over accuracy and integrity, and causes it to willfully ignore and/or encourage the systemic violation of federal tax laws by its franchisees.

Deceptive and Unconscionable Fees

31. ITS Financial and Instant Tax Service purposely target low-income and unsophisticated taxpayers. Many of these customers receive public assistance. Many also qualify for the federal Earned Income Tax Credit (EITC). The EITC is a refundable tax credit intended to help low-income individuals and families. Unlike many tax credits, a refundable credit entitles qualifying taxpayers to receive refunds even if they have no tax liability and have made no income tax withholding payments. Today the EITC is one of the largest anti-poverty tools in the United States, intended to act as a wage supplement and to increase workforce participation.

32. ITS Financial and its Instant Tax Service franchisees charge their low-income taxpayers unconscionably high and deceptive fees. As discussed above, these fees include not just "tax preparation" costs, but also numerous added and often hidden fees that Ogbazion calls "junk fees" and "revenue generators."

33. Collectively, Instant Tax Service's tax preparation and junk fees typically average more than \$400-\$500, and sometimes run as high as \$1,000 for as little as 15 minutes of tax return preparation. Because Instant Tax Service deliberately targets low-income taxpayers, these unconscionably high fees often pose a significant financial hardship for their customers.

34. Frequently franchisees also fail to disclose all fees, or they tell customers that they charge one amount for fees and then later increase the fees without the customer's knowledge or consent.

35. Even when the junk fees are disclosed, ITS Financial encourages franchisees to lie about the nature of the fees. ITS Financial, for example, recommends that franchisees falsely tell customers that one of its junk fees—the “service bureau” fee—is a third-party fee. In fact, the service bureau fee is simply a franchise fee paid incrementally to ITS Financial. According to Ogbazion, ITS Financial “floats” most of its franchisees \$20,000 toward the initial \$34,000 cost to open a franchise. The franchisees pay the \$20,000 over time through the deceptively named service bureau fee. Once the franchisees pay off their liability to ITS Financial, they typically continue charging a service bureau fee, which then simply acts as a hidden “revenue generator” to increase the franchisee's gross revenues, from which ITS Financial takes, on average, an 18% cut. In either event, there is no actual “service bureau.”

36. As with all of the fees Instant Tax Service charges, the service bureau fee is deducted directly from its customers' refund checks. This occurs before the customer receives the refund—because Tax Tree sets up a temporary bank account for the customer into which the tax refund is deposited and over which Tax Tree exerts control. After Instant Tax Service deducts its fees directly from the customer's refund deposited in the temporary account, it then prints a Tax Tree check for the customer. The Tax Tree check makes no reference to the amount of fees deducted, which makes it easy for franchisees to conceal, inflate and/or lie about their fees.

37. In fact, Instant Tax Service customers often complain that they did not know in advance that they would be charged exorbitant fees. This has been a recurring theme of Better Business Bureau complaints and local news reports regarding Instant Tax Service franchises across the country. *See e.g.*, Latina Emerson, *Beware of E-mail, Texting Tax Scams, IRS Warns*, AUGUSTA CHRONICLE, Feb. 25, 2012 (Instant Tax Service, Augusta); <http://fox6now.com/2012/02/29/instant-tax-service-customers-scream-for-contact-6s-help> (Instant Tax Service, Milwaukee); <http://www.wthr.com/story/14931507/taxpayers-fighting-preparer-over-faulty-returns?clienttype=printable> (Instant Tax Service, Indianapolis); <http://grandview.fox4kc.com/news/news/50065-problem-solvers-instant-tax-service-not-so-speedy> (Instant Tax Service, Kansas City); <http://www.local12.com/content/troubleshooter/story/Instant-Tax-Return-Disappointment/xkEs39MIskG1dkZE0nQ9zg.csp> (Instant Tax Service, Cincinnati); <http://www.khou.com/news/local/ITeamTaxesPartOne-139300003.html> (Instant Tax Service, Houston); and <http://www.charlotteobserver.com/2012/03/24/3121031/judge-shuts-down-charlotte-tax.html> (Instant Tax Service, Charlotte)

38. As stated elsewhere in this complaint, ITS Financial even encourages its franchisees, per its “IRS Audit Guide,” to lie to the IRS about their fees.

False and Deceptive Loan Products

39. Many of Instant Tax Service’s low-income customers need cash quickly. Central to ITS Financial’s business model is offering false and deceptive loan products that purportedly allow its customers to quickly borrow money based on their anticipated tax refund. These purported loan products include the Instant Cash Loan (“ICL”) and the Refund Anticipation Loan (“RAL”).

40. ITS Financial markets the ICL and RAL products to lure customers into Instant Tax Service locations. As discussed below, most customers are either denied these loans outright, or receive loan amounts that are so small that they are subsumed by the accompanying junk fees alone, before factoring in exorbitant tax preparation fees.

41. The ICL product (also called the “Holiday Loan” and “Instant Cash Advance”) is offered by Tax Tree and ITS Financial to customers beginning in December and early January, before the tax-filing season begins. Ostensibly, ICLs are small and purportedly non-recourse loans intended to get customers in the door, with the hope that these customers will voluntarily return to have their tax returns filed when the filing season begins and after they receive their W-2s. In reality, the ICLs provide cover to enable Instant Tax Service franchisees to prepare and file tax returns based on available paycheck stubs before customers receive their W-2s, and to file without customer authorization.

42. Because Instant Tax Service offers the ICLs before the filing season even begins, most of their customers have not yet received their W-2s. Thus, franchisees and their employees complete a loan application using the customer’s last paycheck stub, along with an “estimated” tax return. Although Instant Tax Service franchisees purport to prepare estimated returns merely as part of the loan application process, as discussed above, franchisees and their employees routinely file these returns with the IRS without waiting for W-2s from customers’ employers. They also often file the returns without customer authorization.

43. Many Instant Tax Service offices file tax returns based on paycheck stubs and without customer authorization to “lock in” prospective customers. This practice effectively prevents the customer from later using an Instant Tax Service competitor to prepare and file their

return, because a taxpayer can file only one electronic return with the IRS per year. It also gives Instant Tax Service an unfair competitive advantage over tax return preparers who obey the law and wait to prepare and file returns using W-2s. Most importantly, the practice generates an unauthorized refund and guarantees Instant Tax Service that it will receive its unconscionably high tax preparation and junk fees, which are paid directly from the customer's refund only after the return has been electronically filed.

44. The RAL product is similar to the ICL, but is marketed to customers after the IRS begins accepting tax returns in mid-January. The RAL (also called the Refund Anticipation Advance) is a recourse loan that uses the customer's expected tax refund as collateral. RAL funds are advanced to a customer only after Instant Tax Service has prepared and filed the customer's federal tax return and the return has been accepted by the IRS. The RAL is secured by and repaid directly from the proceeds of the customer's tax refund from the IRS.

45. ITS Financial lost its RAL funding for 2010, and consequently could not offer franchisees any RALs that year. Even though it had no loan product at the time, ITS Financial encouraged franchisees to falsely tell potential customers, "we have a *variety of bank products available*, and they should come down to your office to see which ones they qualify for."

46. The false and deceptive loan products are so central to ITS Financial's business model that at one time ITS Financial required, through its franchise agreements, all franchisees to offer them. In May, 2011 Ogbazion stated that the ICL and RAL program are "absolutely essential to the success of ITS and its franchisees." He also described the loan products as a "vital service that ITS offers its customers, and a key component for staying competitive in the industry." ITS Financial's Operations Manual goes further: "Remember that having a tax

preparer who can properly present the utility of [loan products] is just as important as their tax knowledge!”

47. ITS Financial’s franchise agreements state that all loan products will be financed “by one or more banks that are not affiliated with ITS.” Instant Tax Service’s 2010-2011 “Bank Product Application” identifies “Tax Tree” as the “lender,” and likewise states that Tax Tree “is not affiliated with the Tax Preparer.” Tax Tree claims it is headquartered in Miami, Florida.

48. In fact, ITS Financial owner and CEO Obgbazion is the sole owner and CEO of Tax Tree. Tax Tree’s Miami office is empty and has no employees. Tax Tree operates out of ITS Financial’s headquarters in Dayton and uses ITS Financial personnel to market and process loans. Tax Tree’s actual relationship to ITS Financial and Instant Tax Service is not disclosed to customers who apply for loans. Rather, the loan documents provided to Instant Tax Service customers suggest that Tax Tree is an independent, third-party lender.

49. Tax Tree is severely undercapitalized. Defendants know that they have historically needed \$200 million in financing to have a RAL approval rate of a mere 50%. ITS Financial admits in internal documents that a 50% approval rate is “bad.” Yet for 2012 Tax Tree secured only \$15 million to finance all of the loans marketed to Instant Tax Service customers throughout the United States. The prior year it secured even less.

50. Because Tax Tree is and has been so severely undercapitalized, at times its overall loan denial rate exceeds 90%. In January 2011, for instance, Tax Tree’s RAL denial rate was 95%.

51. Even though Tax Tree is severely undercapitalized and lacks sufficient funding for its nationwide loan program, Instant Tax Service franchisees aggressively promote ICLs and

RALs to lure customers in the door. ITS Financial personnel likewise encourage franchisees to market the false and misleading loans to customers even when they know the loan approval rates will be “very very low,” because they view the loan products as a great way to get customers to “cross the threshold of your door.”

52. Tax Tree automatically pre-denies loans to certain types of customers. For example, it automatically pre-denies single males who file head-of-household, as well as customers with expected refunds under \$2,000. Ogbazion, aided by other ITS Financial personnel, personally participated in the design of Tax Tree’s pre-denial criteria.

Notwithstanding the fact that certain customers are automatically denied Tax Tree loans, those customers are not told they are ineligible and instead are fraudulently encouraged to apply so that Instant Tax Service can charge them tax preparation and junk fees.

53. Apart from principally serving to induce people to have their tax returns prepared and filed by Instant Tax Service—so that franchisees can charge their customers unconscionably high fees—the deceptive and misleading ICL and RAL products are also profitable in their own right. Under the current franchise agreements, ITS Financial retains a portion of all junk and tax preparation fees through its blended average 18% royalty. But even customers whose loan applications are denied, including those who receive automatic denials, are charged junk “transmission fees,” “technology fees,” “account set up fees,” and “check-print fees.” All of these fees are taken directly from customers’ refunds. The former two junk fees go directly to franchisor ITS Financial. The latter two fees go directly to Tax Tree.

54. Tax Tree’s ICL and RAL products also violate federal and state consumer protection laws. For example, in violation of New York consumer protection laws, Instant Tax

Service franchisees in New York City were recently fined for failing to make required disclosures regarding RALs and RAL fees. Similarly, in North Carolina, a state court has temporarily shut down three franchise stores in Charlotte based on a lawsuit by the attorney general alleging that the stores misled customers regarding its loan products.

55. In addition to violating consumer protection laws, Tax Tree's ICL and RAL products violate federal and state lending and disclosure laws. In an attempt to circumvent these requirements, Tax Tree and ITS Financial recently rebranded their "Refund Anticipation *Loans*" and "Instant Cash *Loans*" as "Refund Anticipation *Advances*" and "Instant Cash *Advances*." Neither Tax Tree nor ITS Financial made any actual changes to these loan products, apart from changing the word "loan" to "advance."

56. Despite this semantic gamesmanship, ITS Financial admits in internal documents that it markets "loans" to customers. Indeed, Ogbazion—in a recent attempt to explain why Instant Tax Service's exorbitant fees are so high—publicly admitted that Instant Tax Service, in fact, currently offers "loans," while his competitors do not. See <http://fox6now.com/2012/03/11/contact-6-receives-over-20-more-instant-tax-service-complaints/> ("[t]here's no denying that our fees may be higher than a place that does not offer loans.")(Ogbazion statement). This admission followed allegations of fraud at yet another Instant Tax Service office brought to light by a local television news program in Milwaukee.

57. Tax Tree must also comply with federal and state lending and disclosure laws because it charges "fees" for its loans. Tax Tree charges "account set up fees," and "check-print fees" that are not paid if the Instant Tax Service customer pays cash to have his or her tax return prepared. Tax Tree also receives "indirect" fees for its loans because franchisees charge "a

premium fee” for “tax preparation services.” Internal ITS Financial documents reveal that the company knows that “charging a premium fee for tax prep fee means that we are in some way charging for RALs, even if it’s indirectly.”

58. ITS Financial is also aware that franchisees misrepresent the amount of cash customers may receive from ICLs and RALs. For example, as shown in separate televised segments on Fox News in Washington, D.C., Instant Tax Service stores in D.C. and Maryland display signs falsely advertising “up to \$7000 in 12 hours.” The maximum loan offered by Tax Tree, however, is \$5,000. And even that amount is misleading because it was made available to fewer than a dozen customers nationwide out of nearly 100,000 loan applicants. Despite knowledge of these misrepresentations—Ogbazion was personally interviewed by Fox News in D.C. for the television story that prominently displayed the false \$7,000 advertisement and concerned still more allegations of fraud at yet another Instant Tax Service office—defendants have taken no corrective action.

59. This tax season, Tax Tree added to Instant Tax Service customers’ woes by issuing bad checks to customers. The bad checks delayed the customers’ receipt of their tax refunds. *See e.g.* <http://www.myfoxdc.com/dpp/news/local/tax-refund-check-cashing-issues-arise-for-some-instant-tax-service-customers-in-dc-020812>; http://rochesterhomepage.net/fulltext?nxd_id=296852. It did not, however, delay Tax Tree’s and Instant Tax Service’s receipt of their unconscionably high fees, which they deducted directly from the customer’s IRS refunds *before* issuing the bad checks for the remainder to customers.

EFIN Trafficking

60. In violation of IRS rules, ITS Financial facilitates the trafficking of IRS Electronic Filing Identification Numbers (EFINs) among its franchisees. Before a person may prepare and electronically transmit tax returns for customers, he or she must obtain authorization from the IRS to become an authorized provider. Every authorized provider must apply for and receive an EFIN from the IRS. The EFIN is a unique number that clearly identifies the authorized provider and the location where the return was prepared. The issuance and use of EFINs allows the IRS to control who provides e-filing services to the public, and allows the IRS to monitor, and hold accountable, those who electronically file taxpayers' returns. ITS Financial interferes with these important tax administration and enforcement functions by illegally collecting and then distributing EFINs to unauthorized users.

61. IRS EFIN requirements mandate that authorized providers "must never share the numbers and passwords with others, including not transferring EFINs or ETINs to another entity" All prospective authorized providers also must sign an EFIN application, under penalty of perjury, promising to comply with these requirements. In direct contravention of this mandate, ITS Financial obtains EFINs from various franchisees, and then distributes those EFINs to other franchisees who are not authorized to use them. ITS Financial, for example, obtained over 300 EFINs from David Franklin, a franchisee in Indianapolis, Indiana, and then trafficked those to new franchisees across the country. ITS financial has even trafficked EFINs belonging to Ogbazion, providing them to new franchisees who were not allowed to use them, despite knowing that such trafficking is expressly prohibited.

Pervasive Illegal Activity by Instant Tax Franchisees

62. Since at least 2009, employees at many of Instant Tax Service's most profitable franchises throughout the country have engaged in widespread illegal activity, including: (1) preparing fabricated W-2s; (2) preparing phony Forms Schedule C depicting fabricated businesses and income; (3) falsely claiming education and dependent care credits to which their customers are not entitled; (4) improperly claiming false filing status; (5) reporting fictitious income and deliberately circumventing due diligence requirements in order to fraudulently maximize the Earned Income Tax Credit; and (6) filing federal income tax returns without the taxpayer's consent and fraudulently omitting certain sources of reportable income.

63. As discussed below, ITS Financial knew of and has reason to know of this pervasive illegal conduct, but did virtually nothing to stop it, and, at times, directly or indirectly encouraged it. To put an end to this systematic and widespread fraud, the United States filed civil lawsuits to enjoin certain Instant Tax Service franchisees from continuing to prepare tax returns for others. These injunction suits have been initiated against franchisees in Indianapolis, Kansas City, Saint Louis, Las Vegas, and Chicago.

Defendants' Actual Knowledge and Disregard of Fraud

64. Prior to the United States' injunction suits against Instant Tax Service franchisees, ITS Financial knew of illegal activity within its franchises but took no meaningful steps to stop it.

65. For example, Ogbazion knew that a franchisee in Los Angeles had one office where, in his own words, "every tax return being done is pretty much fraudulent." He also knew that at least one employee at that franchise "was doing a lot of fraudulent Schedule C self-

employment returns.” Despite knowing of the fraudulent returns, including those prepared with fake Schedule Cs, ITS Financial took no action against the franchisee or its employees to put an end to the illegal conduct. ITS Financial did, however, later file a lawsuit against the franchisee, but the action concerned the franchisee’s failure to continue making royalty payments to ITS Financial, not its violation of the internal revenue laws.

66. ITS Financial has promoted those suspected of fraud. In 2008, for example, the company issued a press release announcing the termination of a Missouri franchisee and one of his managers. ITS Financial supposedly terminated the pair following the IRS’s execution of a criminal search warrant at their Missouri Instant Tax Service offices. The search warrant had been issued based on their alleged illegal selling of information regarding taxpayers’ dependents. Shortly after ITS Financial’s public condemnation of the franchisee and manager, Ogbazion quietly promoted the purportedly “terminated” franchisee to be an ITS Financial “area developer,” with responsibilities for recruiting new Instant Tax Service franchisees. Ogbazion also elevated the supposedly “terminated” manager, awarding him his own Instant Tax Service franchise in Florida.

67. ITS Financial also knows of, but does nothing to stop, the rampant but illegal practice of paystub filing by its franchisees. Using end-of-year paystubs to prepare and file returns is improper and violates IRS rules and does enormous harm to tax administration. End-of-year paystubs also frequently omit income and distributions that are shown on employer-issued W-2s. Thus, preparing and filing federal income tax returns based on information from end-of-year paystubs inevitably results in errors and omissions on federal tax returns, which necessarily interferes with the administration and enforcement of the internal revenue laws.

68. Defendants know that the IRS prohibits paystub filing. In fact, in its franchise disclosure form, ITS Financial advises its franchisees that “the IRS has spent a substantial amount of time in recent years auditing tax return files looking for preparers who have e-filed tax returns using a customer's last paystub (known as ‘paystub loans’), which practice the IRS now explicitly prohibits.”

69. Because the IRS explicitly prohibits paystub filing, law abiding return preparers are competitively disadvantaged by preparers such as Instant Tax Service that prepare and file tax returns for customers well before their W-2s are even available. For this reason, H & R Block sued ITS Financial in 2009, alleging that it and its franchisees were electronically filing tax returns prepared using only paystubs. ITS Financial promptly settled the suit and issued a statement condemning the practice of paystub filing.

70. While the IRS clearly prohibits filing returns using paystub information, and ITS corporate policy supposedly acknowledges that the practice is illegal—internally ITS Financial does not actually prohibit paystub filing. In fact, according to minutes from a 2009 Franchisee Advisory Counsel Meeting, ITS Financial secretly promotes a “don’t ask, don’t tell” policy regarding paystub filing. The minutes even warn certain franchisees that if they “are not doing checkstubs, [they] will not survive/compete.”

71. ITS Financial’s “don’t ask, don’t tell” paystub policy is exemplified by a September 2011 e-mail from an Instant Tax Service franchisee to ITS Financial staff. In the e-mail, the franchisee indignantly complains about one of his customers who is upset. The customer is angry about owing money to the IRS solely because the franchisee prepared her

return using a paystub, not her W-2, which then resulted in the customer receiving a larger refund than she was entitled to:

I spoke with the client today, and she seems to think that numbers were entered incorrectly into the system, which they were NOT. Her paystub was used initially to file her taxes, and the numbers on the paystub match what was entered into the system. The reason for her owing money to the IRS is not data entry error, but the fact that her W2 numbers were different than the numbers on her pay stub. She feels its our error and thus we should help her pay the amount to the IRS. She got more money back in Feb 2011 than she was supposed to. I am having my manager meet with her at the Lima office to go over her paystub and what was entered into the system. Irregardless, even if a data entry error was made (which it was not) she still needs to understand that she owes that money due to her getting more money earlier.

72. In response, ITS Financial acknowledges that paystub filing is illegal, but does nothing to discipline the franchisee for violating the law. Rather, it recommends that the franchisee not mention the paystub issue to the customer, but instead lie and say there was an error in preparing her return:

“We always require clients to pay back monies they were given that they should not have. Paycheck filing is illegal though so that argument is not one that I would voice too terribly much. More so that there was an error made and you will fix it would be a bit better.”

73. As discussed above, ITS Financial also coaches its franchisees to lie about its paystub filing policy to the IRS during audits. It does so through its “IRS Audit Guide” that it issues to all franchisees as part of its Operations Manual. The Audit Guide provides recommended answers to IRS questions, including the following:

“Do you file a tax return without a W-2?

- a. NO. The IRS prohibits the filing of tax returns without W-2s. It is Instant Tax Service corporate policy to ONLY file tax returns when all W-2s are present.”

74. This falsely masks ITS Financial's actual "don't ask, don't tell policy" regarding paystub filing. As discussed elsewhere, the IRS Audit Guide also encourages franchisees to lie to the IRS about the amount of their tax preparation fees.

75. Likewise, ITS Financial knows that franchisees create forged and backdated documents, such as fabricated W-2s, to place in customer files to prevent the IRS from detecting their practice of paystub filing.

76. ITS Financial is also aware that tax return preparers at Instant Tax Service offices routinely electronically file tax returns without customer authorization and fabricate a paper trail to conceal the practice from the IRS. For example, Instant Tax Service franchisees regularly falsify IRS Forms 8879 after they have already transmitted the customer's tax return to the IRS.

77. Form 8879 is entitled "IRS e-file Signature Authorization." Return preparers must obtain this signed authorization from each customer *before* e-filing his or her federal tax return. The preparer also must retain a copy of the signed authorization for three years. In addition, the customer must sign the form within three days of submission to the IRS. Because return preparers cannot e-file tax returns until mid January—often weeks after Instant Tax Service preparers have prepared paystub returns for their deceptive loan program—Instant Tax Service employees frequently have their customers sign authorization forms when they bring in their paystubs, but falsely post-date the forms to make it look like they were signed within three days of the legal filing date. At other times, Instant Tax Service preparers simply fabricate the form after the return has been filed. As with fake W-2s, the purpose of fabricating and maintaining the documents in files is to cover up the regular practice of filing paystub returns without customer authorization and, thereby, avoid IRS fines or penalties should the IRS review

customer files.

78. ITS Financial is not only aware that Instant Tax Service franchisees regularly falsify IRS Forms 8879 after the customer's tax return has been transmitted to the IRS, it encourages the practice. For example, in an e-mail dated August 6, 2007, and on which Ogbazion was copied, an ITS Financial "Compliance Professional" explains to a franchisee that the IRS has identified tax returns being filed by his office without Forms 8879. Rather than investigate this possible transgression by the franchisee, the ITS Financial employee advises the franchisee to simply print out taxpayer declarations for the e-filed returns and then "have the client sign them," making it appear (falsely) as though the franchisee properly obtained the customer's signature prior to filing and thereafter maintained that authorization in the customer's office file.

Defendants' Willful Ignorance of Fraud

79. To the extent ITS Financial does not know of certain fraud committed by its franchisees, its ignorance is deliberate. Ogbazion admits that he intentionally ignores complaints of wrongdoing by franchisees. For example, he maintains Internet alerts regarding his competitors, such as H & R Block, but refuses to place a similar alert regarding his own company. Ogbazion says if he had an Instant Tax Service alert, he might learn things that would "piss [him] off" and he "wouldn't be able to sleep" at night. Thus, Ogbazion and ITS Financial intentionally turn a blind eye to complaints documenting fraudulent practices by Instant Tax Service franchisees.

80. Similarly, Ogbazion does not employ or task anyone at ITS Financial with monitoring the quality or even legality of returns prepared by franchisees. Every franchise

agreement, however, gives ITS Financial the right to “conduct periodic field evaluations . . . to promote . . . quality control.” Relatedly, under the franchise agreement, all franchisees must comply “with all applicable governmental laws, rules, regulations and ordinances.” Although ITS Financial has a right and duty to oversee its franchisees’ behavior, it refuses to do so despite having reason to know that illegal conduct is taking place.

81. As much as Ogbazion and ITS Financial try to ignore information regarding franchisee misconduct, public reports and BBB complaints inevitably catch their attention. For example, when Instant Tax Service franchisees fail to take action in response to BBB complaints, BBB forwards those directly to the parent company, ITS Financial. Because its franchisees routinely ignore customer complaints, ITS Financial has received copies of hundreds of BBB reports, including the following that concern pervasive and unauthorized filing of tax returns prepared using paystubs:

- a. “In 12/2010, I went to this company to get a loan. I received the loan. I was unaware that they prepared my taxes. They were only supposed to give me an estimate. I went to another company to have my taxes done and they told me this company had already prepared them. I didn’t give this company my W-2 or any of the information that they would need.”
- b. “I went for a 50.00 loan and they did tax paperwork on me without receiving my consent or a w-2 from me two weeks before my company released our w-2.”
- c. “I went to this business in December of 2010 and made an agreement for a anticipation loan for \$300. The company processed my taxes without my knowledge the same day I received my W2s I guess they got the information from the Internet, also they hadn’t provided any information about the company’s fee for processing. because they started without my knowledge they didn’t have all my information and now I have to make an amendment with the IRS.”
- d. “In 12/2010, I took out a return loan on my tax returns from this company. In 1/2011, they told me that my return had been prepared. I questioned this, as I didn’t give them my W2s. The manager said they had documentation, and it had a signature on it, but it wasnt mine. They claim they had a W2 on me, but I don’t

have it. The company they claim I worked for, I havent worked for them in two years. I never authorized them to do my taxes. The staff was very rude, and wouldnt provide me with what I allegedly signed, or a copy of this alleged W2.”

82. Despite knowledge of these and other complaints from BBB, online consumer protection sites, and various local media outlets throughout the country, ITS Financial has never disciplined or terminated a franchisee for violating the tax laws, despite its contractual right to do so.

83. In addition to its willful ignorance of tax preparation fraud at Instant Tax Service offices throughout the country, ITS Financial assists franchisees in affirmatively trying to deceive the IRS. It does so, as discussed above, through its “IRS Audit Guide.”

Illegal Activity by Corporate-Owned Stores

84. In addition to overseeing numerous tax preparation franchises that engage in illegal conduct, Ogbazion also owned and personally operated Instant Tax Service offices that similarly violated the law.

85. From 2000 through 2010, Ogbazion, through his company TCA Financial, owned and operated Instant Tax Service stores throughout Ohio. Between 2007 and 2009, Ogbazion reduced his ownership of these Ohio-based “corporate-owned” stores, from 65 to 16. He says he sold off the final 16 offices to various franchisees in 2010.

86. Consistent with the illegal behavior exhibited by five of its six most profitable franchisees, Instant Tax Service’s corporate-owned offices engaged in some of the same misconduct, including electronically filing tax returns prepared using paystub information, filing paystub returns without customer knowledge or authorization, and creating forged W-2s to avoid IRS penalties or fines.

87. In January of 2006, for instance, Ogbazion spoke with one of his managers of certain corporate-owned Instant Tax Service offices in Ohio. Ogbazion had just learned that a number of returns that were prepared using paystub information in connection with loan applications (at corporate-owned offices supervised by the manager) had not yet been filed with the IRS. Ogbazion personally instructed the manager to file those paystub returns without waiting for customers to bring in their W-2s. Ogbazion also told the manager to file the returns even if they did not have the customers' permission and consent to file. Ogbazion did so to enable Instant Tax Service to obtain its exorbitant fees, which it would receive only after the returns were filed and accepted by the IRS.

88. In February of 2006, the IRS audited two of Ogbazion's corporate-owned Instant Tax stores. Because the offices had been filing tax returns using paystub information, per Ogbazion's instruction, some of the randomly selected customer files lacked W-2s. This, among other violations, was a basis for the IRS reprimanding both of the audited locations. When the manager of those locations later discussed the results of the audits with him, Ogbazion asked why she hadn't simply printed off fake W-2s from the company's Drake tax-preparation software and included those in the customer files. When the manager said she didn't know how to do that, Ogbazion personally showed her how to print a forged W-2 using the Drake software from the computer in his Dayton, Ohio office.

89. Consistent with Ogbazion's own practices at his corporate-owned offices, Instant Tax Service franchisees across the country now regularly engage in the same illegal activity.

Harm to the Public

90. Defendants' knowledge and encouragement of fraud by its franchisees, negligent

oversight of its franchisees, false and misleading loan products, and culture favoring volume and profits over accuracy and integrity, has harmed the public and the United States Treasury. These practices harm the public because Instant Tax Service franchisees prepare false or fraudulent tax returns that understate their customers' correct income tax liabilities and illegally cause their customers to incorrectly report their federal tax liabilities and underpay their taxes. Defendants' franchisees also harm their customers by charging them unconscionably high tax preparation and junk fees. Finally, defendants exploit and harm Instant Tax Service customers by selling them false and deceptive loan products tied to anticipated tax refunds.

91. Defendants' fraudulent practices likewise harm the United States Treasury in the form of lost tax revenue. For instance, the IRS randomly sampled 2010 tax returns prepared by Instant Tax Service franchisees in Indianapolis, Kansas City, Saint Louis, Chicago, and Las Vegas. Based on this study, the IRS determined that over half of the over 24,000 tax returns prepared by these franchisees are non-compliant. The United States estimates that the tax loss to the government from these Instant Tax Service franchisees alone exceeds \$16 million in 2011. This estimate likely understates the harm done by all Instant Tax Service franchisees, as it only considers the actions of five franchises in a nationwide enterprise that is the subject of literally hundreds of consumer complaints in numerous additional states.

92. The defendants' misconduct further harms the United States and the public by requiring the IRS to devote scarce resources to detecting the fraud and assessing and collecting lost tax revenues from defendants' customers. IRS employees have spent thousands of hours conducting thousands of audits of tax returns prepared by Instant Tax Service offices from 2008 through 2010. In addition, IRS employees have devoted still more time making repeated

compliance visits to various franchises. ITS Financial and its franchisees have frustrated these efforts by actively concealing their fraud from the IRS by, among other actions, fabricating federal tax documents and lying to IRS agents. Consequently, identifying and recovering all lost tax revenues resulting from their fraud and illegal activities may be impossible.

93. The defendants' conduct also harms honest tax return preparers who refuse to engage in such illegal conduct. Honest tax return preparers unfairly lose business to Instant Tax Service franchises as a result of the franchisees' willingness to break the law. Customers at some of the franchises, for instance, had their returns prepared with paystubs at Instant Tax Service after a law-abiding preparer told them they could not prepare a tax return without an employer-issued W-2. Other customers left their return preparer after learning that Instant Tax Service could get them a larger, albeit erroneous, refund.

94. Finally, defendants' misconduct harms the public at large by undermining public confidence in the federal tax system and encouraging widespread violations of the internal revenue laws.

95. The harm to the government and the public will increase unless defendants are enjoined because—given the seriousness and pervasiveness of their illegal conduct—without an injunction defendants are likely to continue enabling the preparation of false and fraudulent federal income tax returns for customers. An injunction will serve the public interest because it will put a stop to defendants' illegal conduct and the harm that such conduct causes the United States and its citizens.

Count I: Injunction Under I.R.C. § 7408 for Engaging in Conduct Subject to Penalty Under I.R.C. §6701

96. The United States incorporates by reference the allegations in paragraphs 1 through 95.

97. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin conduct subject to penalty under section 6701. Section 6701 imposes a penalty: (1) on any person who aids, assists, procures, or advises with respect to the preparation or presentation of any portion of a tax return, claim or other document (“portion”); (2) when that person knows or has reason to know that such portion will be used in connection with a material matter arising under federal tax law; and (3) that person knows that such portion (if used) would result in an understatement of the liability for the tax of another person. Procuring the preparation of tax returns includes ordering (or otherwise causing) a subordinate to do an act, as well as knowing of, and not attempting to prevent, participation by a subordinate in an act.

98. Defendants, through their actions detailed above, caused the presentation and preparation of false, fraudulent and abusive tax returns and other documents. Additionally, through their actions detailed above, Ogbazion and ITS Financial procure and assist in the preparation of false and fraudulent tax returns by encouraging the filing of tax returns they know are false or fraudulent, and by negligently supervising and profiting from franchisees that they know or have reason to know are preparing fraudulent returns.

99. Defendants’ actions have resulted in the understatement of Instant Tax Service customers’ tax liabilities across the country. Given defendants’ roles in encouraging, profiting from, and intentionally ignoring the misconduct of ITS Financial franchisees and tax return preparers as described in this complaint, defendants knew that their actions or omissions would

lead to the understatement of their customers' tax liabilities.

100. If the Court does not enjoin defendants, they are likely to continue to engage in tax fraud and conduct subject to penalty under I.R.C. § 6701. Defendants directly profit from the inflated refunds ITS Financial franchisees make for their customers, giving them a disincentive to intervene to stop such activity. Furthermore, the defendants have a history of ignoring signs that franchisees and Instant Tax Service tax return preparers across the country are understating their customers' tax liability and inflating their refunds. Only an injunction, coupled with the Court's enforcement powers, will put an end to this activity.

101. Accordingly, penalties under I.R.C. § 6701 are warranted and an injunction is necessary to prevent the recurrence of defendants' violations.

Count II: Injunction Under I.R.C. § 7402(a) as Necessary to Enforce the Internal Revenue Laws

102. The United States incorporates by reference the allegations in paragraphs 1 through 101.

103. Section 7402(a) of the Internal Revenue Code authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

104. Defendants' activities described above substantially interfere with the enforcement of the internal revenue laws. First, by failing to train or supervise their franchisees, while simultaneously ignoring, encouraging, and directly profiting from the fraudulent return preparation of their franchisees, ITS Financial contributes to taxpayers' not paying their true income tax liabilities. Second, by promoting and requiring franchisees to offer deceptive and misleading loans to their customers, the defendants exploit low-income taxpayers. This and

other fraud enables defendants to directly profit from the Earned Income Tax Credit, which was intended as an anti-poverty tool and wage supplement for low-income taxpayers, not for the benefit of unscrupulous tax return preparers. Third, by allowing and encouraging Instant Tax Service franchises to fabricate records to cover their non-compliance with federal tax laws and to lie to the IRS, the defendants obstruct legitimate law-enforcement investigations into Instant Tax Service's due diligence. Finally, by allowing and encouraging franchises to file returns without customer authorization in order to increase their own profits, the defendants undermine taxpayer confidence in the tax preparation industry and disadvantage those who comply with the law.

105. An injunction is necessary to stop defendants' tax fraud, and should prohibit defendants, directly or indirectly, from: (1) improperly instructing, advising, encouraging, enabling, inciting or assisting customers to avoid the assessment or collection of their federal tax liabilities or to claim improper tax refunds; (2) organizing, promoting, selling, advising, implementing, carrying out, assisting, supervising or managing, abusive plans or arrangements that violate the Internal Revenue laws; (3) organizing, promoting, providing, advising, or selling business or tax services that facilitate or promote noncompliance with federal tax laws; (4) selling false and deceptive loan products tied to anticipated tax refunds; and (5) otherwise engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

106. Unless enjoined by this Court, defendants are likely to continue to engage in illegal conduct, as described above. Defendants, if not enjoined, are likely not only to continue to violate 26 U.S.C. § 6701, but also to engage in other conduct that substantially interferes with the enforcement of the internal revenue laws. Such conduct includes: (1) permitting and

encouraging the preparation of fabricated tax documents, such as fabricated W-2s; (2) failing to adequately train their franchisees, knowing that such inadequate training will lead to the filing of inaccurate returns; (3) allowing and encouraging the preparing and filing of tax returns based on paystub information and without W-2s; (4) allowing and encouraging the illegal filing of tax returns without the taxpayer's authorization; and (5) selling false and deceptive loan products tied to anticipated tax refunds. Moreover, the United States will suffer irreparable harm from the underpayment of tax liability, the exhaustion of limited resources to enforce the internal revenue laws, and the tax losses caused by defendants' actions will continue to increase.

107. The substantial harm caused to the public and the United States by defendants' misconduct outweighs the harm to the defendants of being enjoined.

108. Enjoining defendants is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop defendants' predatory practices and illegal conduct and the harm that such actions cause the United States and its citizens.

Relief Sought

WHEREFORE, plaintiff, the United States of America, respectfully prays the following:

A. That this Court find defendants engaged in conduct subject to penalty under I.R.C. § 6701 and that injunctive relief under I.R.C. § 7408 is appropriate to prevent recurrence of that conduct;

B. That the Court find defendants engaged in conduct substantially interfering with the administration and enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent recurrence of that conduct under 26 U.S.C. § 7402(a);

C. That this Court, pursuant to 26 U.S.C. §§ 7402 and 7408, enter a permanent injunction prohibiting defendants (individually and through any other name or entity), and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from directly or indirectly:

- a. Acting as federal tax return preparers, supervising or managing federal tax return preparers, or assisting with, or directing the preparation or filing of federal tax returns, amended returns, claims for refund, or other related documents, 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 or investigation by the Internal Revenue Service;
- b. Engaging in conduct subject to penalty under I.R.C. § 6701, including aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising, managing or directing others who aid, instruct, assist, encourage, enable, incite, or advise) with respect to the preparation or presentation of any portion of a tax return, claim, or other document, that defendants know or have reason to know will be used as to a material matter arising under federal tax law, and will result in the understatement of the liability for tax of another person;
- c. Organizing, promoting, selling, advising, implementing, carrying out, assisting, supervising, or managing abusive plans or arrangements that violate the Internal Revenue laws;
- d. Improperly aiding, instructing, assisting, encouraging, enabling, inciting, or advising (or supervising, managing or directing others who improperly aid, instruct, assist, encourage, enable, incite, or advise) customers to avoid the assessment or collection of their federal tax liabilities or to claim improper tax refunds;
- e. Organizing, promoting, providing, advising, or selling (or supervising, managing or directing others who organize, promote, provide, advise or sell) business or tax services that facilitate or promote noncompliance with federal tax laws;
- f. Organizing, promoting, providing, offering, or selling false, deceptive or misleading loan products or cash advances to any person in connection with the preparation or filing of federal tax returns, amended returns, claims for refund, or other related documents;

- g. Providing, transferring, distributing, or sharing (or helping others provide, transfer, distribute or share) IRS Electronic Filing Identification Numbers (“EFINs”) to others who are not authorized to use those EFINs; and
- h. Engaging in other conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

D. That the Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter an injunction requiring defendants, within 30 days of the entry of an injunction against them, to contact by mail all: (1) employees or former employees; and (2) franchisees or licensees, and enclose a copy of the permanent injunction against defendants, and file a certification with the Court, under penalty of perjury, stating that they have complied with this provision;

E. That the Court retain jurisdiction over the defendants, and this action for the purpose of enforcing any permanent injunction entered against defendants;

F. That the United States be entitled to conduct all discovery permitted under the Federal Rules of Civil Procedure for the purpose of monitoring defendants’ compliance with the terms of the permanent injunction entered against them; and

G. That the Court grant the United States such other and further relief, including costs, as the Court deems appropriate.

Dated: March 28, 2012.

Respectfully submitted,

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