

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2:14-cv-2781
)	
SHANDON ALLEN, TABITHA)	
TUNSTALL, and SHEWANDA)	
HAMILTON,)	
)	
Defendants.)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America, for its complaint against Shandon Allen, Tabitha Tunstall, and Shewanda Hamilton, alleges as follows:

1. This is a civil action brought by the United States under I.R.C. (26 U.S.C.) §§ 7402, 7407, and 7408 to enjoin the Defendants, and anyone in active concert or participation with them, from:

- (1) acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
- (2) preparing or assisting in preparing federal tax returns that they know or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, or franchising a tax return preparation business;
- (4) falsifying or fabricating Forms W-2 or any other IRS form, filing false or fabricated Forms W-2 or any other IRS form, or aiding and abetting with the falsification or fabrication of or filing of false or fabricated Forms W-2 or any other IRS form;

- (5) preparing or assisting in preparing federal tax returns that are based on end-of-year pay stubs rather than Forms W-2;
- (6) maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
- (7) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (8) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. § 7402.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because the Defendants reside in this district and all or a substantial portion of the activities occurred within this district.

Defendants

5. Shandon Allen is a tax return preparer who does business as Southern King Taxes. Allen is an owner of the Southern King Taxes office located at 5090 Millbranch Road, Memphis, Tennessee, and previously managed the Mo' Money Taxes office at that location. Allen also has a business license for the Southern King Taxes located at 4653 Knight Arnold in Memphis.

6. Tabitha Tunstall is a tax return preparer who does business as Tabitha's Taxes, located at 3711 Hickory Hill, Memphis, Tennessee, and Southern King Taxes. Tunstall is an owner of the Southern King Taxes office located at 3616 Austin Peay Highway, Memphis, Tennessee, and previously managed the Mo' Money Taxes office at that location. Tunstall also had business licenses for several MoneyCo USA locations, including at 1211 S. Parkway, 3382 N. Watkins, 6825 Winchester, and 13249 S. Third in Memphis, and 2737 Bartlett Blvd. and 7140 Highway 64 in Bartlett, Tennessee.

7. Shewanda Hamilton is a tax return preparer who does business as Cash King Tax Service, LaQuita's Professional Tax Service, and Southern King Taxes. Cash King Tax Service is located at 1026 E. Brooks Rd. in Memphis, Tennessee. LaQuita's Professional Tax Service is located at 3306 Covington Pike, Memphis, Tennessee. Hamilton owns the Southern King Taxes office located at 3251 Jackson Ave., Memphis, Tennessee, and previously managed the Mo' Money Taxes office at that location. Hamilton also had business licenses for several MoneyCo USA locations, including at 403 N. Cleveland, 3832 Shelby Dr., 4259 Elvis Presley Blvd., 2389 Lamar, 3711 Hickory Hill, 4141 Hackscross, 4095 Summer, 3952 Park Ave., 4653 Knight Arnold, and 5090 Millbranch in Memphis, Tennessee.

8. The Defendants began working as tax return preparers at Mo' Money Taxes, a tax return preparation business in Memphis that was created and operated by Markey Granberry and Derrick Robinson.

9. Allen, Tunstall, and Hamilton all became licensees or managers of Mo' Money Taxes stores.

10. Mo' Money Taxes did not have any requirement that its licensees or managers have any tax return preparation experience or training, knowledge of federal tax laws or

accounting, or minimum education. Similarly, the tax return preparers that Mo' Money Taxes licensees, in turn, employed were not required to have any tax return preparation experience or training, knowledge of federal tax laws or accounting, or minimum education.

11. Mo' Money Taxes licensees signed (or were supposed to sign) a license agreement with Mo' Money Taxes that defined the relationship between the parties. The license agreement defined the tax season as December 27 through April 16. Some Mo' Money Taxes stores opened as early as November. Notably, Forms W-2 are not available to employees before the end of the calendar tax year, and tax returns cannot be filed before January of the processing year.

12. In 2010, MoneyCo USA replaced Mo' Money Taxes on the license agreements and on signage at the tax return preparation stores. However, MoneyCo USA did not have the brand recognition of Mo' Money Taxes and customers were confused by the name change. As a result, in 2011, licensees had the choice of continuing to do business as MoneyCo USA or reverting to the Mo' Money Taxes name.

13. Following bad publicity surrounding Mo' Money Taxes in 2012 (arising from customer allegations that Mo' Money Taxes did not provide the customers' tax refunds within a reasonable amount of time, if at all), the decision was made to again change the name of the business. Managers of Mo' Money Taxes locations in Memphis were given the opportunity to "own" the store that they managed, under the new name Southern King Taxes.

14. In 2012, Allen, Tunstall, and Hamilton all became owners of Southern King Taxes stores.

Suits for Injunctive Relief Against Owners and Licensees of Mo' Money Taxes

15. The United States previously sought and obtained injunctive relief against the owners and some licensees of Mo' Money Taxes.

16. On April 9, 2013, the United States filed a complaint for injunctive relief against Markey Granberry, Derrick Robinson, and Eumora Reese. *See United States v. Granberry, et al.*, 2:13-cv-2221-STA-TMP (W.D. Tenn.). Granberry and Robinson were the owners of Mo' Money Taxes, and Reese was a manager. The complaint alleged, in detail, the fraudulent tax return preparation practices at Mo' Money Taxes stores, and noted that many Mo' Money Taxes stores had changed their name to Southern King Taxes. Among the allegations were several examples of fraudulent tax return preparation by Allen, Tunstall, and Hamilton, and/or employees at the Mo' Money Taxes stores that Allen, Tunstall, and Hamilton managed.

17. This Court entered a permanent injunction against Granberry, Robinson, and Reese on September 18, 2013, barring them from, among other things, preparing federal tax returns and owning and operating a tax return preparation business.

18. The United States also obtained a permanent injunction on March 1, 2013 against a Mo' Money Taxes licensee, Toney Fields, and preparer, Trumekia Shaw, in Nashville, Tennessee. *See United States v. Fields, et al.*, 3:12-cv-1261 (M.D. Tenn.). The court permanently enjoined Fields and Shaw from preparing federal tax returns for others. That complaint alleged that Fields and Shaw: prepared tax returns making false claims for the EITC, based, in part, on bogus dependents; included bogus claims and deductions on their customers' tax returns, including for purported charitable contributions and business expenses; prepared returns using pay stubs rather than Forms W-2; and fabricated Forms W-2, often creating two Forms W-2, purportedly issued by two different employers, on the same sheet of paper.

19. Despite these lawsuits and the permanent injunctions entered against the owners and some licensees of Mo' Money Taxes, including a complaint in this Court which contained specific allegations of fraudulent tax return preparation by Allen, Tunstall, and Hamilton (and/or their employees), the Defendants have not been deterred and continue to prepare federal tax returns in the same fraudulent manner as described in those previous complaints.

20. After this Court's entry of the injunction against the Mo' Money Taxes owners, Tunstall and Hamilton again changed the names of their businesses. Beginning in 2014, Tunstall began doing business as Tabitha's Taxes, while Hamilton began doing business as Cash King Tax Service and LaQuita's Professional Tax Service.

21. In 2014, the IRS selected a random sample of tax returns prepared at tax return preparation stores owned by Allen, Tunstall, and Hamilton. The IRS interviewed customers and determined that, despite the new names, the same rampant fraud that occurred at Mo' Money Taxes continued to occur at the Defendant's "new" businesses.

22. The IRS has also examined tax returns filed using Electronic Filing Identification Numbers (EFINs) registered to the Defendants.

23. The IRS examined 42 tax returns for tax years 2012 (39 returns) and 2013 (3 returns, a lower number because these returns would only have been filed a few months ago in 2014) filed using EFINs registered to Allen. The IRS made adjustments to all 42 of the tax returns. 37 of the tax returns claimed bogus or inflated claims for the EITC, and 22 claimed bogus education credits. The total tax harm from these 42 tax returns was \$163,602, an average deficiency of over \$3,895 per tax return.

24. The IRS examined 23 tax returns for tax year 2012 filed using EFINs registered to Hamilton. The IRS made adjustments to all 23 of the tax returns. All 23 of the tax returns

claimed bogus or inflated claims for the EITC, and 10 claimed bogus education credits. The total tax harm from these 42 tax returns was \$110,453, an average deficiency of over \$4,802 per tax return.

Defendants' Fraudulent Activity

25. The Defendants, and others acting with them and at their direction, have created and maintain a business environment at their tax return preparation stores that expressly promotes and encourages the preparation of false and fraudulent federal income tax returns. New employees are trained to prepare false and fraudulent tax returns for the purpose of significantly and illegally enlarging the Defendants' profits, and resulting in losses to the U.S. Treasury.

26. Many of the Defendants' customers have low incomes and are unsophisticated with respect to tax law and tax return preparation. Many of them have no knowledge that the Defendants and their employees prepare and file fraudulent tax returns on their behalf. For others, the Defendants and their employees encourage customers to participate in the tax fraud by misleading them about the law and promising them thousands of dollars of (illegal) refunds to coerce them to pay the Defendants to prepare their tax returns. The Defendants benefit by receiving a significant portion of their customers' fraudulently obtained refunds, which they retain as purported fees.

27. The Defendants, and others acting with them and at their direction, engage in illegal practices, including, but not limited to:

- a. Making fraudulent claims for the Earned Income Tax Credit;
- b. Circumventing due diligence requirements in order to fraudulently maximize the Earned Income Tax Credit;

- c. Improperly claiming false filing status;
- d. Falsely claiming education credits to which their customers are not entitled;
- e. Improperly preparing returns based on paystubs rather than Forms W-2;
- f. Reporting inflated federal income tax withholdings that far exceed the amounts actually reported on customers' Forms W-2;
- g. Improperly sharing and abusing Electronic Filing Identification Numbers;
- h. Filing federal income tax returns without the taxpayer's consent;
- i. False and deceptive loan products; and
- j. Charging deceptive and unconscionable fees.

28. The Defendants and their employees, acting at the Defendants' direction, prepare and file false and fraudulent federal tax returns that significantly and illegally increase the Defendants' profits, result in losses to the U.S. Treasury, and cause financial harm to their customers, including as detailed below.

Earned Income Tax Credit Fraud and Failure to Comply with Due Diligence Requirements

29. The Defendants and their employees, acting at the Defendants' direction, prepare tax returns that include fraudulent claims for the Earned Income Tax Credit often based on bogus dependents, fabricated business income and expenses, and false filing status.

30. The Earned Income Tax Credit (EITC) is a refundable tax credit available to certain low-income working people. The amount of the credit is based on the taxpayer's income, filing status, and claimed number of dependents. The requirements for claiming the EITC are set forth in I.R.C. § 32 and the accompanying Treasury Regulations.

31. Because the EITC is a refundable credit, claiming an EITC can, in certain circumstances, reduce a taxpayer's federal tax liability below zero, entitling the taxpayer to a payment from the U.S. Treasury.

32. Due to the method used to calculate the EITC, an individual can claim a larger EITC by claiming multiple dependents and, for certain income ranges, individuals with higher earned income are entitled to a larger credit than those with lower earned income. The amount of the credit increases as income increases between \$1 and \$13,050, and decreases as income increases beyond \$17,100. Some tax preparers who manipulate reported income to maximize the EITC refer to this range of earned income corresponding to a maximum EITC as the "sweet spot." For tax year 2012, the maximum EITC was \$5,891 and was available to eligible individuals with three dependent children who earned income between \$13,050 and \$17,100.

33. Because of the way the EITC is calculated, reporting more income, up to a certain point, allows customers to receive a larger refundable credit. Similarly, claiming losses to offset higher income to decrease the total reported income and to fall within the "sweet spot" allows customers to claim a larger refundable credit.

34. The Defendants and their employees, acting at the Defendants' direction, are falsifying information to claim the maximum EITC for their customers. Unscrupulous tax return preparers like the Defendants exploit the rules by claiming on their customers' returns bogus dependents and/or by reporting phony Schedule C businesses and income. In order to bring the customer's reported earned income within the "sweet spot" for the EITC, and depending on a customer's actual income, the Defendants inflate or fabricate Schedule C income to fraudulently increase reported earned income, or claim bogus Schedule C deductions to fraudulently decrease reported earned income.

35. 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 tax return preparers claiming the EITC for their customers. These “due diligence” requirements obligate the tax return preparer to make “reasonable inquiries” to ensure the customer is legitimately entitled to the EITC. The tax return preparer may not “ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete.” *See* 26 C.F.R. § 1.6695-2 (2011). Tax return preparers must also document their compliance with these requirements and keep that documentation for three years. *Id.*

36. To document compliance with the due diligence requirements, tax return preparers must complete either the “Paid Preparer’s Earned Income Credit Checklist” (Form 8867) and record and maintain other documentation verifying customer eligibility for the EITC.

37. The Defendants and their employees fail to comply with the due diligence requirements. Customers are given several forms to complete, including: a taxpayer information sheet, which requests basic information such as name, address, social security number, filing status, and dependents; and a document titled “Alternate Eligibility Record (Due Diligence),” which is a “yes or no” checklist of questions regarding eligibility for head of household filing status, the earned income credit, and claiming foster children. Typically these eligibility checklists are not fully completed by the customers, if they are marked at all. Often the customer does not check all of the necessary boxes for head of household status or earned income credit. In many instances the Defendants and their employees disregard the customer’s responses on the checklist entirely.

38. The forms that the Defendants prepare (or have their customers complete) apparently serve no other purpose than to give the illusion – should the IRS conduct an investigation to determine whether the “due diligence” requirements are being followed – that the Defendants and their employees are questioning customers and complying with the requirement that they document customers’ eligibility for the EITC. Frequently the customers do not complete or sign these forms, and the blank forms are still maintained in the customers’ files, even though such blank forms serve no purpose and do not meet the due diligence requirements.

39. The Defendants’ conduct shows an intentional disregard for the tax laws and in particular for the due diligence requirements, and demonstrates their unwillingness to comply with the requirements. Not only do the Defendants fail to adhere to the due diligence requirements, but they and those acting at their direction are falsifying information in order to maximize the EITC for their customers.

Intentionally Claiming an Improper Filing Status

40. The Defendants and their employees, acting at the Defendants’ direction, also routinely prepare tax returns reporting false filing status. Specifically, head-of-household filing status is claimed on customers’ tax returns to increase the amount of the customers’ standard deduction, even though the Defendants and their employees are aware that the customer does not qualify for head-of-household status.

41. The Defendants and their employees, acting at the Defendants’ direction, frequently file separate returns for married couples who are not living apart, improperly using the “head-of-household” or “single” filing status, both of which are unavailable to married couples living together. Often, this is an attempt to increase the claimed EITC because, for example, a couple with at least two children who, together, would otherwise receive a single EITC refund of

\$5,000 by properly claiming “married, filing jointly,” may instead each receive a refund of \$3,000 or more, by both falsely claiming head-of-household or single status and each claiming at least one dependent. Additionally, single filers are often instructed to claim a dependent that does not actually qualify as a dependent, and then claim head-of-household filing status to increase their refund through both the false filing status and fraudulent EITC claim based on the bogus dependent.

42. For example, on January 10, 2012, husband and wife M.D. and D.D. had their 2011 income tax returns prepared at the Mo’ Money Taxes licensed to Hamilton and located at 3952 Park Ave. in Memphis. Rather than file a correct return claiming “married, filing jointly” status, or two returns correctly claiming “married, filing separately” status, the preparer prepared two separate returns for M.D. and D.D., which both falsely claimed head-of-household status. The preparer knew that this was false, as the returns for the Ds. reported the same address (a single-family home), and there can be only one head-of-household. The preparer allocated purported dependents – D.D.’s tax return reported the Ds.’ three children, while M.D.’s tax return reported M.D.’s mother and niece – to fraudulently claim and maximize the EITC on each return. Additionally, the Ds.’ tax returns were improperly prepared using employer pay stubs, and the preparer fabricated a bogus Form W-2 for M.D.

43. Customers’ improper filing status on returns that the Defendants and their employees prepare is frequently belied by the Alternate Eligibility Record form completed by the customers, on which they have indicated that they do not qualify for head-of-household filing status. However, on the tax return, the Defendants or their employee falsely claims head-of-household filing status, in direct contravention to the information provided by the customer. As

it does with respect to customers' EITC eligibility, the Defendants and their employees completely disregard these forms when determining the customer's filing status.

44. A tax-return preparer at Tunstall's then-named Mo' Money Taxes store located at 6825 Winchester Road in Memphis prepared the 2009 federal income tax returns for customers R.B. and L.B. Tunstall signed the IRS Form 8879 related to the return as the electronic filer. R.B. listed L.B., his wife, on the information sheet, and left blank the box on the Alternative Eligibility Record pertaining to marital status. But on the tax return, the preparer falsely reported R.B.'s filing status as "head-of-household" and omitted L.B. from the tax return, while claiming the Bs.' two children as dependents. The preparer also prepared L.B.'s separate 2009 federal income tax return, and falsely claimed her filing status as "single," knowing that L.B. was married to R.B.

Bogus Education Credits

45. Another common practice at the Defendants' tax return preparation stores involves fabricating education expenses and falsely claiming refundable education credits, including the American Opportunity Tax Credit, on customers' federal income tax returns. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability. The Defendants and their employees, acting at the Defendants' direction, commonly falsely claim education credits on the tax returns of customers who did not attend college and had no qualifying education expenses, in order to fraudulently reduce their customers' taxable income and generate a larger bogus refund.

46. For example, Shandon Allen prepared the 2011 federal income tax return of customer L.R., on which Allen falsely claimed an American Opportunity Tax Credit in the amount of \$1,000. Allen falsely claimed on the Form 8863, "Education Credits (American

Opportunity and Lifetime Learning Credits),” attached to the return that L.R. had \$4,000 in qualifying education expenses for a student identified as L.R.’s sister. In actuality, IRS records show that neither L.R. nor her sister had any qualifying education expenses in 2011, which the educational institution would have reported to the IRS on a Form 1098-T.

47. Tabitha Tunstall prepared customer A.Y.’s 2010 federal income tax at the then-named MoneyCo USA location at 3616 Austin Peay Highway in Memphis. A.Y.’s tax return, however, does not identify Tunstall as the paid preparer. Tunstall falsely claimed an American Opportunity Tax Credit in the amount of \$1,000 on A.Y.’s return, when in fact A.Y. did not attend college in 2010, did not incur any education expenses in 2010, did not tell Tunstall that he had any education expenses, and did not give any documentation to Tunstall to indicate that A.Y. had any education expenses in 2010. Tunstall included the education credit on A.Y.’s return without his knowledge.

48. Customer G.S.’s 2010 federal income tax return was prepared at the then-named MoneyCo USA licensed to Tunstall and located at 6825 Winchester Road in Memphis. The preparer falsely claimed two education credits, in the amounts of \$1,500 and \$1,000, on G.S.’s tax return, when G.S. attended high school and worked on his GED, did not incur any qualifying education expenses in 2010, did not tell the preparer that he had any education expenses, and did not give any documentation to the preparer to indicate that G.S. had any education expenses in 2010. In addition to the bogus education credit, the preparer also falsely reported \$3,100 in child care expenses on G.S.’s return, resulting in a phony \$600 credit, when G.S. had no such expenses and did not inform the preparer of any such expenses. The preparer included the education credit and child care expenses on G.S.’s tax return without his knowledge. As a result of these fabricated claims, G.S.’s 2010 tax return claimed a bogus refund in the amount of \$4,627.

Improperly Preparing and Filing Returns based on Pay Stubs and Fabricating Forms W-2

49. The Defendants and their employees also prepare and file federal income tax returns using customers' end-of-year pay stubs, which commonly involves creating bogus Forms W-2 based on the amounts reported on those pay stubs, and then filing their customers' tax returns without valid Forms W-2. In other instances, an IRS Form 4852, "Substitute for Form W-2," is attached to the customer's return, which falsely claims that the employer did not timely issue a Form W-2. In reality, the return is prepared before the end of the tax year and/or before an employer even has the ability to issue a Form W-2 for that year.

50. Federal tax returns for wage earners must be prepared using Forms W-2. Using pay stubs to prepare and file tax returns is improper and violates IRS rules. Moreover, end-of-year pay stubs frequently omit income and distributions that are shown on employer-issued Forms W-2. Thus, preparing and filing federal income tax returns based on information from end-of-year pay stubs inevitably results in errors and omissions on federal tax returns, which necessarily interferes with the administration and enforcement of the internal revenue laws. The Defendants know that using paystubs to prepare and file returns violates the law because in order to participate in the IRS's electronic filing program, all electronic filers, including the Defendants, must acknowledge that they will comply with the IRS's requirements, which expressly prohibit filing returns prepared with pay stubs and without genuine Forms W-2. The Defendants insist that pay stubs are used only to prepare tax returns that are shown to customers as "estimates," and that the customers must later return with a Form W-2 issued by an employer before the tax return will actually be filed. In reality, the "estimated" returns are simply filed.

51. The Defendants' tax return preparation stores open on or before December 27 of each year, before the end of the tax year, before customers know how much income they earned

and taxes they owe for the year, and before employers are able to issue Forms W-2 to their employees. The Defendants use their customers' most recent pay stubs to prepare a tax return and create a fake Form W-2.

52. By preparing tax returns before the end of the tax year, the Defendants unfairly solicit business before their competitors. This also enabled the Defendants to take advantage of customers who desired a refund anticipation loan – particularly around Christmas time – and charge higher fees and/or rates for their loan products, because preparers who follow the law would not prepare returns before the end of the tax year and using pay stubs.

53. To facilitate the improper preparation of tax returns using pay stubs, the Defendants keep binders of information to enable their employees to prepare false Forms W-2. These binders contain information on thousands of employers, including the employer's name, address, and, most importantly, the Employer Identification Number ("EIN") reported on Forms W-2, which does not typically appear on pay stubs and is used by the IRS to identify a business entity.

54. For example, Allen prepared a 2011 federal income tax return of customer T.F., to which Allen appended a Form 4852, "Substitute for Form W-2." The Form 4852 was signed by Allen and dated December 23, 2011, before the end of the tax year, and before an employer could issue a Form W-2. The Form 4852 states that the wages reported on the Form were determined by using a "check stub."

55. Allen also prepared a 2011 federal income tax return for customer R.H. on December 23, 2011, to which Allen appended a Form 4852 claiming that the employer did not have the Form W-2 "before the customer filed" and that a check stub was used to prepare that return. Additionally, Allen created a bogus Form W-2 purportedly issued to R.H. by First

Assembly of God. The bogus Form W-2 reported \$29,512 dollars in wages and \$5,209 in federal income tax withheld. IRS records from the actual employer-issued Form W-2 from First Assembly of God show that R.H. actually received \$29,951 in wages from First Assembly of God in 2011, and had \$3,593 in federal income tax withheld. By falsely reporting that R.H. had \$5,209 in federal income taxes withheld – more than \$1,500 than the actual withholdings – Allen claimed a larger federal income tax refund than R.H. was entitled to, due to the inflated income tax withholdings reported on the bogus Form W-2 and R.H.'s tax return.

56. Customer D.A.'s 2013 federal income tax return was prepared at Cash King Tax Service, owned by Hamilton, and located at 1026 E. Brooks Rd. in Memphis. D.A. heard an ad for Cash King on the radio that advertised refund anticipation loans. D.A. went to Cash King and inquired about a loan, but was told she did not qualify. In 2013, D.A. worked for Kelly Services and Wal-Mart, and also earned money doing hair on weekends. D.A. took her last paystubs to have her tax return prepared, along with receipts from doing hair. The preparer used the paystub from Wal-Mart to prepare D.A.'s tax return, and falsely inflated the tax withholdings from D.A.'s job at Wal-Mart. The preparer reported on the tax return that Wal-Mart withheld \$537 in taxes, while the Form W-2 issued by Wal-Mart shows that no taxes were withheld from D.A.'s paychecks. As a result of falsely claiming \$537 in taxes withheld, D.A.'s tax return requested a refund of these bogus tax withholdings, which were never actually paid to the IRS. D.A. was also charged "entirely too much" to have her tax return prepared, a total of \$500 or \$600, including several additional fees.

57. Beginning in 2011 or 2012, Tunstall instructed preparers who worked in her office to begin preparing Forms 4852 when preparing tax returns based on customers' paystubs.

Tunstall also directed her employees to destroy the Form 4852 and file an amended return for the customer if the customer later returned with a real Form W-2.

58. The Defendants and their employees, acting at the Defendants' direction, also fabricate bogus Forms W-2 for customers based on their customers' most recent pay stub. Using paystubs to create bogus Forms W-2s that frequently report false EINs and false income and withholding amounts constitutes outright fraud and is a serious obstruction of tax administration.

59. The Defendants and their employees, acting at the Defendants' direction, routinely and intentionally also fabricate other documents that are maintained in their customer files to create a paper trail to conceal their fraudulent practices from the IRS after they have already transmitted the customer's tax return to the IRS.

60. In addition to fabricating Forms W-2, the Defendants and their employees also falsely complete IRS Forms 8879, "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 the Defendants and their employees have prepared paystub returns for their deceptive loan program—the Defendants and their 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. As with fake Forms W-2, the purpose of fabricating and maintaining the bogus 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.

Unauthorized Filing of Customers' Tax Returns

61. The Defendants and their employees, acting at the Defendants' direction, also prepare and file "estimated" tax returns without the taxpayer's knowledge or consent. The Defendants and their employees tell customers that their use of paystubs to prepare tax returns is only for the purpose of giving their customer an estimate of what their tax refund will be if they have the Defendants prepare their return. However, as explained below, the Defendants often file with the IRS the "estimated" tax return without their customer's knowledge or consent.

62. The Defendants cater to low-income taxpayers, many of whom are in need of money quickly. Some customers seek to obtain an early estimate of their possible refund amount, prior to filing their tax return. At Mo' Money Taxes, customers frequently inquired about the company's various—but false and deceptive—loan products (discussed below), in the hope of securing an advance on an expected refund. In both cases, the Defendants and their employees, acting at their direction, complete an "estimated" income tax return, purportedly to determine whether the customer qualifies for a refund anticipation loan or to give the customer an accurate estimate of their expected refund. Customers sign the return and other tax forms authorizing the Defendants to file the return and are falsely told that the return will not be filed with the IRS until the customer returns with a Form W-2 issued by their employer.

63. However, the Defendants and their employees deceptively and improperly file those estimated income tax returns, based on pay stubs and without customer authorization, to "lock-in" prospective customers. This practice effectively prevents the customer from later using one of the Defendants' competitors to prepare and file a return, because a taxpayer can file only one electronic return with the IRS per year. It also gives the Defendants a competitive advantage over tax return preparers who obey the law and wait to prepare and file returns using

Forms W-2. Most importantly, the practice generates an inaccurate return and an unauthorized refund, impedes tax administration, and guarantees that the Defendants will receive their unconscionably high fees, which are paid directly from the customer's refund only after the return has been electronically filed.

Misuse of Electronic Filing Identification Numbers

64. The Defendants serve as the Electronic Return Originator ("ERO") for their store. ERO is an Internal Revenue Service designation for the person or entity that electronically submits tax returns on behalf of customers. 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 Electronic Filer Identification Number ("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. EROs are identified by their registered EFIN and are responsible for preparing and filing with each tax return an IRS Form 8879, "IRS e-file Signature Authorization." Form 8879 is a signature authorization for an e-filed return filed by an ERO on behalf of a customer.

65. IRS Publication 1345 requires that an ERO "be diligent in recognizing fraud and abuse, reporting it to the IRS and preventing it when possible." The Defendants conduct no meaningful quality control or oversight over the tax return preparers in their stores, much less act diligently to prevent the fraud and abuse that is undertaken with respect to the preparation of customers' tax returns. IRS Publication 1345 also mandates that "EROs must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R."

66. The Defendants have maintained multiple EFINs for multiple store locations at the same time. For example, while doing business as MoneyCo USA, Tunstall had at least 5 EFINs for 5 different locations registered in her name, and Allen had at least 8 EFINs for 8 different locations registered in his name.

67. In 2014, Tunstall had no active EFINs. As a result, some tax returns prepared at Tabitha's Tax Service, Tunstall's store, were filed using Allen's EFIN.

68. In February 2011, the IRS reviewed 15 customer files at Tunstall's MoneyCo USA store located at 6825 Winchester Road in Memphis. The IRS determined that 10 of the 15 tax returns in those files were prepared using a paystub rather than a Form W-2. As a result, on or about June 2, 2011, the IRS informed Tunstall that it was suspending the EFIN registered in her name that was used to transmit the reviewed tax returns to the IRS.

69. Unfortunately, the suspension of e-filing privileges is not an obstacle for the Defendants, who have multiple EFINs. Additionally, the Defendants fraudulently use the names and information of employees, friends, and relatives to apply for and obtain new EFINs.

70. In violation of IRS rules, the Defendants facilitate the misuse of EFINs among their employees. The Defendants interfere with these important tax administration and enforcement functions by illegally collecting, stockpiling, and distributing EFINs to unauthorized users.

71. 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.

72. In direct contravention of this mandate, and to circumvent the revocations of their own EFINs and conceal their involvement with their fraudulent tax return preparation, the Defendants obtained multiple EFINs in their names and the names of employees.

False and Deceptive Loan Products

73. According to internal documents, including the Mo' Money Taxes' Licensed Affiliate Information and Application, Mo' Money Taxes' services included "income tax preparations, electronic filing, 30-second and next day anticipation loans." The Defendants relied on these false and deceptive loan products, directed to low-income customers who are in need of money quickly, to solicit business.

74. The Defendants loan products included those commonly known as a Refund Anticipation Loan ("RAL"), and also loans specific to their businesses, particularly Mo' Money Taxes, including a product known as "Money on the Spot."

75. For example, Mo' Money Taxes, pursuant to its licensing agreement, specifically required that for the licensee's agreement to be extended past June 15 following the third tax season, the "Licensee must also be producing a minimum of 500 refunded Ral tax returns in the third season of this term." Thus, licensees were required to sell this minimum number of RAL loan products by the third year or lose their licensee status. This incentivized licensees, such as the Defendants, to use deceptive methods to solicit customers for the loan products and, as described above, file tax returns without customers' knowledge or consent to meet their quota of loan products sold.

76. The Defendants began offering the "Money on the Spot" loan in December 2011 and early January 2012, before the tax-filing season began. Ostensibly, this product was a loan intended to get customers in the door, with the hope that the customers would voluntarily have

their tax returns filed when the filing season began and after they received their Forms W-2. In reality, this product provided cover to enable the Defendants to prepare and file tax returns based on pay stubs rather than Forms W-2 and file without customer consent.

77. Potential customers who applied for the “Money on the Spot” loan were required to sign a purported right of first refusal form attesting: “I understand that 1 of the qualifications of trying the Money on the Spot program is to allow MoMoneyTaxes the first right or [sic] refusal to prepare and electronically file my 2011 income taxes.” Based on this deceptive language, the Defendants filed many customers’ tax returns without their knowledge or express consent. This also gave the Defendants an unfair competitive advantage over tax return preparers who obeyed the law and waited to prepare and file returns using Forms W-2.

78. Once the IRS began accepting tax returns in mid-January, the Defendants marketed the RAL product. A RAL is a recourse loan that uses the customer’s expected tax refund as collateral. RAL funds are advanced to a customer only after the Defendants have 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. The amount of the RAL is limited to the amount of the tax refund to be paid to the customer after the Defendants deduct their RAL fees, tax return preparation fees, and other bogus fees. These fees are ultimately retained by the Defendants when the IRS deposits the customer’s tax refund into a bank account established by the Defendants.

79. The Defendants’ loan products violated federal and state consumer protection laws. Several states filed lawsuits or administrative complaints against Mo’ Money Taxes and MoneyCo USA for unscrupulous business practices, typically focusing on the loan products and unconscionable fees.

Deceptive and Unconscionable Fees

80. The Defendants charge unconscionably high fees to prepare tax returns and also charge added, deceptive fees. In addition to the cost of having the tax return prepared, which may be several hundred dollars, charges include bogus fees for “service bureau,” electronic filing, processing, software, transmission, and “bank technology,” which total hundreds of dollars. Because the Defendants’ tax-return preparation businesses target low-income taxpayers, the Defendants’ unconscionably high fees frequently pose a significant financial hardship for their customers. The high fees also give the Defendants a strong incentive to prepare and file fraudulent returns claiming excessive refunds.

81. The Defendants also routinely fail to disclose all fees. Alternatively, they tell customers one amount for fees and then later increase the fees without the customer’s knowledge or consent. Customers are often surprised to learn that the refund requested on their return is hundreds if not thousands of dollars more than the refund amount that they received after the fees were deducted. Customers often complain that they did not know in advance that they would be charged exorbitant fees, and that they were told that their refund was much less than what was actually reported on their tax return.

82. Tax refunds issued to customers are directed from the IRS to an account controlled by the Defendants or a third-party processor’s bank account where the fees are taken from the refund. The remaining refund amount is then directed to the customer, through direct deposit or check. The check issued to the customer makes no reference to the amount of fees deducted, which makes it easy for the Defendants to conceal, inflate and/or lie about their fees.

83. For example, customer N.S., whose 2010 federal income tax return was prepared at the then-named Mo’ Money Taxes licensed to Shewanda Hamilton and located at 4259 Elvis

Presley Boulevard in Memphis, was told that she would receive a refund of \$6,341.05, when the refund claimed on her tax return was actually \$7,297. The preparer also improperly prepared N.S.'s tax return using her last paystub.

84. Customer L.D., described below in paragraph 94, had her 2013 tax return prepared by Tunstall. Tunstall told L.D. that the tax return preparation fee would be \$190. However, when L.D. received her refund, she realized that Tunstall had deducted \$600-\$700 in fees from the refund claimed on L.D.'s tax return.

Additional Examples of the Fraud at Defendants' Tax Return Preparation Stores

85. Interviews with customers and examinations of their tax returns revealed that the Defendants' tax return preparation stores – whether doing business as Mo' Money Taxes, MoneyCo USA, Southern King Taxes, or another name - engaged in fraudulent tax return preparation utilizing the same false claims, credits, and deductions. These fraudulent practices are designed to enrich the Defendants by collecting bogus fees for dishonest work, all at the expense of the United States and the Defendants' customers.

86. For example, customer B.R.'s 2010 federal income tax return was prepared at the MoneyCo USA licensed to Hamilton and located at 2389 Lamar Avenue in Memphis. The preparer falsely reported on the Schedule C attached to the return that B.R. had a janitorial business that had income of \$10,345. B.R. had no such business and did not tell the preparer that she had such a business or business income. B.R.'s only income came from her job with SDH Services. The preparer also falsely claimed B.R.'s two grandsons as dependents, when B.R.'s grandsons actually lived with their parents, and not with B.R., in 2010. By reporting the bogus dependents and fabricated income, the preparer fraudulently claimed an EITC in the amount of \$3,967, and a bogus refund of \$5,682.

87. Customer V.C.'s 2010 federal income tax return was prepared at the then-named MoneyCo USA store licensed to Hamilton and located at 3832 Shelby Drive in Memphis. V.C. gave the preparer a copy of her end-of-year paystub to prepare the return. In addition to improperly using an end-of-year paystub to prepare the return, the preparer falsely claimed an education credit on V.C.'s return, when V.C. did not attend college in 2010, did not incur any education expenses in 2010, did not tell the preparer that she had any education expenses, and did not give any documentation to the preparer to indicate that she had any education expenses in 2010. The preparer also falsely reported \$3,100 in child care expenses on V.C.'s return, when V.C. had no such expenses and did not inform the preparer of any such expenses. V.C. informed the preparer that her sister took care of her granddaughter. The preparer included the education credit and child care expenses on V.C.'s tax return without her knowledge. As a result of these fabricated expenses, V.C.'s 2010 tax return claimed a bogus refund in the amount of \$3,901.

88. Customer L.L.'s 2010 federal income tax return was prepared at the MoneyCo USA licensed to Tabitha Tunstall and located at 6825 Winchester Road in Memphis. The preparer told L.L. that if L.L. paid an additional \$75, the preparer could report someone else's dependent on her tax return to increase her tax refund. L.L. declined the offer. The preparer also told L.L. that she could get a larger refund if she claimed to be in college and had educational expenses in 2010. L.L. also declined to claim that she was in college, because L.L. was not in college and did not have any educational expenses. However, the preparer falsely claimed two education credits, in the amounts of \$1,500 and \$1,000, on Lott's return without L.L.'s knowledge or permission. These fabricated credits resulted in L.L.'s tax return claiming a bogus refund of \$2,041, rather than correctly reporting that L.L. owed tax in 2010.

89. Customer A.B.'s 2013 federal income tax return was prepared by Shandon Allen. A.B.'s tax return was not prepared at a store, however, but was prepared in Allen's apartment. The tax return lists the tax return preparation store as DS Taxes, located at 7406 German Hollow Cove in Memphis. Allen falsely claimed on the Schedule A attached to the tax return that A.B. made \$2,600 in cash charitable contributions in 2013. A.B. only made around \$500 in such contributions, and did not tell Allen that he made \$2,600 in contributions, nor did he give Allen any receipts showing that he made that amount of contributions. The only documents that A.B. provided to Allen were his Form W-2, Form 1098 mortgage statement, his IRA statement, and his dividend statement. As a result of the fabricated charitable contributions, A.B.'s tax return claimed a bogus refund of \$1,158.

90. Customer D.B.'s 2013 federal income tax return was filed using an EFIN registered to Allen. D.B.'s tax return was not prepared at a store, however, but was prepared at the preparer's apartment. D.B. provided the preparer with copies of her Form W-2, ID, and social security card. The preparer asked D.B. what filing status D.B. wanted to claim on the tax return. D.B. responded "head of household," and the preparer did not ask any questions to determine whether that filing status was appropriate. D.B. did not support any dependents in 2013 and was not eligible to claim head of household status. However, the preparer falsely claimed D.B.'s granddaughter as a dependent on D.B.'s tax return. D.B.'s granddaughter did not live with D.B. in 2013 and was not financially supported by D.B. As a result of claiming the false filing status and dependent, D.B.'s tax return falsely claimed an EITC in the amount of \$1,789, and a bogus refund of \$4,433.

91. Customer R.J.'s 2013 federal income tax return was prepared at Tabitha's Tax Service, located at 3711 Hickory Hills in Memphis. R.J.'s tax return was electronically filed

using an EFIN registered to Allen. R.J. provided the preparer with copies of her Form W-2 and a Forms 1098-T for her three sons' college education expenses. R.J. previously provided Tabitha with proof of her dependents when having prior years' tax returns prepared. However, the preparer falsely inflated the actual amount of the education expenses on R.J.'s tax return. The preparer falsely reported that the education expenses totaled \$12,000, (\$4,000 for each of her sons). The Forms 1098-T submitted to the IRS showed that the out-of-pocket expenses (not covered by scholarships or grants) for two of her sons were approximately \$400 and \$600, rather than the \$4,000 claimed for each. R.J.'s return thus claimed a fabricated education credit in the amount of \$3,000 (\$1,000 per son based on the maximum amount of \$4,000 in expenses reported for each). In addition, the preparer reported R.J.'s 26 year old son as a dependent. Because of his age, the son could not be claimed as a dependent. As a result, R.J.'s tax return claimed a bogus refund in the amount of \$6,120.

92. Customer M.S.'s 2013 federal income tax return was prepared by Tunstall at Tabitha's Tax Service, located at 3711 Hickory Hills in Memphis. In 2013, M.S. was employed by the Memphis City Schools from January through June. M.S. received unemployment for the remainder of 2013, and M.S. withdrew some funds from her retirement account. M.S. also had a fire at her house in 2013. M.S. provided Tunstall with copies of her last paystub, her ID, social security cards for her and her dependents, and birth certificates for her dependents. M.S. told Tunstall that she had a house fire, and Tunstall asked questions about what was damaged, but did not ask about any insurance payments or ask M.S. for any documentation regarding the fire damage. Tunstall used that information to fabricate a casualty loss in the amount of \$41,381 on the Schedule A attached to M.S.'s tax return. However, M.S.'s insurance covered the repairs and replacement costs, and M.S. could not claim a casualty loss. Tunstall falsely claimed M.S.'s

granddaughter as a dependent on M.S.'s tax return, even though M.S.'s granddaughter did not live with her in 2013 and M.S. did not tell Tunstall that her granddaughter was a dependent. Tunstall reported on M.S.'s tax return that M.S. received wages totaling \$13,486; however, the Form W-2 provided by M.S.'s employer shows that M.S. actually received wages totaling \$11,222. Tunstall also fabricated an education credit in the amount of \$1,000 on M.S.'s tax return. M.S. did not incur any education expenses in 2013 and did not tell Tunstall that she had any such expenses. As a result of these fabricated claims, M.S.'s tax return falsely claimed an EITC in the amount of \$2,327 and a bogus refund in the amount of \$8,483.

93. Customer P.H.'s 2013 federal income tax return was prepared by Tunstall at Tabitha's Tax Service, located at 3711 Hickory Hills in Memphis. In 2013, P.H. worked for Simos Staffing agency, which included employment at Nike for part of the year, and also had a hair and fashion-related business that she operated out of her house. P.H. provided Tunstall with copies of her last paystub from Nike, ID, social security cards for her children, receipts related to her hair and fashion business, and receipts for school supplies for her children. Tunstall improperly prepared P.H.'s tax return using P.H.'s last paystub, and told P.H. that P.H. did not need to bring in a Form W-2 later because the amount reported would not differ more than a couple of dollars. In 2013, P.H. earned approximately \$44,000 doing hair and fashion. She also incurred approximately \$15,000 in expenses. Tunstall falsely reported that P.H. earned only \$18,694 from her hair and fashion business. Tunstall falsely told P.H. that she could deduct her gas expenses for driving to a hair appointment at a client's house, but not for driving home from the client's house. Tunstall also falsely told P.H. that there was a maximum amount of expenses that P.H. could report, and Tunstall did not report some of P.H.'s expenses. Tunstall falsely reported that P.H. only had expenses for her hair and fashion business totaling \$3,251. As a

result of manipulating P.H.'s total income as reported on her tax return to, P.H.'s tax return falsely claimed an EITC in the amount of \$6,044, and a bogus refund of \$7,654.

94. Customer L.D.'s 2013 federal income tax return was prepared by Tunstall at Tabitha's Tax Service, located at 3711 Hickory Hills in Memphis. L.D. provided Tunstall with a copy of her last paystub from her job as a medical assistant. L.D. also told Tunstall that she paid \$40 per week for child care. Tunstall prepared L.D.'s tax return using her last paystub; however, the wages that Tunstall reported on L.D.'s tax return (\$25,123) did not match the amount reported on the Form W-2 that L.D.'s employer provided to the IRS (\$24,254). Tunstall also fabricated the child care expenses that she reported on L.D.'s tax return, falsely claiming that L.D. incurred child care expenses of \$3,000, when L.D. only incurred (and told Tunstall that she incurred) \$480 in such expenses. As a result, L.D.'s tax return claimed a bogus refund of \$6,929.

95. Customers A.A. and K.N.Y. had their 2013 federal income tax returns prepared at Cash King Tax Service, owned by Hamilton, and located at 1026 E. Brooks Rd. in Memphis. A.A. and K.N.Y. are not legally married, but told the tax preparer that they were married. However, the preparer prepared separate returns for A.A. and K.N.Y. on which the preparer falsely claimed "head of household" filing status. The preparer also improperly split A.A.'s and K.N.Y.'s dependents, claiming their two daughters as dependents on A.A.'s tax return and their two sons as dependents on K.N.Y.'s tax return. Because they were not officially married, and because K.N.Y. owned the house where A.A. and K.N.Y. lived and paid the family's expenses, A.A.'s proper filing status was single, and her tax return should not have claimed any dependents. As a result of falsely claiming head of household filing status and splitting the

dependents, A.A.'s tax return falsely claimed an EITC in the amount of \$5,331, a child tax credit in the amount of \$2,000, and a bogus refund of \$8,297.

96. Customer S.B.'s 2013 federal income tax return was prepared at Cash King Tax Service, owned by Hamilton, and located at 1026 E. Brooks Rd. in Memphis. S.B. lived with her two sons, disabled daughter, and granddaughter in 2013. The preparer falsely claimed S.B.'s daughter and granddaughter as dependents, when they did not qualify as dependents because S.B.'s daughter supported herself S.B.'s granddaughter through social security benefits. As a result of claiming these non-qualifying dependents, S.B.'s tax return falsely claimed an EITC in the amount of \$6,044 and a bogus refund of \$5,565.

97. Customer C.B.'s 2013 federal income tax return was prepared at LaQuita's Professional Tax Service, owned by Hamilton, and located at 3306 Covington Pike in Memphis. C.B. previously had her returns prepared by the Mo' Money Taxes store that Hamilton managed at 3251 Jackson Ave., and would have her tax returns prepared with her last paystub. In 2013, C.B. lived with her god-niece (who was not a relative of C.B.). The preparer falsely claimed C.B.'s god-niece as a dependent on her return (identifying her as a "niece"), even though she was not a relative and did not qualify as a dependent. As a result, C.B.'s tax return falsely claimed "head of household" filing status (rather than the proper "single" status), an EITC in the amount of \$3,250, a child tax credit in the amount of \$1,000, and a bogus refund of \$4,452.

98. Customer E.C.'s 2013 federal income tax return was prepared at Cash King Tax Service, owned by Hamilton, and located at 1026 E. Brooks Rd. in Memphis. E.C. was employed as a hair stylist in 2013. E.C. provided the preparer with copies of her last paystub, Form W-2, social security card, birth certificate, and receipts from the hair salon where she worked. However, the preparer falsely reported that E.C. received wages of \$13,214, when E.C.

actually only received \$8,624. As a result of the preparer falsely claiming more income than E.C. actually received, thus bringing her reported income within the EITC “sweet spot,” E.C.’s tax return falsely claimed an EITC in the amount of \$5,951 and a bogus refund of \$7,483.

99. Despite knowing of the widespread and pervasive fraudulent conduct surrounding their tax return preparation business, the lawsuits filed by the United States against owners and licensees of Mo’ Money Taxes, and the well-publicized customer complaints and investigative reports by various local media outlets throughout the country, the Defendants have not taken any meaningful steps to stop the misconduct. Indeed, beginning with the 2013 filing season, the Defendants simply changed the names through which they conduct business. The Defendants continue to prepare fraudulent tax returns and collect the same tax return preparation fees and related bogus fees. According to customer A.B., described above in paragraph 89, to have his 2013 tax return prepared, Allen charged a service fee (\$64), a transmittal fee (\$24), and an electronic filing fee (\$35), all in addition to the tax return preparation fee.

100. Moreover, the Defendants have little incentive to stop the wrongdoing, because they directly profit from the misconduct through the tax return preparation fees. Accordingly, the Defendants promote a culture that favors volume and profits over accuracy and integrity, and create an environment where fraudulent tax return preparation and violations of federal tax laws flourish.

Harm Caused by the Defendants

101. The Defendants’ preparation of fraudulent tax returns, knowledge and encouragement of fraud at their businesses, negligent oversight of their employees, 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 the Defendants and their employees

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.

102. The Defendants' customers have been harmed because they relied on the Defendants and their employees to prepare proper tax returns. Instead, customers' tax returns substantially understate their correct tax liabilities. Customers paid the Defendants unconscionably high fees to have those fraudulent tax returns prepared. As a result, many customers, who are often low-income taxpayers, now face large income tax debts and may be liable for sizeable penalties and interest.

103. The Defendants' fraudulent practices likewise harm the United States Treasury in the form of lost tax revenue. 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. The Defendants have frustrated the IRS's compliance efforts by actively concealing their fraud from the IRS by, among other actions, using multiple EFINs and fabricating federal tax documents. Consequently, identifying and recovering all lost tax revenues resulting from the Defendants' fraudulent and illegal activities may be impossible.

104. 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 the Defendants as a result of the Defendants' willingness to break the law. Customers often have their returns prepared with paystubs at the Defendants' businesses because law-abiding preparers do not prepare a tax return without an employer-issued Form W-2.

105. Finally, the 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.

106. The harm to the government and the public will increase unless the Defendants are enjoined because—given the seriousness and pervasiveness of their illegal conduct—without an injunction, the 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 the Defendants' illegal conduct and the harm that such conduct causes the United States and its citizens.

Count I
Injunction under I.R.C. § 7407

107. The United States incorporates by reference the allegations in paragraphs 1 through 106.

108. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under I.R.C. § 6694 or § 6695. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e., prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, among other things, the following:

- a. Engaging in conduct subject to penalty under I.R.C. § 6694(a), which penalizes a return preparer who prepares a return or claim for refund that contains an unreasonable position and the return preparer knew (or reasonably should have known) of the position;

- b. Engaging in conduct subject to penalty under I.R.C. § 6694(b), which, among other conduct, penalizes a return preparer who recklessly or intentionally disregards IRS rules or regulations;
- c. Engaging in conduct subject to penalty under I.R.C. § 6695(g), which penalizes a return preparer who fails to comply with the statutory due diligence requirements; or
- d. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

109. Section 7701(a)(36), I.R.C., defines tax return preparer to include not only the individual who physically prepares a tax return for compensation, but also anyone “who employs one or more persons” to prepare tax returns for compensation.

110. The Defendants, as shown above, are tax return preparers who have repeatedly and continually prepared or submitted returns or portions of returns (or employed or managed others who prepared or submitted returns or portions of returns) that contain unreasonable positions and substantially understate the liability for tax on the return. The Defendants also advised, instructed, directed, and caused their employees to engage in tax fraud, and to prepare federal income tax returns asserting unreasonable, unrealistic, frivolous and fraudulent positions. Accordingly, the Defendants knew (or reasonably should have known) of the unreasonable, unrealistic, frivolous and fraudulent positions.

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

112. The Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695. The Treasury regulations promulgated under I.R.C. § 6695(g)

prohibit a return preparer from claiming the EITC without first conducting proper due diligence and documenting his or her compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6995-2 (2011). The Defendants advise, encourage, and cause their employees to circumvent these due diligence requirements and to ignore or disregard the information provided by customers.

113. The Defendants' failure to comply with the due diligence requirements for the EITC violates Treasury Regulations and their willingness to falsify information to obtain the EITC for their customers shows a reckless and/or intentional disregard of IRS rules and regulations.

114. The Defendants have continually and repeatedly prepared federal income tax returns that claim the EITC for customers where the defendants have not conducted, let alone documented, the required due diligence procedures.

115. The Defendants also fail to comply with I.R.C. § 6695(a), which requires that a tax return preparer provide a copy of the completed tax return to the taxpayer.

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

117. The Defendants' continual and repeated fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws, including but not limited to preparing federal income tax returns based on pay stubs and fabricating Forms W-2, falls within I.R.C. § 7407(b)(1)(D), and thus is subject to an injunction under I.R.C. § 7407.

118. If they are not enjoined from all tax preparation, the Defendants are likely to continue to prepare and file false and fraudulent tax returns.

119. The Defendants' continual and repeated conduct subject to an injunction under I.R.C. § 7407, including their continual and repeated fabrication of expenses and deductions, particularly in light of the well-publicized lawsuit against the owners of Mo' Money Taxes (their former business) outlining the exact same misconduct, is so blatant and egregious that it demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent the Defendants' interference with the proper administration of the internal revenue laws. Accordingly, the Defendants should be permanently barred from acting as federal tax preparers, and from owning, operating, managing, controlling, licensing, franchising, or working for a tax return preparation business.

Count II
Injunction under I.R.C. § 7408

120. The United States incorporates by reference the allegations in paragraphs 1 through 119.

121. Section 7408 of the I.R.C. authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

122. Section 6701(a) of the I.R.C. 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 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. Under I.R.C. § 6701(c)(1), the term "procures" includes "ordering (or otherwise causing) a subordinate to do an act," as well as "knowing of, and not attempting to prevent, participation by a subordinate in an act."

123. The Defendants, through the actions detailed above, caused the presentation and preparation of false, fraudulent, and abusive tax returns and other documents. The Defendants prepare, assist, and/or advise with respect to the presentation and preparation of federal tax returns for customers that they know will understate their correct tax liabilities, because the Defendants knowingly prepare, assist, and/or advise with respect to the presentation and preparation of returns claiming bogus expenses and deductions and based on fabricated Forms W-2. The Defendants procured and assisted the preparation of false and fraudulent tax returns by preparing and filing tax returns that they knew were false or fraudulent, encouraging the filing of tax returns they knew were false or fraudulent, and by employing and supervising tax return preparers engaging in tax fraud. The Defendants' conduct is thus subject to a penalty under I.R.C. § 6701.

124. In addition, the Defendants have not altered their behavior despite IRS investigations and lawsuits. Given their occupations, the Defendants are likely to continue violating the law absent an injunction. Tax return preparation is the Defendants' primary source of revenue. To maximize that income, the Defendants prepare and counsel employees to prepare fraudulent returns. That fraudulent conduct, in turn, gives the Defendants a competitive edge over law-abiding preparers. It also provides a means for the Defendants to further exploit their customers by charging them unconscionably high fees, while the Defendants' fraud simultaneously and callously exposes their customers to possible civil and criminal liability.

125. If the Court does not enjoin the Defendants, they are likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. The Defendants' preparation of returns claiming improper expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

126. The United States hereby incorporates by reference the allegations in paragraphs 1 through 125.

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

128. The Defendants, through the actions described above, including intentionally understating their customers' tax liabilities and preparing and filing tax returns based on paystubs and fabricated Forms W-2, have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

129. Unless enjoined, the Defendants are likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If the 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.

130. While the United States will suffer irreparable injury if the Defendants are not enjoined, the Defendants will not be harmed by being compelled to obey the law.

131. Enjoining the Defendants is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop the Defendants' illegal conduct and the harm it causes the United States.

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

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

A. That the Court find that the 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 or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting the Defendants from acting as federal tax return preparers;

C. That the Court find that the 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;

D. That the Court find that the 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);

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

- (1) acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than themselves;
- (2) preparing or assisting in preparing federal tax returns that they know or reasonably should have known would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;

- (3) owning, operating, managing, working in, controlling, licensing, or franchising a tax return preparation business;
- (4) falsifying or fabricating Forms W-2 or any other IRS form, filing false or fabricated Forms W-2 or any other IRS form, or aiding and abetting with the falsification or fabrication of or filing of false or fabricated Forms W-2 or any other IRS form;
- (5) preparing or assisting in preparing federal tax returns that are based on end-of-year pay stubs rather than Forms W-2;
- (6) maintaining, assigning, holding, using, or obtaining a Preparer Tax Identification Number (PTIN) or an Electronic Filing Identification Number (EFIN);
- (7) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (8) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring the Defendants to contact, within fifteen days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom the Defendants and their employees prepared federal tax returns or claims for a refund for tax years 2008 and continuing through this litigation to inform them of the permanent injunction entered against them, including sending a copy of the order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court;

G. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring the Defendants to produce to counsel for the United States, within fifteen days of the Court's 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 the Defendants and their employees

prepared federal tax returns or claims for a refund for tax years beginning in 2008 and continuing through this litigation;

H. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring the Defendants to provide a copy of the Court's order to all of their principals, officers, managers, licensees, employees, and independent contractors within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person whom the Defendants provided a copy of the Court's order;

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

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

K. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

DATED: October 7, 2014

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