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U.S. DISTRICT COURT
DISTRICT OF NEVADA

DEPUTY

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEVADA

UNITED STATES,

Plaintiff,

v.

NATIONAL AUDIT DEFENSE NETWORK,
FREE TRADE ENTERPRISES, INC., d/b/a
ORYAN MANAGEMENT AND FINANCIAL
SERVICES, DANIEL W. PORTER,
ROBERT D. GOETSCH, ROBERT
BENNINGTON, ALAN L. RODRIGUES,
WESTON J. COOLIDGE, ADAM
MANGABANG, JEFFREY KLINGENBERG,
RICH KLINGENBERG, MICHELLE M.
HERNANDEZ, LEE PANELLI, ALR, INC. d/b/a
SUCCESS MATRIX GROUP,
MARY ORIE, ADA ADVENTURE, INC.,
G&J EAGLE ENTERPRISES, CHRISTINE
REID, and JOSEPH M. PROKOP,

Defendants.

CV-S-04-0455-LDG-LRL

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER RELIEF**

Plaintiff, the United States of America, states as follows for its complaint against the defendants National Audit Defense Network (“NADN”); Robert Bennington; Weston J. Coolidge; Alan L. Rodrigues; ALR, Inc., d/b/a Success Matrix Group (“SMG”); Adam Mangabang; Jeffrey Klingenberg; Rich Klingenberg; Lee Panelli; G&J Eagle Enterprises, Inc.; Christine Reid; Mary Orié; Free Trade Enterprises, d/b/a Oryan Management and Financial Services; Daniel W. Porter; Robert D. Goetsch; ADA Adventure, Inc.; Michelle M. Hernandez; and Joseph M. Prokop.

Nature of Action

1. This suit is brought to restrain and enjoin the defendants under 26 U.S.C. (“I.R.C.”) §§ 7402, 7407, and 7408 from:
 - a. Preparing or assisting in the preparation of federal-income-tax returns for others;
 - b. Acting as an income-tax-return preparer while also guaranteeing the payment of any refund or the allowance of any credit;
 - c. Organizing, promoting, or selling the Mallforall, Shopn2000, or TaxBreak2000 programs, home-based businesses, incorporation services, or any other arrangements that facilitate or advocate noncompliance with the income tax laws or tax evasion or misrepresent the tax benefits realized by using the arrangements;
 - d. Making false representations that:
 - (i) prospective customers may take business tax deductions or credits without regard to whether the individuals have a *bona fide* business and business purpose;
 - (ii) prospective customers may claim the 26 U.S.C. § 44 disabled-access tax credit for any website modification (unless and until the Secretary of the Treasury promulgates regulations, pursuant to § 44(c)(5), that permit such use of the credit);

- (iii) prospective customers may claim the 26 U.S.C. § 44 disabled-access tax credit and § 162 trade or business expense on their federal-income-tax returns, even if they have no *bona fide* business, the expense is not reasonable and necessary, or the business modification is sold along with the business itself;
- (iv) prospective customers who purchase any product or service or start, own, or operate home-based businesses may automatically (or through simply handing out a business card or through mentioning—without making a demonstrated and sincere effort to conduct business—the business to someone) claim meal expenses, automobile expenses, travel (including vacation) expenses, and residence-related expenses (including mortgage, electricity, and insurance);
- (v) prospective customers who start, own, or operate home-based businesses can demonstrate that they are trying to make a profit merely by printing up and/or handing out business cards;
- (vi) prospective customers who start, own, or operate home-based businesses can employ their children between 7 and 17 years old, pay the children a wage, and then take the money back from the children;
- (vii) prospective customers who start, own, or operate home-based businesses can “write off” or depreciate their home;
- (viii) prospective customers can claim tax deductions and credits for hobby expenses or turn a hobby into a home-based business merely by printing business cards, handing out business cards, and/or keeping records;
- (ix) tax credits and deductions that are available to all businesses, regardless of their form (*e.g.*, partnership, sole proprietorship, or corporation), are exclusively available to corporations;
- (x) prospective customers will automatically reduce their federal-income-tax liability by forming a corporation;
- (xi) prospective customers are guaranteed or promised a tax refund, additional tax deductions, or tax credits, merely by purchasing or signing up for any services or products, including purchasing a business or signing up for audit defense, tax-return review, and/or tax-return preparation;
- (xii) prospective customers who purchase any products that include purported tax benefits and that are paid for with purported promissory notes can ignore the

promissory note or pay off the promissory note merely by clicking on a website link or by some other artifice;

(xiii) prospective customers who purchase any services or products that include purported tax benefits and that are paid for with promissory notes can rely on a third party to pay off the promissory note on their behalf, unless there is a binding contract with a legitimate, viable third party who has agreed to pay off promissory notes as described in the representation to the customers;

(xiv) prospective customers can “wait until the end of the year” to reconstruct their business records (purportedly to see “what you want [to be] in those records” in case the IRS wants to verify claimed business deductions);

(xv) prospective customers can or should create and/or use multiple corporations to “roll over” profits from one corporation to another, thereby creating the impression that a corporation that earned a profit didn’t actually earn it;

(xvi) prospective customers can claim business-related expenses, even though the defendant or person working in association with the defendant, also states that “I don’t care if you make a profit, as long as you are doing something that you can claim as a business” or any similar statement; or

(xvii) prospective customers can purchase “prepaid legal,” “travel agency” or “NADN referral” businesses or any other business, membership, or any arrangement, and then automatically claim business-related tax deductions and credits, without making a demonstrated and sincere effort to earn a profit from the business, membership, or arrangement;

- e. Engaging in activity subject to penalty under 26 U.S.C. § 6700, *i.e.*, organizing, promoting, or selling a plan or arrangement and in connection therewith making gross valuation overstatements or making statements regarding the excludibility of income or the securing of any other tax benefit that he or she knows or has reason to know are false or fraudulent as to any material matter;
- f. Engaging in activity subject to penalty under 26 U.S.C. § 6701, *i.e.*, preparing and/or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that he or she knows will, if used, result in an understatement of tax liability; and
- g. Engaging in other similar conduct that interferes with the administration or enforcement of the internal revenue laws.

Jurisdiction and Venue

2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§ 7401, 7402(a), 7407, and 7408.
3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396.

Authorization

4. This action has been authorized and requested by the Chief Counsel of the IRS, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to the provisions of I.R.C. §§ 7402, 7407, and 7408.

DEFENDANTS

5. **NADN** is a corporation located and doing business at 4330 South Valley View, Las Vegas, Nevada 89103. NADN's phone number is 1-800-AWAY-IRS and its websites are www.awayirs.com, www.nadncorporations.com, www.developyourbusiness.org, and www.nadn-biz.com.
6. **Robert Bennington** resides at 9143 Imperial Castle Court, Las Vegas, Nevada 89147.
7. **Weston J. Coolidge** resides at 10716 Jubilee Mt. Ave., Las Vegas, Nevada 89129.
8. **Alan L. Rodrigues** resides at 918 Alta Oaks, Henderson, Nevada 89014.
9. **ALR, Inc., d/b/a Success Matrix Group's** ("SMG's") office is located at 3561 Lindell Road, Suite G, Las Vegas, Nevada 89103. SMG's website is www.successmatrixgroup.com.
10. **Adam Mangabang** resides at 8101 Rock Port Circle, Las Vegas, Nevada 89128.

11. **Lee Panelli** resides at 7765 Industrial Road, Las Vegas, Nevada 89139.

12. **Jeffrey Klingenberg and Rich Klingenberg** reside at 8570 La Madre, Las Vegas, Nevada 89129.

13. **G&J Eagle Enterprises, Inc.**, (“G&J Eagle”) is a Nevada corporation whose offices are located at NADN.

14. **Christine Reid** resides at 1821 Imperial Cup Drive, #1050, Las Vegas, Nevada 89117.

15. **Mary Ori** resides at 2033 Wengert Avenue, Las Vegas, Nevada 89104.

16. **Free Trade Enterprises d/b/a Oryan Management and Financial Services’s** (“Oryan’s”) office is located at 302 South Milliken Ave., Suite F, Ontario, California 91761. Oryan’s own website is www.oryanmanagement.com.

17. **Daniel W. Porter** resides at 6188 Grant Street, Chino, California 91710.

18. **Robert D. Goetsch** resides at 28023 Dobbel Ave., Hayward, California 94542.

19. **ADA Adventure, Inc.** is a company related to Oryan. Plaintiff cannot locate an office for ADA Adventure, Inc.

20. **Michelle M. Hernandez** resides at 1465 Shannon St., Upland California 91784.

21. **Joseph Prokop** resides at 6 Oak Grove, Mt. Baldy, California 91759.

Defendants’ Activities

22. NADN is a 470-employee telemarketing firm that sells tax-related products and services and prepares federal-income-tax returns. NADN is divided into three primary departments: sales, tax-return preparation, and technical. The sales department consists of

telemarketers who use high-pressure sales tactics to promote, sell, and market tax-evasion schemes that lead to understatements of income-tax liability for NADN customers. NADN's tax-return-preparation department prepares and files federal income tax returns for customers, claiming bogus deductions and tax credits. NADN's return-preparation department prepared 4,747 federal income tax returns for the 2002 tax year alone. NADN's technical department represents customers during IRS audits and handles offers-in-compromise before the IRS. NADN currently has approximately 100,000 customers. NADN's tax-scam sales and return-preparation services have cost the Treasury over the past three years alone an estimated \$324 million dollars in lost tax revenue.

23. NADN was co-founded in 1996 by Bennington and another person who is not a defendant. NADN was sued in January, 2002 by the Federal Trade Commission and, in a separate suit, by the Nevada Attorney General's Office, for deceptive trade practices. The suits alleged that NADN refused to refund customers' money after customers had validly exercised NADN's money-back guarantee. After these suits were filed, Bennington and the other co-founder sold their interests in NADN to Coolidge, NADN's current president and owner. Bennington has remained with NADN as one of its top salespersons and as a sales manager, selling among other things the "Shopn2000" tax scheme, discussed below. Coolidge does not directly own NADN, but does so through a shell corporation named K-Star, Inc. Coolidge is involved with major decisions affecting NADN, including whether to sell certain tax products and services and whether to prepare tax returns that claim tax deductions and credits. NADN filed for Chapter 11 bankruptcy in June, 2003 and remains in bankruptcy.

24. For at least the past three years, Rodrigues has run NADN's day-to-day operations as general manager and executive vice president. Rodrigues also runs and owns SMG, another telemarketing firm that sells at least one of the abusive tax schemes discussed below, the Shopn2000 program. On information and belief, Rodrigues directed SMG to start selling the Shopn2000 program after NADN filed for bankruptcy. Rodrigues is involved with major decisions affecting NADN and SMG, including whether to sell certain tax products and services and whether to prepare tax returns that claim tax deductions and credits.

25. NADN's employees include defendants Adam Mangabang, Mary Orié, and Christine Reid. Mangabang is the director of a sales department (currently called Preferred Client Services, formerly called Advanced Services and Elite Services) that sells the more-expensive and complex tax services and products in NADN's product list. Mangabang sells and directs telemarketers under his control to sell the three tax scams at issue here: the Shopn2000 program; bogus home-based businesses; and incorporation services.

26. Mary Orié is the director of NADN's return-preparation department. Orié directs return preparers to prepare and file federal-income-tax returns that claim false tax credits and deductions, including those related to the Shopn2000 program.

27. Christine Reid is nominally employed by Bridgeway Corporation, which is owned by Coolidge. However, Bridgeway Corporation's offices are located within NADN, and Reid does work for NADN as well, primarily related to setting up corporations for NADN's customers. Further, Reid was president of G&J Eagle Enterprises from late 2002 through late 2003. Reid,

through G&J Eagle, issued fraudulent IRS Forms 1099 for tax year 2002 to NADN customers who purchased Shopn2000 programs.

28. SMG, Rodrigues's other telemarketing firm, has sold Shopn2000 programs and advertises on its website www.successmatrixgroup.com incorporation services, home-based business "consulting," and return-preparation. Rich Klingenberg and Jeffrey Klingenberg are former NADN salespersons who sold Shopn2000 programs at NADN and also have sold Shopn2000 programs at SMG. SMG's current manager, Lee Panelli, also worked at NADN and oversees SMG's salespersons. Panelli has directed the salespersons to sell the Shopn2000 programs. Panelli claims that SMG stopped selling this program in February, 2004.

29. One of NADN's primary tax-scam products, Shopn2000, was designed by Daniel Porter, former owner of Oryan. After the IRS executed a search warrant on Porter at his Oryan offices, Porter sold Oryan to Goetsch. Prokop is a salesperson who has worked for Oryan under both Porter's and Goetsch's leadership. Prokop also has trained salespersons at NADN and elsewhere on how to market the Shopn2000 program. Hernandez was Oryan's office manager under Porter and is president of ADA Adventure, Inc. Hernandez, through ADA Adventure, signed contracts with Shopn2000 purchasers that promised purchasers that ADA Adventure would pay over \$2,000 per quarter to "advertise" on the purchasers' purported websites. As explained below, Shopn2000 purchasers paid \$2,495 in cash, plus a \$7,980 sham promissory note, to NADN and Oryan to buy a Shopn2000 product.

The Shopn2000 programs

30. Oryan, NADN, and SMG sell Shopn2000 programs to customers and falsely claim that Shopn2000 purchasers can claim a tax credit and tax deduction. NADN and SMG salespersons tell NADN customers that they can help the disabled by purchasing their own “Internet mall” website, known as Shopn2000 and MallforAll (herein “Shopn2000”), located at www.mallforall.com and www.shopn2000.com. Shopn2000 purchasers ostensibly pay \$10,475 (\$2,495 cash plus a bogus \$7,980 promissory note) to then “modify” the purported websites up to three separate times to comply with the Americans with Disabilities Act. NADN and SMG salespersons claim that each purchaser receives his own Shopn2000 website, a “virtual Internet shopping mall,” designated with a five-digit personal identification number (“PIN” a/k/a “Zip code”).

31. However, there is just *one* Shopn2000 website, not a separate one for each PIN purchaser. Each Shopn2000 purchaser simply gets a five-digit account number (the PIN) on that one Shopn2000 website. Further, the one Shopn2000 website already includes the so-called modifications—the one website is not modified again when each new purchaser’s PIN account is added to the system. Therefore, the NADN salespersons’ representations to potential Shopn2000 purchasers that each purchaser is buying a separate website and separate modifications are false.

32. Shopn2000.com links to dozens of merchants and permits Shopn2000.com visitors to click on a merchant’s banner or a product displayed to then purchase products on the merchants’ websites. Shopn2000 PIN purchasers purportedly can make money through commissions, typically 1% to 2% of the purchase price. Product purchases made after a visitor clicks through

the Shopn2000.com website are tracked by the five-digit PIN assigned to a PIN purchaser. If the Shopn2000.com website visitor does not select a PIN, then a random PIN is generated for the transaction. If the visitor chooses to select a particular PIN, then that PIN purchaser will usually obtain any commissions generated by that website visitor's purchases.

33. Over the four years in which Oryan has been selling Shopn2000 products, all Shopn2000 PIN purchasers—estimated at more than 10,000—combined have earned less than \$24,000 in identified commissions. Therefore, the PIN purchasers have earned on average less than \$2.40 total, or less than 60 cents per year. Despite this, Oryan, NADN, and SMG and claim that the Shopn2000 purchasers are buying viable businesses. Oryan, NADN, and SMG do not disclose to potential Shopn2000 PIN purchasers the amounts of commissions earned. Instead, Oryan, NADN, and SMG focus on the claimed tax benefits for purchasing a purported Shopn2000 website and “modifying” the website to ostensibly comply with the ADA.

34. Oryan's marketing materials and SMG's and NADN's salespersons tell potential Shopn2000 PIN purchasers that the purchase of the Shopn2000 program will result in a “tax benefit” to the customer in the amount of \$10,475. NADN's and SMG's salespersons explain to potential purchasers that, after the purported website is formed, the site is “modified” to provide access to visually-, hearing-, and mobility-impaired users, purportedly to comply with the ADA. Oryan and NADN sold a different modification each year for three years, so a PIN purchaser could claim the tax benefits in three successive years.

35. These purported modifications are: (1) adding a “text-only” version of the website to allow blind users' screen-reader software to read the website aloud to blind users; (2) adding a

“chat” function that allows users, including hearing-impaired users, to discuss Shopn2000 website technical and other problems with Oryan; and (3) a downloadable “voice shopping” program that permits mobility-impaired users to give voice commands to the computer. Oryan subsequently dropped the chat function altogether and has combined the text-only website and the voice-shopping program as the exclusive purported modification. SMG, which began selling the Shopn2000 program later than NADN, sold exclusively the third-year modification and the new combined modification currently being sold.

36. The text-only version of the website has been inoperable for several weeks this year. Further, screen reading software can read the main website, so the text-only version is superfluous. The chat function was always unnecessary because few shopn2000.com visitors ever had questions about the website and e-mail would have sufficed to answer those questions. The voice-shopping function is useless because it is difficult to download and does not permit a voice-shopping user to complete a purchase.

37. There is no up-front cost to purchase a Shopn2000 program from NADN or SMG. Instead, each SMG or NADN customer agrees to pay Oryan 20% of any commissions, up to \$2,500, as a purchase price, but most owners earn no commissions and therefore pay nothing for the program.

38. SMG and NADN salespersons tell SMG and NADN customers that each modification triggers a \$5,000 I.R.C. § 44 tax credit and a \$5,475 § 162 business tax deduction, which NADN salespersons say amounts to a total tax benefit in the amount of \$10,475.

39. NADN salespersons, also on behalf of Oryan, have told potential purchasers at least four different stories about why they do not have to worry about paying off the purported promissory notes. First, the salespersons tell purchasers that ADA Adventure, Inc. will pay off the promissory note in exchange for ADA Adventure listing banners on the purchasers' purported Shopn2000 websites. Second, NADN and SMG salespersons promise that if anyone, including the Shopn2000 purchasers, clicks on a special "sponsored link" banner on the owner's purported Shopn2000 website, then Oryan would deduct \$2.00 per click from the owner's promissory note. This \$2.00 is never paid to Oryan, so the \$2.00-per-click payment method shows that the promissory note is a sham. Third, NADN salespersons also falsely promise customers that they could give back the purported website, which would extinguish the promissory note. And fourth, NADN now tells PIN owners that they can reduce their promissory note by referring others to purchase the Shopn2000 program. For each new potential customer referred who then becomes a PIN owner, a current PIN owner will receive a \$500 credit against their promissory note. This makes the Shopn2000 promotion a pyramid scheme.

40. In April, 2001, five NADN technical department employees, including three lawyers, wrote a 14-page memorandum to NADN general manager Rodrigues that concluded the Shopn2000 programs would not generate the claimed tax advantages and that Oryan should not sell the Shopn2000 websites. The memorandum specifically warned that the "company, its officers and its employees who organized or assisted in organizing this program or who were involved (directly or indirectly) in the sale of this program could conceivably be subjected to

criminal and or civil penalties under IRC §§ 6700, 6701 and 7206. ” (emphasis in original).

Rodrigues shared this memorandum with NADN’s managers and with Bennington.

41. NADN and Oryan then sought opinion letters from three attorneys. One opinion letter determined that the Shopn2000 program was not subject to federal securities laws, in part, because Oryan was selling a “tax credit” and was not promising profits. The other two opinion letters related solely to the § 44 tax credit. These letters did not address many issues raised by the 14-page memorandum and concluded that Shopn2000 program could only be sustained if it was marketed as a business, and not as a tax break. Despite receiving these opinions, Oryan and NADN sold the Shopn2000 program, internally designated it as the “TaxBreak2000” and TaxBreak3000” program, and sold it to customers as a tax break.

42. Oryan’s marketing materials and NADN’s salespersons continue to make fraudulent representations to potential Shopn2000 purchasers that the customers can save anywhere from \$3,000 to \$15,000 in taxes if they purchase the Shopn2000 program. NADN’s and SMG’s salespersons also continue to falsely claim that their customers can claim the \$5,000 §44 tax credit and the \$5,475 § 162 business tax deduction on their federal income tax returns.

43. NADN’s return-preparation department also continues to file false and fraudulent federal income tax returns on behalf of NADN customers that claim the bogus Shopn2000 tax-related credit and deduction. Orie orders the return preparers under her control to prepare and file these false and fraudulent tax returns and threatens to fire return-preparers who refuse to prepare these false and fraudulent tax returns. The NADN return-preparation department’s willingness to file tax returns containing false deductions and credits, in turn, enhances NADN’s

tax-scam sales because NADN can keep selling these scams to customers, and then ensure that those customers see their tax returns filed with the improper deductions and credits promised by NADN's salespersons.

Sham Home-Based Businesses

44. NADN sells "memberships" to customers, falsely promising to potential customers \$3,000 per year in tax savings. These false tax-savings promises are primarily based on customers starting or purchasing a home-based business and claiming improper business-related tax deductions. Further, NADN guarantees potential customers that, if the customer pay for NADN's return-preparation service, the customers will receive an additional \$3,000 per year of tax savings. In addition, NADN guarantees that customers will receive refunds for prior tax years if the customers pay for NADN to prepare amended federal-income-tax returns. SMG advertises similar home-based business services.

45. NADN salespersons make false and fraudulent statements by (1) overstating the likelihood of obtaining business-related tax deductions; (2) selling the NADN customers home-based businesses that lack a profit motive; and (3) suggesting that customers can turn a hobby into a business merely by printing business cards. These false and misleading statements are detailed, among other places, in the NADN publications themselves.

46. NADN's salespersons, supervised by Coolidge and Rodrigues—and including Mangabang, his subordinates, and Bennington—have made the following false statements: (1) I don't care if you make a profit, as long as you are doing something that you can claim as a business; (2) drop your business card off somewhere on the way to work, and you can write off

all of your commuting expenses; (3) when you go to dinner with your wife, drop your business card off and you can write off the dinner as a business expense; (4) customers can deduct on their tax returns automobile expenses (\$.36/mile up to 20,000 miles), regardless of the purpose of their trips; (5) customers can deduct 50% for all meals eaten out (100% deduction if the meal cost more than \$75); and (6) customers can claim an “educational tax credit” for using NADN’s tax services.

NADN and SMG Set Up Nevada Corporations, Claiming False Tax Savings and Suggesting That Customers Can Use Corporations to Hide from Creditors

47. NADN’s and SMG’s websites and NADN salespersons sell incorporation services by making false and fraudulent statements regarding the purported tax advantages of incorporating generally, and particularly in Nevada. NADN salespersons and NADN’s and SMG’s websites routinely make false and misleading claims to NADN customers that overstate the tax advantages that corporations enjoy over other business forms such as sole proprietorships. These false and misleading claims include categorizing certain business deductions as only available to corporations. Most of these business expenses, if legitimately incurred, would be deductible for any business, not just corporations.

48. NADN salespersons make false and fraudulent statements including: (1) putting assets in a corporation will make the income from the assets tax-free; (2) putting a Shopn2000 purported website “business” into a corporation will shield all Shopn2000-related income from taxation; and (3) customers can write off their entire cost of a Shopn2000 program by putting it in a corporation. Further, NADN promises that, by incorporating, customers can hide income and assets from creditors.

Count I:

Injunction under I.R.C. § 7408 for Violation of I.R.C. §§ 6700 and 6701.

49. The United States incorporates by reference the allegations in paragraphs 1 through 48.

50. I.R.C. § 7408 authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under 26 U.S.C. § 6700 or § 6701 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

51. Under I.R.C. § 6700, any plan or arrangement having some connection to taxes can serve as a “tax shelter” and will be an “abusive” tax shelter if the defendant makes the requisite false and or fraudulent statements concerning the benefits of participation.

52. I.R.C. § 6700 penalizes any person who organizes or sells, or participates in the organization or sale of, an entity, a plan or arrangement and makes, or causes to be made, in connection with organizing or selling the plan or arrangement, false or fraudulent statements concerning the tax benefits to be derived from the entity, plan, or arrangement, that the person knows or has reason to know is false or fraudulent as to any material matter.

53. In the alternative, I.R.C. § 6700 penalizes any person who organizes or participates in the sale of a plan or arrangement and makes or causes another person to make a gross valuation overstatement as to any material matter. A gross valuation overstatement exists where the purported value of any property or services is more than double the correct valuation and the overstatement relates directly to an income-tax credit or deduction.

54. I.R.C. § 6701 imposes a penalty on any person who prepares or assists in the preparation of a return, affidavit, or other document that the person knows or has reason to believe will be used in connection with any material matter arising under the internal revenue laws, and that the person knows would result in an understatement of another person's tax liability.

55. Defendants NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop organize and sell the Shopn2000 abusive tax scheme and the incorporation schemes. These defendants (including, on information and belief, SMG, Panelli, Rich Klingenberg, and Jeffrey Klingenberg) also sell the home-based business scam. In organizing and selling these abusive tax schemes, these defendants make or cause to be made false or fraudulent statements regarding tax benefits of participating in these schemes. These false or fraudulent statements include, among others, that purchasers of the Shopn2000 program will be entitled to a \$5,000 tax credit and a \$5,475 tax deduction on their federal-income-tax return. These defendants know or have reason to know that their programs and program materials contain false or fraudulent statements within the meaning of I.R.C. § 6700.

56. Defendants NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Oryan, Porter, Goetsch, ADA Adventure, Inc., Michelle Hernandez, and Prokop knew or had reason to know that their statements about these tax schemes were false. For the Shopn2000 schemes in

particular, most of these defendants had been provided a legal opinion from NADN's own technical department stating that their statements were false and fraudulent. Further, the Shopn2000 scheme is fraudulent on its face. These false and fraudulent statements pertain to material matters because they are likely to influence potential customers to falsely understate their federal-income-tax liability.

57. Defendants NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Oryan, Porter, Goetsch, ADA Adventure, Inc., Michelle Hernandez, and Prokop organize or participate in the sale of a plan or arrangement and make or cause another person to make a gross valuation overstatement as to a material matter. A gross valuation overstatement exists here because the purported value of the Shopn2000 so-called website modifications is more than twice the correct valuation of the purported modifications. This overstatement relates directly to an income-tax credit or deduction. This gross valuation overstatement includes these defendants' claims that the value of the Shopn2000 modification is \$10,475. This is a gross valuation overstatement because all of the modifications are worthless or worth much less than \$5,237.50. The defendants' statements to prospective purchasers that they can use this overvalued \$10,475 figure on their tax returns to claim credits and deductions is a gross valuation overstatement.

58. Defendants NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop state or cause others to state that purchasers of the Shopn2000 programs can claim a false \$10,475 modification value on their

federal income tax returns. These statements by defendants—that purchasers can claim a tax credit and deduction based in part on the \$7,980 promissory note—is a *per se* gross valuation overstatement. However, even assuming the promissory note were real, all three purported modifications to the Shopn2000 program would still be grossly overvalued. The defendants' statements to purchasers of the Shopn2000 program that they can use this overvalued figure on their tax returns to claim credits and deductions is a gross valuation overstatement.

59. Defendants NADN, Bennington, Coolidge, Rodrigues, Oryan, Porter, Goetsch, Orie, ADA Adventure, Inc., Hernandez, and Prokop prepare or assist in preparing or direct others to prepare federal-income-tax returns, letters, or other documents that they know or have reason to believe will be used in connection with material matters arising under the internal revenue laws. Defendants know that the returns, letters, or other documents will result in understatements of their customers' tax liabilities.

60. Specifically, defendants NADN, Bennington, Coolidge, Rodrigues, Oryan, Porter, Goetsch, Orie, ADA Adventure, Inc., Hernandez, and Prokop prepare or assist in preparing or directing others to prepare false and fraudulent documents—federal-income-tax returns—that falsely report that purchasers of the Shopn2000 program are entitled to a \$5,000 disabled access tax credit and a \$5,475 business tax deduction. In addition, NADN, Bennington, Coolidge, Rodrigues, and Orie prepare or assist in preparing or directing others to prepare federal-income-tax returns that include inflated and false home-based business deductions. These defendants know that these returns will be used in connection with material tax matters, and that these returns will result in gross understatements of customers' tax liabilities.

61. If they are not enjoined, all of the defendants are likely to continue their illegal conduct, including organizing and selling abusive tax schemes and preparing tax returns understating their customers' tax liabilities.

Count II:

Return-preparer injunction under I.R.C. § 7407 for violating I.R.C. §§ 6694 and 6695 and guaranteeing refunds and the allowance of tax credits.

62. The United States incorporates by reference the allegations in paragraphs 1 through 61.

63. I.R.C. § 7407 authorizes a court to enjoin a person from acting as an income-tax-return preparer if that person has continually or repeatedly: (1) engaged in conduct subject to penalty under I.R.C. § 6694, which prohibits the preparation or submission of a return containing an unrealistic position or . . . (3) engaged in any other fraudulent or deceptive conduct substantially interfering with the proper administration of the tax laws, and the court finds that a narrower injunction (*i.e.*, one prohibiting only that specific conduct) would not be sufficient to prevent the return-preparer's conduct.

64. Defendants NADN, Bennington, Coolidge, Rodrigues, Oryan, Porter, Goetsch, Orie, ADA Adventure, Inc., Hernandez, and Prokop have prepared or assisted or directed others to prepare numerous federal-income-tax returns for NADN customers that claim false Shopn200-related credits and deductions. In addition, NADN, Bennington, Coolidge, Rodrigues, and Orie have prepared or assisted or directed others to prepare numerous federal-income-tax returns for NADN customers that claim improper home-based business deductions that the customers are not entitled to. These defendants knew or should have known that these returns contained

unrealistic positions. Indeed, NADN's technical department circulated a memorandum stating that customers could not claim the § 44 tax credit. Further, the Shopn2000 scheme is fraudulent on its face. In addition, NADN, Bennington, Coolidge, Rodrigues, and Orié knew or should have known that the return-preparation positions were based on false marketing statements, such as selling customers home-based businesses that lack a profit motive. Preparing federal-income-tax returns containing these unrealistic and frivolous positions subjects defendants to penalty under I.R.C. § 6694.

65. Defendants NADN, Bennington, Coolidge, Rodrigues, Oryan, Porter, Goetsch, Orié, ADA Adventure, Inc., Hernandez, and Prokop have repeatedly and continually engaged in conduct subject to penalty under I.R.C. §§ 6694. If these defendants are not enjoined under I.R.C. § 7407 from preparing or assisting in the preparation of others' tax returns, they will continue to interfere with the proper administration of the internal revenue laws.

Count III:

Injunction under I.R.C. § 7402 for Unlawful Interference with Enforcement of the Internal Revenue Laws and Appropriateness of Injunctive Relief.

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

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

68. Defendants, through the actions described above, have engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

69. Defendants' conduct results in irreparable harm to the United States. Defendants' conduct is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable. The IRS estimates that defendants' schemes have cost \$324 million in tax losses in the past three years.

70. Unless defendants are enjoined, the IRS will have to devote substantial time and resources auditing and collecting taxes from new customers in addition to the tens of thousands of already existing customers. The burden of pursuing all these customers may be an insurmountable obstacle, given the IRS's limited resources.

71. Unless defendants are enjoined from substantially interfering with the administration and enforcement of the internal revenue laws, they are likely to continue to engage in this harmful conduct.

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

A. That the Court find that defendants NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop engaged in conduct subject to penalty under I.R.C. § 6700, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

B. That the Court find that defendants NADN, Bennington, Coolidge, Rodrigues, Orie, Oryan, Porter, Goetsch, Hernandez, ADA Adventure, Inc., and Prokop 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;

C. That the Court find that defendants NADN, Bennington, Coolidge, Rodrigues, Orie, Oryan, Porter, Goetsch, Hernandez, ADA Adventure Inc., and Prokop continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694, and that injunctive relief, including permanently barring these defendants from acting as return preparers and preparing returns for others, under I.R.C. § 7407, is appropriate to prevent the recurrence of that conduct;

D. That the Court find that defendants NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop have engaged in conduct obstructing and interfering 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 under I.R.C. § 7402(a);

E. That this Court, pursuant to I.R.C. §§ 7402 and 7408, enter a permanent injunction prohibiting NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop, 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. Preparing or assisting in the preparation of federal-income-tax returns for others;
- b. Organizing, promoting, or selling the Mallforall, Shopn2000, or TaxBreak2000 programs, home-based businesses, incorporation services, or any other

arrangements that facilitate or advocate noncompliance with the income tax laws or tax evasion or misrepresent the tax benefits realized by using the arrangements;

- c. Making false or fraudulent representations, in conjunction with organizing or selling a plan or arrangement, that:
- (i) prospective customers may take business tax deductions or credits without regard to whether the individuals have a *bona fide* business and business purpose;
 - (ii) prospective customers may claim the 26 U.S.C. § 44 disabled-access tax credit for any website modification (unless and until the Secretary of the Treasury promulgates regulations, pursuant to § 44(c)(5), that permit such use of the credit);
 - (iii) prospective customers may claim the 26 U.S.C. § 44 disabled-access tax credit and § 162 trade or business expense on their federal-income-tax returns, even if they have no *bona fide* business, the expense is not reasonable and necessary, or the business modification is sold along with the business itself;
 - (iv) prospective customers who purchase any product or service or start, own, or operate home-based businesses may automatically (or through simply handing out a business card or through mentioning—without making a demonstrated and sincere effort to conduct business—the business to someone) claim meal expenses, automobile expenses, travel (including vacation) expenses, and residence-related expenses (including mortgage, electricity, and insurance);
 - (v) prospective customers who start, own, or operate home-based businesses can demonstrate that they are trying to make a profit merely by printing up and/or handing out business cards;
 - (vi) prospective customers who start, own, or operate home-based businesses can employ their children between 7 and 17 years old, pay the children a wage, and then take the money back from the children;
 - (vii) prospective customers who start, own, or operate home-based businesses can “write off” or depreciate their home;
 - (viii) prospective customers can claim tax deductions and credits for hobby expenses or turn a hobby into a home-based business merely by printing business cards, handing out business cards, and/or keeping records;

(ix) tax credits and deductions that are available to all businesses, regardless of their form (*e.g.*, partnership, sole proprietorship, or corporation), are exclusively available to corporations;

(x) prospective customers will automatically reduce their federal-income-tax liability by forming a corporation;

(xi) prospective customers are guaranteed or promised a tax refund, additional tax deductions, or tax credits, merely by purchasing or signing up for any services or products, including purchasing a business or signing up for audit defense, tax-return review, and/or tax-return preparation;

(xii) prospective customers who purchase any products that include purported tax benefits and that are paid for with purported promissory notes can ignore the promissory note or pay off the promissory note merely by clicking on a website link or by some other artifice;

(xiii) prospective customers who purchase any services or products that include purported tax benefits and that are paid for with promissory notes can rely on a third party to pay off the promissory note on their behalf, unless there is a binding contract with a legitimate, viable third party who has agreed to pay off promissory notes as described in the representation to the customers;

(xiv) prospective customers can “wait until the end of the year” to reconstruct their business records (purportedly to see “what you want [to be] in those records” in case the IRS wants to verify claimed business deductions);

(xv) prospective customers can or should create and/or use multiple corporations to “roll over” profits from one corporation to another, thereby creating the impression that a corporation that earned a profit didn’t actually earn it;

(xvi) prospective customers can claim business-related expenses, even though the defendant or person working in association with the defendant, also states that “I don’t care if you make a profit, as long as you are doing something that you can claim as a business” or any similar statement; or

(xvii) prospective customers can purchase “prepaid legal,” “travel agency” or “NADN referral” businesses or any other business, membership, or any arrangement, and then automatically claim business-related tax deductions and credits, without making a demonstrated and sincere effort to earn a profit from the business, membership, or arrangement;

- d. Engaging in activity subject to penalty under 26 U.S.C. § 6700, *i.e.*, organizing, promoting, or selling a plan or arrangement and in connection therewith making gross valuation overstatements or making statements regarding the excludibility of income or the securing of any other tax benefit that he or she knows or has reason to know are false or fraudulent as to any material matter;
- e. Engaging in activity subject to penalty under 26 U.S.C. § 6701, *i.e.*, preparing and/or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that he or she knows will, if used, result in an understatement of tax liability; and
- f. Engaging in other similar conduct that interferes with the administration or enforcement of the internal revenue laws.

F. That the Court, under I.R.C. § 7407, enter a permanent injunction prohibiting NADN, Bennington, Coolidge, Rodrigues, Oryan, Porter, Goetsch, Orie, and Prokop and their representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from preparing or assisting in the preparation of federal income tax returns and from directly or indirectly:

- (1) Further engaging in any conduct subject to penalty under I.R.C. § 6694, *i.e.*, preparing any part of a return that includes an unrealistic position; and
- (2) Further engaging in any other activity subject to injunction or penalty under I.R.C. §§ 7407 or 6694 including acting as an income-tax-return preparer while also guaranteeing the payment of any refund or the allowance of any credit and including fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws;

G. That this Court, pursuant to I.R.C. § 7402(a), enjoin NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop from interfering with the enforcement of the internal revenue laws;

H. That this Court order NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop to send, either individually or in conjunction with other defendants, a copy of this injunction order with a court-approved cover letter, to all persons for whom they have, since 1996, prepared or helped to prepare federal tax returns or to whom they have sold or distributed, either directly or indirectly, the Shopn2000, Mallforall, or TaxBreak 2000 tax programs, incorporation services, home-based businesses, or any other product, shelter, plan or program, and order that, within 45 days of the date of this Order, the defendants shall file with this Court a certification stating that they have done so;

I. That this Court order NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop to provide, either individually or in conjunction with other defendants, to the United States a list of the names, telephone numbers, addresses, e-mail addresses, and social security or employer identification numbers of all individuals and entities: (1) for whom they have prepared or assisted in the preparation of federal tax returns since 1996, or (2) to whom they have sold or distributed, either directly or indirectly, tax plans, arrangements, or programs, or any other product, shelter, plan or program—where any tax-related statements or promises were made during the promotion thereof—in which they have been involved since 1996. NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop shall also provide to the Justice

Department all documents in their possession, custody, and control that identify these individuals and entities. NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop shall provide or give unrestricted access to this information to the Justice Department and file with this Court a certification stating that they have done so, within 45 days of the date of this Order;

J. That this Court order NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop must place a copy of this order, in its entirety, and the court-approved cover letter, on all SMG-, Oryan- and NADN-related websites, including www.successmatrixgroup.com, www.awayirs.com, www.nadncorporations.com, www.developyourbusiness.org, www.nadn-biz.com, www.oryanmanagement.com, and www.oryan-biz.com, in particular on the websites' "Home" pages (*i.e.* the first page seen when accessing the websites at the listed addresses), prominently featured at the top so that it is easily visible. NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg, Panelli, G&J Eagle Enterprises, Inc., Reid, Orie, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop must also remove from these websites all content subject to penalty under I.R.C. §§ 6700, 6701, and 6694 or any other false tax-related statements made in connection with any product or service, and any statements guaranteeing the payment of any refund or the allowance of any tax credit. NADN, Bennington, Coolidge, Rodrigues, SMG, Mangabang, Jeffrey Klingenberg, Rich Klingenberg,

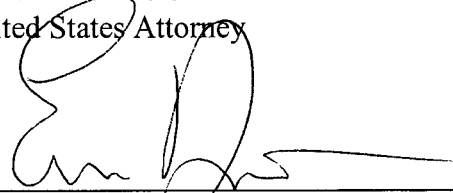
Panelli, G&J Eagle Enterprises, Inc., Reid, Orié, Oryan, Porter, Goetsch, ADA Adventure, Inc., Hernandez, and Prokop shall maintain these copies on all SMG-, Oryan- and NADN-related websites for one year from the date on which this order is entered;

K. That this Court shall retain jurisdiction over this action to implement and enforce this Final Judgment of Permanent Injunction and all other decrees and orders necessary or appropriate to the public interest;

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

M. That this Court order that the United States shall be entitled to conduct discovery permitted under the Federal Rules of Civil Procedure to monitor the defendants' compliance with the terms of this Final Judgment of Permanent Injunction.

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