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9 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12 **UNITED STATES OF AMERICA,** )  
13 **Plaintiff,** )  
14 **v.** )  
15 **LYDIA HERNANDEZ, individually and d/b/a** )  
16 **LYDIA HERNANDEZ TAX SERVICES,** )  
17 **Defendant.** )

No. **CV 18 3702**

**COMPLAINT FOR PERMANENT INJUNCTION**

**HRL**

18 Plaintiff, United States of America, complains and alleges against defendant Lydia  
19 Hernandez, individually and d/b/a Lydia Hernandez Tax Services, as follows:

20 **JURISDICTION AND VENUE**

21 1. This suit is brought by the United States pursuant to sections 7402(a), 7407, and 7408 of  
22 the Internal Revenue Code (26 U.S.C.) ("I.R.C.") to enjoin Lydia Hernandez, individually  
23 and d/b/a Lydia Hernandez Tax Services, and anyone in active concert or participation  
24 with her, from:

- 25 (a) acting as a federal tax return preparer, or otherwise directly or indirectly preparing
- 26 or filing, or assisting in the preparation or filing of any federal tax return or other
- 27 related documents and forms for any person or entity other than herself and/or her
- 28 spouse;
- (b) representing or appearing on behalf of any person or entity, other than herself

- 1 and/or her spouse, before the Internal Revenue Service (“IRS”);
- 2 (c) engaging in any activity subject to penalty under I.R.C. §§ 6694, 6701, or 7206(2);
- 3 and
- 4 (d) engaging in conduct that substantially interferes with the proper administration
- 5 and enforcement of the internal revenue laws.

6 2. This action has been requested by the Chief Counsel of the IRS, a delegate of the

7 Secretary of the Treasury, and commenced at the direction of the Attorney General of the

8 United States, pursuant to I.R.C. §§ 7402, 7407, and 7408.

9 3. Jurisdiction over this action is conferred upon this Court by 28 U.S.C. §§ 1340 and 1345,

10 and I.R.C. §§ 7402(a), 7407 and 7408.

11 4. Venue is proper in the Northern District of California because defendant resides in San

12 Jose, California, within this judicial district, and a substantial part of the events or

13 omissions giving rise to this claim occurred in this judicial district.

14 **INTRODUCTORY ALLEGATIONS**

15 Tax Preparation by Lydia Hernandez d/b/a Lydia Hernandez Tax Services

- 16 5. Lydia Hernandez is an un-enrolled tax return preparer.
- 17 6. From at least 2001 to at least 2010, Lydia Hernandez operated a return preparer business
- 18 named Lydia Hernandez Tax Services, located in Salinas, California.
- 19 7. Lydia Hernandez, through her return preparer business Lydia Hernandez Tax Services,
- 20 continually and repeatedly willfully prepared fraudulent federal income tax returns for
- 21 individual taxpayers.
- 22 8. Lydia Hernandez willfully prepared the fraudulent federal income tax returns in order to
- 23 reduce the taxable income for her customers and to obtain for them a larger refund than
- 24 they were entitled to receive.
- 25 9. As a direct result of Lydia Hernandez’s fraudulent and improper tax return preparation
- 26 services, customers of Lydia Hernandez Tax Services filed federal income tax returns
- 27 understating their federal income tax liabilities and claiming large income tax refunds to
- 28 which they were not entitled.

- 1 10. Lydia Hernandez prepared the fraudulent federal income tax returns for her customers for  
2 a fee.
- 3 11. The federal income tax returns prepared by Lydia Hernandez were fraudulent in that they  
4 included:
- 5 a. false Schedule C's for customers who did not own or operate a Schedule C  
6 business;
  - 7 b. false deductions for state and local taxes;
  - 8 c. false deductions for items, such as gifts, dry cleaning expenses, cell phone  
9 expenses, gym fees and union dues which were not deductible items; and/or
  - 10 d. false depreciation and mileage deductions.
- 11 12. On or about April 15, 2004, Lydia Hernandez prepared a fraudulent federal income tax  
12 return of behalf of taxpayer J.G. for tax year 2003. This 2003 tax return was fraudulent in  
13 that Lydia Hernandez, without J.G.'s knowledge, included a Schedule C business that  
14 J.G. did not own. Lydia Hernandez reported a loss from the Schedule C business on  
15 J.G.'s 2003 income tax return. Lydia Hernandez also falsely claimed a deduction on  
16 J.G.'s income tax return for state and local taxes in the amount of \$6,968, when J.G.'s W-  
17 2, which Lydia Hernandez reviewed, reflected only \$4,669 in state and local taxes. In  
18 total, Lydia Hernandez willfully prepared a false 2003 federal income tax return for J.G.  
19 reporting taxable income of \$68,072, when in fact J.G.'s actual taxable income was  
20 \$91,293.
- 21 13. On or about April 15, 2005, Lydia Hernandez prepared a fraudulent federal income tax  
22 return on behalf of taxpayer V.C. for tax year 2004. This 2004 tax return was fraudulent  
23 in that Lydia Hernandez, without V.C.'s knowledge, included a Schedule C business,  
24 specifically a florist. V.C. did not own a florist or any other business in 2004. Lydia  
25 Hernandez reported a loss from the Schedule C business on V.C.'s 2004 income tax  
26 return. Lydia Hernandez also reported on V.C.'s Schedule A a false deduction for state  
27 and local taxes. The tax preparer software used by Lydia Hernandez automatically  
28 populated the figure for state and local taxes based on information reported on the

1 taxpayer's Form W-2. During the preparation of V.C.'s federal tax return, Lydia  
2 Hernandez willfully overwrote this figure with a higher dollar amount in order to increase  
3 V.C.'s deduction for state and local taxes. In total, Lydia Hernandez willfully prepared a  
4 false 2004 federal income tax return for V.C. reporting taxable income of \$33,257, when  
5 in fact V.C.'s actual taxable income was \$55,528.

6 14. On April 15, 2005, Lydia Hernandez prepared a fraudulent income tax return on behalf of  
7 taxpayer J.U. for tax year 2004. Lydia Hernandez falsely reported on J.U.'s 2004 tax  
8 return, without his knowledge, that J.U. operated a business named Extra Curriculum  
9 Kid. J.U., however, did not operate any such business in 2004. Lydia Hernandez  
10 reported a loss from the Schedule C business on J.U.'s 2004 tax return. In total, Lydia  
11 Hernandez willfully prepared a false 2004 federal income tax return for J.U. reporting  
12 taxable income of \$24,341, when in fact J.U.'s actual taxable income was \$38,369.

13 15. On or about April 15, 2003, Lydia Hernandez prepared a fraudulent income tax return on  
14 behalf of taxpayers R.L. and S.L. for tax year 2002. Lydia Hernandez falsely reported  
15 R.L. and S.L.'s Schedule A deduction for state and local taxes. The tax preparer software  
16 used by Lydia Hernandez automatically populated the figure for state and local taxes  
17 based on information reported on the taxpayer's Form W-2. During the preparation of  
18 R.L. and S.L.'s tax return, Lydia Hernandez overwrote this figure with a higher dollar  
19 amount in order to increase R.L. and S.L.'s deduction for state and local taxes. In total,  
20 Lydia Hernandez willfully prepared and submitted a false 2002 federal income tax return  
21 for R.L. and S.L. reporting taxable income of \$21,946, when in fact the actual taxable  
22 income was \$72,556.

23 16. On or about April 15, 2005, Lydia Hernandez prepared a fraudulent income tax return on  
24 behalf of taxpayer R.P. for tax year 2004. Lydia Hernandez falsely reported on R.P.'s tax  
25 return depreciation expense for an automobile. Instead of correctly reporting the  
26 depreciation of the automobile based on a 5 year useful life, Lydia Hernandez used a 3  
27 year useful life to calculate the depreciation expense. The tax preparer software used by  
28 Lydia Hernandez allowed her to select from a drop down list the type of asset that was to

1 be depreciated. Despite knowing that an automobile used in a business should be  
2 depreciated over 5 years, Lydia Hernandez willfully selected computer equipment from  
3 the drop down menu as the asset type, instead of automobile, so that the software would  
4 calculate the depreciation deduction for the automobile using a 3 year useful life. This  
5 resulted in a higher depreciation deduction. In total, Lydia Hernandez willfully prepared a  
6 false 2004 federal income tax return for R.P. reporting taxable income of \$-2,961, when  
7 in fact R.P.'s actual taxable income was \$50,461.

8 17. Lydia Hernandez knew that an automobile used in a business was to be depreciated over  
9 5 years. In an exam as part of a continuing education class that Lydia Hernandez took,  
10 she correctly answered "5 years" to a question regarding how many years one can  
11 depreciate a car used in a business.

12 18. On or about April 15, 2003, Lydia Hernandez prepared a fraudulent income tax return on  
13 behalf of taxpayer C.E. for tax year 2002. Lydia Hernandez fraudulently claimed  
14 deductions on C.E.'s tax return for items that were not deductible or for expenses that  
15 C.E. did not incur. Specifically, Lydia Hernandez fraudulently reported that C.E. had  
16 unreimbursed employee expenses including \$240 for jumpsuits and \$80 for gloves. C.E.,  
17 however, did not own any jumpsuits and did not wear gloves, and did not provide these  
18 expenses to Lydia Hernandez. Lydia Hernandez also reported \$280 for haircuts as an  
19 unreimbursed employee expense, and told C.E. that haircuts were deductible. Lydia  
20 Hernandez reported \$120 for "grooming standards" for the purchase of razors as an  
21 unreimbursed employee business expense, and told C.E. that razors were deductible.  
22 Lydia Hernandez reported \$960 for "phone on call" as an unreimbursed employee  
23 business expense. Lydia Hernandez told C.E. that if his employer called him at home,  
24 then his home phone bill was a deductible item. Lydia Hernandez reported \$700 for a  
25 gym membership as a unreimbursed employee business expense. In total, Lydia  
26 Hernandez willfully prepared a false 2002 federal income tax return for C.E. reporting  
27 taxable income of \$16,996, when in fact C.E.'s actual taxable income was \$56,411.

28 19. On or about April 15, 2006, Lydia Hernandez prepared a fraudulent income tax return on

1 behalf of taxpayers R.L. and S.L. for tax year 2005. Lydia Hernandez fraudulently failed  
2 to report the taxable state refund of \$3,547 R.L. and S.L. received in 2005 and which was  
3 reported on a Form 1099-G. Lydia Hernandez was also in possession of R.L. and S.L.'s  
4 2004 Form 540 state tax return which showed that R.L. and S.L. were due a state tax  
5 refund of \$3,547. In total, Lydia Hernandez willfully prepared a false 2005 federal  
6 income tax return for R.L. and S.L. reporting taxable income of \$48,940, when in fact  
7 R.L. and S.L.'s actual taxable income was \$79,516.

8 20. On or about April 15, 2003, Lydia Hernandez willfully prepared, signed, and filed with  
9 the IRS a false income tax return on her own behalf, which failed to accurately report her  
10 own tax due and owing for tax year 2002. In particular, Lydia Hernandez failed to report  
11 approximately \$9,476 in gross receipts from her return preparer business.

12 21. On or about May 19, 2004, Lydia Hernandez willfully prepared, signed, and filed with the  
13 IRS a false income tax return on her own behalf, which failed to accurately report her  
14 own tax due and owing for tax year 2003. In particular, Lydia Hernandez failed to report  
15 approximately \$27,921 in gross receipts from her return preparer business.

16 22. On or about April 27, 2005, Lydia Hernandez willfully prepared, signed, and filed with  
17 the IRS a false income tax return on her own behalf, which failed to accurately report her  
18 own tax due and owing for tax year 2004. In particular, Lydia Hernandez failed to report  
19 approximately \$51,129 in gross receipts from her return preparer business.

#### 20 Criminal Prosecution and Guilty Plea

21 23. On January 16, 2008, Lydia Hernandez was indicted on 3 counts of tax evasion, in  
22 violation of 26 U.S.C. § 7201, and 39 counts of aiding and assisting in the preparation of  
23 false income tax returns for customers, in violation of 26 U.S.C. 7206(2).

24 24. On July 27, 2009, Lydia Hernandez pleaded guilty to 1 count of tax evasion and 1 count  
25 of assisting in the preparation of false tax returns.

26 25. In her Plea Agreement, Lydia Hernandez admitted that she was in the business of  
27 preparing tax returns in the Salinas, California area under the name Lydia Hernandez Tax  
28 Services.

- 1 26. Lydia Hernandez admitted that she prepared the 39 income tax returns for 13 individuals  
2 as specified in the indictment for the tax years 2002 through 2005, that she prepared the  
3 returns for a fee, and that she prepared the false returns to reduce the taxable income for  
4 her customers and to obtain for them a larger refund than they were entitled to receive.
- 5 27. Lydia Hernandez admitted that the total tax loss as a result of the false and inflated  
6 deductions she included on the returns she prepared for the 13 individuals as specified in  
7 the indictment was no greater than \$256,000.
- 8 28. Lydia Hernandez also admitted that for tax year 2004, she willfully filed a false federal  
9 income tax return in her own name that under-reported her business income by \$51,129.  
10 She further admitted that her willful failure to report this income contributed to an  
11 additional tax due and owing in the amount of \$19,460.
- 12 29. Lydia Hernandez also agreed in her Plea Agreement that she will never again prepare tax  
13 returns professionally or supervise any other person in the professional preparation of  
14 individual, partnership, or corporate tax returns, and further agreed that this prohibition  
15 should be included as a term of probation or supervised release.
- 16 30. On July 19, 2010, Lydia Hernandez was sentenced to 15 months' imprisonment, to be  
17 followed by 3 years of supervised release, and ordered to pay \$35,433 in restitution for  
18 tax evasion and aiding and assisting in the preparation of false income tax returns.
- 19 31. As a special condition of her supervision, the Court ordered that Lydia Hernandez shall  
20 not be employed in any capacity in which she prepares and files income tax returns  
21 without the prior approval of the Probation Officer.
- 22 32. On August 29, 2011, Lydia Hernandez was released from prison to a halfway house, and  
23 on October 28, 2011, she was released from the halfway house. Lydia Hernandez  
24 subsequently relocated to San Jose, California.

25 Post-Conviction Activities

- 26 33. On or about October 15, 2011, 44 income tax returns for tax years 2008 and 2009  
27 prepared by Lydia Hernandez prior to her incarceration were selected for audit by the  
28 IRS. The majority of the audits of these income tax returns resulted in adjustments,

1 primarily to Schedule C and Schedule A-itemized deductions. Based on these  
2 adjustments, as of June 4, 2012, the IRS determined there is additional tax due and owing  
3 from these customers of Lydia Hernandez in the amount of approximately \$193,833.

4 34. On or about October 15, 2011, the IRS selected the 2009 U.S. individual income tax  
5 return for taxpayers J.G. and S.G., husband and wife, for audit. Lydia Hernandez  
6 prepared this tax return. The audit examination resulted in adjustments to J.G. and S.G.'s  
7 Schedule C. J.G. and S.G.'s tax return reported gross receipts from a Schedule C  
8 business in the amount of \$8,235. During the audit examination, J.G. stated that he had  
9 no knowledge of a Schedule C business reported on his tax return. Accordingly, the audit  
10 examination disallowed the claimed \$8,235 in gross receipts. As a result of these  
11 adjustments, J.G. and S.G. have an additional tax due and owing to the IRS for tax year  
12 2009 in the amount of \$3,049.

13 35. On or about October 15, 2011, the IRS selected the 2009 U.S. individual income tax  
14 return for taxpayers L.J. and S.J., husband and wife, for audit. Lydia Hernandez prepared  
15 this tax return on or about March 23, 2010, after she was indicted and pleaded guilty, but  
16 prior to her incarceration. The audit examination resulted in adjustments to L.J. and  
17 S.J.'s Schedule C and Schedule A. In particular, L.J. and S.J.'s 2009 tax return included  
18 a Schedule C business which reportedly had \$6,000 in gross receipts, and incurred total  
19 expenses of \$44,097. Per the audit, the IRS adjusted the gross receipts to zero and  
20 disallowed all of the business expenses. As a result of these and other adjustments, L.J.  
21 and S.J. have an additional tax due and owing to the IRS for tax year 2009 in the amount  
22 of \$7,792.

23 36. On or about October 15, 2011, the IRS selected the 2009 U.S. individual income tax  
24 return for taxpayers G.S. and M.S., husband and wife, for audit. Lydia Hernandez  
25 prepared this return. The audit examination resulted in adjustments to G.S. and M.S.'s  
26 Schedule C. The only sources of income on G.S. and M.S.'s tax return were  
27 unemployment compensation and a reported \$7,500 in Schedule C business income.  
28 However, during the audit, G.S. stated that he had not said anything to Lydia Hernandez



1 about working, indicating that Lydia Hernandez fabricated the Schedule C business  
2 income. The IRS disallowed, in its entirety, the claimed business income. In addition,  
3 the IRS disallowed one of G.S. and M.S.'s claimed exemptions, and determined that G.S.  
4 and M.S. were not entitled to the earned income tax credit. As a result of these and other  
5 adjustments, G.S. and M.S. have an additional tax due and owing to the IRS for tax year  
6 2009 in the amount of \$1,460.

7 37. On or about October 15, 2011, the IRS selected the 2009 U.S. individual income tax  
8 return for taxpayer E.O. for audit. Lydia Hernandez prepared this return. The audit  
9 examination resulted in adjustments to E.O.'s Schedule C. E.O.'s tax return reported  
10 gross receipts of \$15,200. The IRS disallowed, in its entirety, the claimed gross receipts  
11 finding that these gross receipts could not be verified. As a result of this and other  
12 adjustments, E.O. has an additional tax due and owing to the IRS for tax year 2009 in the  
13 amount of \$4,280.

14 38. On or about October 15, 2011, the IRS selected the 2009 U.S. individual income tax  
15 return for taxpayer E.L. for audit. Lydia Hernandez prepared this return. On December  
16 27, 2011, the IRS received Form 2848 Power of Attorney and Declaration of  
17 Representative signed by E.L. and Lydia Hernandez appointing Lydia Hernandez to  
18 represent E.L. before the IRS. Lydia Hernandez met with the IRS auditor to discuss  
19 E.L.'s 2009 tax return on January 5, 2012. The audit examination resulted in adjustments  
20 to E.L.'s Schedule C, and to the number of exemptions reported on his tax return. As a  
21 result of these adjustments, E.L. has an additional tax due and owing to the IRS for tax  
22 year 2009 in the amount of \$11,998.

23 39. On or about October 15, 2011, the IRS selected the 2009 U.S. individual income tax  
24 return for taxpayers J.G. and S.G., husband and wife, for audit. Lydia Hernandez  
25 prepared this return on or about February 26, 2010, after she was indicted and pleaded  
26 guilty, but prior to her incarceration. On or about January 9, 2012, the IRS received  
27 Forms 2848 Power of Attorney and Declaration of Representative signed by J.G., S.G.,  
28 and Lydia Hernandez appointing Lydia Hernandez to represent J.G. and S.G. before the

1 IRS. The audit examination resulted in adjustments to J.G. and S.G.'s Schedule C,  
2 Schedule E, and Schedule A. J.G. and S.G.'s return included a Schedule C reporting  
3 \$210 in gross receipts, and cost of goods sold and expenses totaling \$8,151. When  
4 questioned about where he earned the \$210 in gross receipts, J.G. stated he did not  
5 remember. The IRS disallowed \$7,529 of the claimed cost of goods sold and expenses.  
6 J.G. and S.G.'s return also reported Schedule E rental income of \$6,250. Per a copy of  
7 the lease provided during the audit examination, J.G. and S.G. received rental income in  
8 2009 of \$7,650. J.G. stated that he had no idea why there was a discrepancy between the  
9 amount of rental income per the lease agreement and the reported rental income, and  
10 stated that he paid a return preparer to do the return. As a result of these adjustment, J.G.  
11 and S.G. have an additional tax due and owing to the IRS for tax year 2009 in the amount  
12 of \$4,561.

13 40. On October 15, 2011, the IRS selected the 2009 U.S. individual income tax return for  
14 taxpayers P.C. and S.C., husband and wife, for audit. Lydia Hernandez prepared this  
15 return. On February 14, 2012, the IRS received two Forms 8821 Tax Information  
16 Authorization, one signed by P.C. and one signed by S.C., appointing Lydia Hernandez to  
17 represent each of them before the IRS in the audit examination. On February 14, 2012,  
18 Lydia Hernandez appeared before the audit examiner on behalf of P.C. and S.C. Lydia  
19 Hernandez stated that she had informed P.C. and S.C. not to attend the audit examination  
20 appointment. Lydia Hernandez provided very little supporting documentation to the audit  
21 examiner and then left the meeting abruptly. The audit examination resulted in  
22 adjustments to P.C. and S.C.'s Schedule C and Schedule A. As a result of these  
23 adjustments, P.C. and S.C. have an additional tax due and owing to the IRS for tax year  
24 2009 in the amount of \$18,711.

25 Harm to the United States

26 41. The tax loss to the United States as a result of 39 false income tax returns prepared by  
27 Lydia Hernandez and charged in the criminal indictment against her is approximately  
28 \$256,000.

1 42. As of June 4, 2012, the IRS has completed the audit of 38 of the 44 returns selected on or  
2 about October 15, 2011 that were prepared by Lydia Hernandez for tax years 2008 and  
3 2009. The additional tax due and owing to the United States as determined by these audit  
4 examinations is approximately \$193,833.

5 43. In addition to the tax loss as a result of the fraudulent returns prepared by Lydia  
6 Hernandez, the United States is further harmed because it must devote resources of the  
7 IRS to detect, audit, and collect the under-reported taxes.

8 **COUNT I:**

9 **Injunction Under I.R.C. § 7407**

10 44. The United States incorporates by reference the allegations in paragraphs 1 through 43.

11 45. Section 7407, I.R.C., authorizes the United States to seek an injunction against any tax  
12 return preparer who has engaged in any “fraudulent or deceptive conduct which  
13 substantially interferes with the proper administration of the Internal Revenue laws,” or  
14 who has “engaged in any conduct subject to penalty under section 6694 or 6695, or  
15 subject to any criminal penalty provided by this title.”

16 46. Additionally, I.R.C. § 7407 authorizes the Court to enjoin a person from further acting as  
17 a return preparer if the preparer has continually or repeatedly engaged in such conduct  
18 and an injunction prohibiting only the unlawful conduct would not be sufficient to  
19 prevent the preparer from further interfering with the proper administration of the internal  
20 revenue laws.

21 47. Section 6694(b), I.R.C., provides that a tax return preparer is subject to penalty if he or  
22 she prepares a return or claim for refund with respect to which any part of an  
23 understatement of liability is due to a willful attempt to understate the liability or a  
24 reckless or intentional disregard of rules or regulations.

25 48. Section 7206(2), I.R.C. makes it a felony, punishable by up to 3 years imprisonment, to  
26 willfully aid or assist in the preparation of a return which is fraudulent or false as to any  
27 material matter

28 49. Lydia Hernandez has continually and repeatedly prepared and submitted, or caused to be

1 prepared and submitted, fraudulent federal tax returns for her customers on which she  
2 willfully understated the liability owed by her customers. Thus, Lydia Hernandez has  
3 continually and repeatedly engaged in conduct subject to penalties under I.R.C. §§  
4 6694(b) and 7206(2).

5 50. The fraudulent federal tax returns continually and repeatedly prepared by Lydia  
6 Hernandez claimed false Schedule C businesses; false deductions for items, such as gifts,  
7 dry cleaning expenses, cell phone expenses, gym fees, and union dues which were not  
8 deductible items; false depreciation and mileage deductions; and false deductions for  
9 state and local taxes.

10 51. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction,  
11 Lydia Hernandez is likely to continue to prepare or cause to be prepared false federal  
12 income tax returns and engage in other misconduct of the type described in this  
13 complaint. Lydia Hernandez continued to assist in the preparation of fraudulent income  
14 tax returns, conduct subject to penalty under I.R.C. §§ 6694 and 7206(2), even after she  
15 was criminally indicted on tax charges. Additionally, following her release from prison,  
16 Lydia Hernandez attempted to represent before the IRS at least two of her former  
17 customers whose returns were selected for audit on or about October 15, 2011.

18 52. Lydia Hernandez should be permanently enjoined under I.R.C. § 7407 from acting as a  
19 tax return preparer because a more limited injunction would be insufficient to stop her  
20 continuous and repeated misconduct.

21 **COUNT II:**

22 **Injunction under I.R.C. § 7408**

23 53. The United States incorporates by reference paragraphs 1 through 43.

24 54. Section 7408, I.R.C., authorizes a district court to enjoin any person from further  
25 engaging in conduct subject to penalty under I.R.C. § 6701 if the injunctive relief is  
26 appropriate to prevent recurrence of that conduct.

27 55. Section 6701, I.R.C., penalizes any person who prepares, or assists in the preparation of,  
28 any federal tax return, refund claim, or other document, knowing or having a reason to

1 believe that it will be used in connection with any material matter arising under the  
2 internal revenue laws, and knowing that if so used it would result in an understatement of  
3 another person's tax liability.

4 56. Lydia Hernandez prepared federal income tax returns for her customers for the purpose of  
5 submitting those returns to the IRS.

6 57. Lydia Hernandez prepared federal income tax returns for her customers in which she  
7 willfully and fraudulently understated the customers' tax liability. The tax returns  
8 prepared by Lydia Hernandez for her customers understated her customers' tax liability  
9 by claiming false Schedule C businesses; false deductions for items, such as gifts, dry  
10 cleaning expenses, cell phone expenses, gym fees, and union dues which were not  
11 deductible items; false depreciation and mileage deductions; and false deductions for  
12 state and local taxes.

13 58. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction,  
14 Lydia Hernandez is likely to continue to prepare or cause to be prepared false federal  
15 income tax returns and engage in other misconduct of the type described in this  
16 complaint. Lydia Hernandez continued to assist in the preparation of fraudulent income  
17 tax returns, conduct subject to penalty under I.R.C. § 6701, even after she was criminally  
18 indicted on tax charges. Additionally, following her release from prison, Lydia  
19 Hernandez attempted to represent before the IRS at least two individuals whose tax  
20 returns she previously prepared and whose returns were selected for audit on or about  
21 October 15, 2011.

22 **COUNT III:**

23 **Injunction under I.R.C. § 7402**

24 59. The United States incorporates by reference paragraphs 1 through 43.

25 60. Section 7402(a), I.R.C., authorizes the court to issue an injunction "as may be necessary  
26 or appropriate for the enforcement of the internal revenue laws." The remedies available  
27 to the United States under this statute "are in addition to and not exclusive of any and all  
28 other remedies." I.R.C. § 7402(a).

1 61. Through the actions described above, Lydia Hernandez has engaged in conduct that  
2 substantially interferes with the administration and enforcement of the internal revenue  
3 laws, and she is likely to continue to engage in such conduct unless enjoined.

4 62. Lydia Hernandez's conduct causes irreparable injury to the United States and an  
5 injunction under I.R.C. § 7402(a) is necessary and appropriate.

6 63. Unless Lydia Hernandez is enjoined, the IRS will have to devote substantial time and  
7 resources to examining her customers' tax returns and liabilities.

8 64. Unless Lydia Hernandez is enjoined, the customers relying on Lydia Hernandez's federal  
9 tax return preparation services may be subject to additional tax liabilities along with  
10 interest and penalties as a result of her fraudulent tax return preparation.

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

12 A. That the Court find that Lydia Hernandez and Lydia Hernandez Tax Services have  
13 repeatedly and continually engaged in conduct subject to penalty under I.R.C. §§ 6694 and  
14 7206(2), and that injunctive relief is appropriate under I.R.C. § 7407 to bar Lydia Hernandez  
15 from acting as a tax return preparer and from engaging in conduct subject to penalty under I.R.C.  
16 §§ 6694 and 7206(2);

17 B. That the Court find that Lydia Hernandez and Lydia Hernandez Tax Services have  
18 engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief is  
19 appropriate under I.R.C. § 7408 to prevent a recurrence of that conduct;

20 C. That the Court find that Lydia Hernandez and Lydia Hernandez Tax Services have  
21 engaged in conduct that interferes with the enforcement of the internal revenue laws, and that  
22 injunctive relief against her is appropriate to prevent the recurrence of that conduct pursuant to  
23 I.R.C. § 7402(a).

24 D. That the Court, under I.R.C. §§ 7402, 7407, and 7408, enter a permanent injunction  
25 prohibiting Lydia Hernandez, Lydia Hernandez Tax Services, and her representatives, agents,  
26 servants, employees, attorneys, independent contractors, and anyone in active concert or  
27 participation with her, from directly or indirectly:

28 (1) acting as a federal tax return preparer, or otherwise directly or indirectly preparing

1 or filing, or assisting in the preparation or filing of any federal tax return or other  
2 related documents and forms for any person or entity other than herself and/or her  
3 spouse;

4 (2) representing or appearing on behalf of any person or entity, other than herself  
5 and/or her spouse, before the IRS;

6 (3) engaging in any activity subject to penalty under I.R.C. §§ 6694, 6701, or 7206(2);  
7 and

8 (4) engaging in conduct that substantially interferes with the proper administration  
9 and enforcement of the internal revenue laws.

10 E. That the Court, pursuant to I.R.C. § 7402(a), enter an injunction requiring Lydia  
11 Hernandez to contact, within 30 days of the issuance of this injunction, by United States Mail or  
12 email if an email address is known, all persons and entities for whom she or Lydia Hernandez  
13 Tax Services prepared a federal tax return or other tax related document from January 1, 2009 to  
14 the present, and inform those persons of the entry of the Court's permanent injunction against  
15 her, specifically that she and Lydia Hernandez Tax Services have been permanently enjoined  
16 from acting as a federal tax return preparer and from representing or appearing on behalf of any  
17 person or entity before the IRS.

18 F. That the Court order that the United States is permitted to engage in limited post-  
19 judgment discovery to ensure compliance with the permanent injunction;

20 G. That the Court retain jurisdiction over Lydia Hernandez and Lydia Hernandez Tax  
21 Services, and over this action for the purpose of enforcing any permanent injunction entered; and

22 H. That this Court grant the United States such other relief, including costs, as is just  
23 and equitable.

24 MELINDA HAAG  
25 United States Attorney

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28 Matthew J. Kluge  
Trial Attorney  
Tax Division