

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 2:16-cv-10299
Plaintiff,)	
)	
v.)	
)	
CRAIG M. COMER and COMER INC.,)	
d/b/a LIBERTY TAX SERVICE,)	
)	
Defendants.)	
_____)	

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America seeks a permanent injunction against Defendants Craig M. Comer and Comer Inc., both doing business under the brand name Liberty Tax Service, barring them from further acting as federal tax return preparers. In support of this relief, the United States alleges as follows:

1. Defendant Craig M. Comer is a Detroit, Michigan-area Liberty Tax Service franchisee. He currently owns and manages five Liberty Tax Service-branded tax return preparation stores, which he operates through his business entity, Comer Inc. Comer’s Liberty Tax Service stores have prepared and filed hundreds, if not thousands, of false and fraudulent federal income tax returns.

2. Specifically, Comer and his employees intentionally report false information on customers’ federal tax returns and intentionally manipulate their customers’ federal income tax liability to generate higher refunds or higher refundable credits. The United States brings this action to put an end to this illegal conduct and to prevent future harm to the U.S. Treasury.

3. The United States brings this Complaint pursuant to 26 U.S.C. (the Internal Revenue Code (“I.R.C.”)) §§ 7402, 7407, and 7408 to permanently enjoin Defendants, and all those in active concert or participation with them, from directly or indirectly:

- a. acting as federal tax return preparers, or filing, 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 Craig M. Comer’s own personal tax returns;
- b. filing, providing forms for, or otherwise aiding and abetting the filing of IRS Forms 1040, 1040X, 8867, 8863, Schedule C, or any other IRS forms containing false or fabricated information;
- c. owning, managing, controlling, working for, profiting from, or volunteering for a tax return preparation business;
- d. seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS Preparer Tax Identification Number (“PTIN”) and/or IRS Electronic Filing Identification Number (“EFIN”), or any other IRS service or program by which one prepares or files tax returns;
- e. using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN(s) or EFIN(s);
- f. engaging in conduct subject to penalty under I.R.C. §§ 6694, 6695 or 6701, including: preparing and filing tax returns or other documents that understate the tax liabilities of others, 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 a taxpayer's entitlement to a federal tax refund, failing to comply with required due diligence procedures, failing to furnish tax-return preparer identifying numbers, and promoting any false tax or tax return scheme;

- g. representing anyone other than Craig Comer before the IRS; and
- h. engaging in any other conduct that is subject to penalty under the Internal Revenue Code or that interferes with the proper administration and enforcement of the internal revenue laws.

Jurisdiction and Venue

4. Jurisdiction is conferred on this Court by 28 U.S.C §§ 1340 and 1345, and 26 U.S.C. §§ 7402.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), and 26 U.S.C. §§ 7407(a) and 7408(a) because Defendants maintain places of business in this district, and a substantial portion of the events giving rise to this action occurred within this judicial district.

Authorization

6. This action has been authorized 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 26 U.S.C. §§ 7402, 7407, and 7408.

The Defendants

7. Comer resides in Royal Oak, Michigan and is the founder, owner, and president of Comer Inc. Comer has a degree in Finance and an MBA from Michigan State University. He is also a tax return preparer and maintains his own IRS-issued Preparer Tax Identification Number ("PTIN"), which Comer uses each year to prepare and file tax returns for customers.

8. Comer Inc. is an active domestic profit corporation under Michigan law. Comer Inc.'s registered office address is in Royal Oak, Michigan. Comer uses this company to operate Liberty Tax Service-branded tax return preparation stores in the Detroit area.

9. In 2002, Comer founded Comer Inc. That same year, he became a franchisee of Liberty Tax, Inc, and began operating his first Liberty Tax Service-branded franchise location. Liberty Tax, Inc. d/b/a Liberty Tax Service ("Liberty Tax Corporate") is headquartered in Virginia Beach, Virginia, and is a national franchisor marketing tax preparation services throughout the United States.

10. Liberty Tax Corporate has designated Comer as one of its "Elite 18" franchisees in the United States. According to Liberty Tax Service Corporate, this status is "reserved" for top franchisees and "was created to recognize a special category of franchisees who's [sic] performance and attitude have set the standard for the [Liberty Tax Service] organization." Liberty Tax Corporate has invited franchisee members of the "Elite 18," including Comer, to attend special events, such as retreats led by senior executives of Liberty Tax Corporate.

11. Defendants' Liberty Tax Service store located at 8 Mile Road in Hazel Park, Michigan serves as the headquarters store location for Defendants' tax preparation business (the "8 Mile Headquarters Store"). Comer mainly works from the 8 Mile Headquarters Store and employs an individual to oversee operations at this location. Certain essential functions at Defendants' Liberty Tax Service stores only occur at the 8 Mile Headquarters Store, such as printing customer tax refund checks, employee payroll, and transmittal of tax returns prepared at each of Defendants' locations to Liberty Tax Corporate to be filed with the IRS.

12. In addition to the 8 Mile Headquarters Store, Comer purchased several additional Liberty Tax Service franchised territories, and by 2015 opened and operated Liberty Tax Service stores at the following locations:

- a. 2742 E. 7 Mile Road in Detroit (the “7 Mile Store”);
- b. 9324 Woodward Avenue in Detroit (the “Woodward Store”);
- c. 3401 Woodward Avenue, at the corner of Peterboro Street in Detroit (the “Peterboro Store”); and
- d. 2631 Gratiot Avenue in Detroit (the “Gratiot Store”).

13. During the tax filing season, which is roughly January to April each year, all five of Defendants’ tax return preparation stores are open. However, with limited exceptions, only the 8 Mile Headquarters Store is routinely open during periods outside the tax season.

14. When Comer is not physically present at his store locations, he monitors activities at his stores through video surveillance equipment and via remote access to the electronic data generated by his employees when preparing tax returns for customers.

15. Defendants’ tax preparers make an hourly wage and also receive a bonus based on factors such as the number of returns they prepare and the net fees collected from each tax return prepared by that preparer during the tax season.

16. Defendants hire tax return preparers with little or no experience preparing tax returns. Preparers receive tax preparation training from Comer Inc. employees using written instructional material provided by Liberty Tax Corporate.

17. From 2011 to 2014, Defendants’ Liberty Tax Service stores prepared and filed more than 9,500 federal income tax returns.

Fraudulent Tax Return Preparation Process

18. As part of the tax return preparation process at Defendants' Liberty Tax Service stores, customers purportedly complete various Liberty Tax Service forms and provide documentation to Defendants' employees, which Defendants retain in a file for each customer. Documentation in each customer file may include, *inter alia*:

- a. Consent forms, which are purportedly signed by each customer (*e.g.*, consent to file the tax return, consent to disclose customer information under certain conditions);
- b. Disclosures purportedly signed by customers, including the Return Information Verification form (confirming the customer's information reported on the completed tax return and fees Defendants charge) and the Product Information Sheet (describing the various tax return filing and refund methods available and confirming which methods each customer chooses);
- c. Worksheets used by Defendants' employees to collect information to prepare the customer's tax return (*e.g.*, the Liberty Tax Client Data Sheet, Self-Employment Business Worksheet, Filing Status Flow Chart, and a Liberty Tax Service due diligence questionnaire); and
- d. Documentation provided by the customer to substantiate information reported on each tax return.

19. Typically, when Defendants' customers arrive at their stores to have a tax return prepared, they are asked to complete a Liberty Tax Client Data Sheet before a tax preparer begins preparing the customer's return. The client data sheets are pre-printed with spaces to provide information about a customer's contact information, marital status, expenses,

dependents, and include places where a customer can check or circle pre-printed words to provide information about his or her income and expenses. Liberty Tax Client Data Sheets are also purportedly signed by each customer in order to show that the customer verified the information so that the preparer can rely on it to prepare the tax return.

20. When applicable, Defendants' customer files also may include: (a) a Self-Employment Business Worksheet that reports income and/or expenses from businesses customers own (reported on Schedule C on federal income tax returns); and (b) Liberty Tax Service due diligence questionnaires, which include information about claimed dependents and claims for head-of-household filing status. Like the Liberty Tax Client Data Sheet, these two worksheets are pre-printed with spaces for each customer to write-in information and require each customer's signature.

21. After Defendants' employees complete a customer's tax return, they often ask customers to sign a Return Information Verification form.

22. But Defendants' employees often do not explain Liberty Tax Service forms to customers. Worse, Comer and Defendants' employees write-in information on the forms themselves, forge customer signatures on the forms, write-in false information or information inconsistent with what the customer told them, add information onto the forms after a customer has signed them, and add false documents into the customer file as purported substantiation for the tax return. Indeed, Defendants have even produced doctored customer files to the IRS as support for the positions they took on customer tax returns and to obstruct IRS investigations of the improper tax preparation practices at Defendants' Liberty Tax Service stores. For example:

- a. Customer 1 went to the 8 Mile Headquarters Store to have a 2012 tax return prepared in 2013. Customer 1's signature was forged by Defendants in several

places, including on Liberty Tax Service forms, such as the Liberty Tax Client Data Sheet, Consent to Disclosure of Tax Return Information, and Consent to Use of Tax Return Information. Moreover, Defendants forged Customer 1's signature on an IRS Form 8879, which must be signed by taxpayers to authorize a tax preparer to file the customer's tax return.

- b. In another file for a customer, Customer 2, who had his 2012 tax return prepared at the 8 Mile Headquarters Store, Defendants forged Customer 2's signature on a Product Information Sheet and Filing Status Flowchart.
- c. Customer 3 went to the Gratiot Store in January 2013 to have her 2012 tax return prepared. Customer 3's preparer not only improperly instructed Customer 3 about what information to report on the return for Customer 3's Schedule C homecare business, but one of Defendants' employees created fake expense receipts to include in Customer 3's customer file, which was subsequently produced to the IRS by Defendants as purported substantiation for the business expenses appearing on Customer 3's tax return. In fact, Customer 3 had no expenses associated with the homecare business. Customer 3 did retain records of her income from her homecare business, but Defendants did not include that information in Customer 3's customer file. Customer 3 also informed her preparer that in addition to her Schedule C business, she received W-2 income but did not have the W-2 form when she had her tax return prepared. Customer 3's preparer completed and filed Customer 3's tax return without reporting the income reported on the missing W-2.

d. Defendants also fraudulently manufactured portions of customer files for Customer 5 (*see infra* ¶ 38(a)), Customer 7 (*see infra* ¶ 38(c)), Customer 8 (*see infra* ¶ 38(d)), Customer 9 (*see infra* ¶ 38(e)), Customer 11 (*see infra* ¶ 38(g)) by adding false information to Liberty Tax Service forms *after* the customers had signed them.

23. Defendants also fail to furnish copies of completed tax returns to their customers prior to filing the returns, which violates I.R.C. § 6107(a).

24. Defendants prepare tax returns using tax preparation software provided by Liberty Tax Corporate. Liberty Tax Corporate's software gives franchisees (and their authorized employees) the ability to access, review, and alter completed, customer-signed tax returns prior to transmitting them to Liberty Tax Corporate for filing with the IRS. Defendants use this capability to make changes to completed tax returns without customer authorization, to re-sign the tax return with a forged customer signature, and to file the altered tax returns with the IRS. Specifically, Defendants have used the tax preparation software to access already completed customer tax returns and to change information on those tax returns to fraudulently increase the tax preparation fees they charge, unbeknownst to the customers. In some instances, to conceal this practice from customers, Defendants use the capabilities of the software to increase customers' refund amount by adding false information to the tax return so the customers receive the refund that they expect, despite the higher fees that Defendants added before Defendants filed the tax returns with the IRS.

25. Customers have filed numerous reports with the IRS and police departments in the Detroit area alleging theft of their tax refunds at Defendants' Liberty Tax Service stores. For example, Customer 4 had his 2011 tax return prepared at Defendants' 7 Mile Store in April 2012.

Customer 4 believed that he would not receive any of the refund claimed on his tax return because he thought any refund would automatically be diverted to pay child support payments he thought he owed. However, the IRS did refund Customer 4 more than \$5,000 on April 25, 2012, which the IRS paid by direct deposit to an account at Herring Bank listed on the tax return for the direct deposit of any refund. Customer 4 never received the \$5,000 refund and has never had a bank account at Herring Bank.

26. As addressed below, Defendants' employees prepared returns for customers from 2013 to 2015 that include, *inter alia*, false or inflated Schedule C income and expenses, bogus dependents, false filing statuses, improper education credits, and false itemized deductions, all with the purpose of fraudulently maximizing customer refunds and refundable credits.

Earned Income Credit Fraud

Background

27. The EIC is a refundable tax credit available to certain low-income working people. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability and have made no withholding payments. The amount of a taxpayer's EIC is based on multiple variables, including, *inter alia*, the taxpayer's marital status, filing status (*e.g.*, single, married filing separately, head-of-household), number of qualified dependents, and income caps. The requirements for claiming the EIC are set forth in 26 U.S.C. § 32 and the accompanying Treasury Regulations.

28. The earned income requirement and maximum credit available each year varies. For example, during the 2012 tax year, the amount of EIC available for a single taxpayer with at least one qualified dependent increased as the taxpayer's income increased between \$1 and \$9,300. For a single taxpayer with two or three qualified dependents, the amount of EIC increased as the taxpayer's income increased between \$1 and \$13,050. For all taxpayers with

qualified dependents, the EIC amount decreased as income increased beyond \$17,100.

Accordingly, the optimal amount of income needed to maximize the credit for the 2012 tax year was income between \$9,300 and \$17,100 for a single taxpayer with one dependent and income between \$13,050 and \$17,100 for a single taxpayer with two or more dependents.

29. Taxpayers who claim head-of-household status on their tax returns are also eligible to potentially receive a larger EIC, if they otherwise qualify for the credit. To claim head-of-household filing status, among other things, a taxpayer generally must be unmarried or live separately from his or her spouse for the last six months of the tax year, must pay more than half of the cost of keeping up a home for the tax year, and must have a qualified dependent. Defendants' employees file returns using head-of-household status for taxpayers they know are not entitled to claim such status.

30. Because of the way the EIC is calculated, reporting more income, up to a certain point, allows customers to receive a larger refundable credit. Similarly, claiming losses to decrease higher income to within the EIC range allows customers to claim a larger EIC.

31. Because of the way EIC is calculated, taxpayers who claim one or more dependents can claim a larger EIC.

32. Given the potential for abuse in claiming the EIC, Congress has authorized the Secretary of the Treasury to impose "due diligence" requirements on federal tax return preparers claiming the EIC for their customers. *See* 26 C.F.R. § 1.6695-2 (2011). Due diligence requirements mandate that a tax return preparer "must not know, or have reason to know, that any information used by the tax return preparer in determining the taxpayer's eligibility for, or the amount of, the EIC is incorrect." *Id.*

33. These due diligence requirements obligate the tax return preparer to make “reasonable inquiries” to ensure the customer is legitimately entitled to the EIC. 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 document their compliance with these requirements and keep that documentation for three years. *Id.*

34. To document compliance with the due diligence requirements, tax return preparers must complete the “Paid Preparer’s Earned Income Credit Checklist” (IRS Form 8867) and, when a tax return is electronically filed, must electronically file the completed Form 8867. Tax return preparers must also complete an Earned Income Credit Worksheet or otherwise record the method and information the preparer used to compute a taxpayer’s EIC.

35. Section 6695 of the Internal Revenue Code imposes a penalty on tax return preparers who fail to comply with due diligence requirements.

EIC Fraud

36. During the years that Defendants have operated Liberty Tax Service stores, their employees repeatedly failed to comply with EIC due diligence requirements. The IRS has assessed tens of thousands of dollars in EIC due diligence penalties against tax return preparers employed by Defendants for violations including, *inter alia*, failure to (1) make and/or document inquiries the preparer should have made to address incomplete or inconsistent items on tax returns and/or on Liberty Tax Service customer intake sheets; (2) retain records purportedly provided by customers as support for an EIC claim; (3) ask questions about purported dependents claimed by the customer in order to verify that the dependent qualifies for that status;

(4) conduct adequate inquiry into whether customers qualified for head-of-household status before claiming the status; and (5) inquire as to details of claimed Schedule C businesses and how the businesses' income and expenses were computed. For example:

- a. In March 2014, the IRS found EIC due diligence violations by one of Defendants' employees, Employee 1, resulting in penalties exceeding \$70,000. The IRS reviewed Defendants' customer files for 153 tax returns prepared and filed by Employee 1 during 2014 and found that Employee 1 failed the knowledge requirement for EIC due diligence in 147 instances (*i.e.*, 96%) and failed to retain required records to support claims for the EIC. Employee 1 worked as a preparer for Defendants for multiple tax years and, despite also being assessed EIC due diligence penalties in 2012, remained employed as a tax return preparer as recently as the 2014 tax filing season.
- b. The IRS assessed EIC due diligence penalties against another of Defendants' employees, Employee 2, which total \$9,500. Based on a review of 34 tax returns prepared by Employee 2 in 2014, the IRS found 19 that violated EIC due diligence requirements (*i.e.*, 56%). Defendants employed Employee 2 as both a preparer and store manager for multiple tax years. The IRS also assessed EIC due diligence penalties against Employee 2 in 2011.

37. Despite these penalties, improper practices involving the EIC continue, if not flourish at Defendants' stores. Indeed, Comer and Defendants' employees instructed preparers, including preparers at the 8 Mile Headquarters during the 2013 tax season, to include false responses on EIC due diligence questionnaires in order to fraudulently claim EIC refunds for customers.

38. Defendants' employees acting at Comer's direction and under his control routinely: (1) fail to comply with due diligence requirements and, instead, take affirmative steps to falsify compliance with due diligence requirements; and (2) prepare and file tax returns that include fraudulent claims for the EIC by, *inter alia*, reporting inflated or fictitious income and expenses, false filing statuses, and non-qualifying individuals as dependents. Examples include:

- a. Customer 5 had her 2012 tax return prepared at Defendants' 7 Mile Store in January 2013. Defendants' preparer included multiple false entries on Customer 5's tax forms in order to improperly qualify Customer 5 for the EIC, including falsely answering questions about Customer 5's marital status on EIC due diligence forms. Although Customer 5 told her preparer that she was married, lived with her husband, and provided her preparer a copy of her home rental lease (which was retained in Defendants' customer file for Customer 5) that listed both Customer 5 and her husband as tenants, Defendants' preparer improperly prepared the return claiming head-of-household status, which married individuals cannot claim. In addition, Defendants' preparer claimed false business expenses for Customer 5's Schedule C business, including a \$3,500 "Supplies" expense that Customer 5 contends was added to Liberty Tax Service forms without her knowledge *after* she signed them. In sum, Customer 5's 2012 tax return includes an improper EIC claim exceeding \$3,000.
- b. The 2012 tax return prepared at Defendants' Woodward Store for Customer 6 in February 2013 reported a false dependent and an improper claim for head-of-household status, which improperly inflated Customer 6's claim for the EIC. Although the preparer filled-out EIC due diligence forms certifying to the IRS

that she asked Customer 6 the required due diligence questions, the preparer did not ask due diligence questions. Due diligence forms filed with the IRS by Defendants as support for Customer 6's EIC claim included false answers. For example, Customer 6 had one son at the time, but did not financially support or reside with him, which disqualified the son as Customer 6's dependent and made Customer 6 ineligible for head-of-household status. Without the claimed dependent and head-of-household status, Customer 6 neither qualified for his claimed EIC of \$3,169, nor a \$1,000 Child Tax Credit claimed on his tax return. In total, Customer 6's 2012 tax return improperly inflated his claim for refund by more than \$4,300.

- c. Customer 7 went to the Gratiot Store to have her 2012 tax return prepared, which claimed a false dependent and fraudulently increased Customer 7's EIC claim. Defendants' preparer listed a dependent on the return that was the daughter of one of Customer 7's friends who lived with Customer 7 on weekends for a portion of 2012, but did not qualify as a dependent. The preparer falsely listed the purported dependent as Customer 7's niece on the tax return and fraudulently claimed the dependent as qualifying Customer 7 for the Child Tax Credit. Customer 7's customer file was also altered by adding the dependent to a Liberty Tax Client Data Sheet *after* it had been signed by Customer 7.
- d. A preparer working at Defendants' Gratiot Store inflated the 2012 EIC refund claimed by Customer 8 by overstating Customer 8's income from Customer 8's Schedule C business. Although Customer 8 maintained a notebook tracking income she earned as a hairdresser, her preparer did not review the notebook

when preparing Customer 8's tax return in January 2013 or retain a copy of those records in Defendants' customer files. Customer 8 does not recall giving her preparer any records for the preparer to report income from her hairdresser business. Instead Defendants' preparer reported gross receipts exceeding \$12,000, which was at least double Customer 8's actual gross receipts for 2012. By falsely increasing Customer 8's reported income on her tax return, Defendants inflated Customer 8's claim for the EIC. Defendants' preparer falsely reported to the IRS that she reviewed customer records to determine income and expenses for Customer 8's Schedule C business. Moreover, Defendants and/or one of their employees also added information to Liberty Tax Service forms purportedly verifying income and expenses from Customer 8's business *after* Customer 8 signed the forms. Customer 8's tax return improperly increased her claim for refund by more than \$2,000.

- e. To improperly qualify a customer for an EIC claim of more than \$5,000, Defendants' preparer prepared the 2012 tax return of Customer 9 to fraudulently inflate Customer 9's Schedule C income of a few hundred dollars from hair and nail styling as exceeding \$14,000. For 2012, Customer 9 earned less than \$2,000 in W-2 wages, therefore the bulk of Customer 9's fraudulent EIC claim was derived from Defendants' preparer falsely inflating Customer 9's Schedule C income. Defendants' preparer directed Customer 9 to sign Liberty Tax Service worksheets for the Schedule C business that left blank entries for the business' annual income and expenses. Defendants' and/or one of their employees then added the false information to the internal Liberty Tax Service worksheets,

without Customer 9's knowledge, to make the worksheets consistent with the fraudulent information on the tax return (*i.e.*, \$14,680 of income and \$2,322 of expenses). Defendants produced these Liberty Tax Service worksheets to the IRS as purported support for the information they reported in Customer 9's tax return after the IRS requested a copy of Defendants' customer file for Customer 9. In addition, Customer 9's Earned Income Due Diligence forms, submitted to the IRS with her filed tax return, included false answers to questions about Customer 9's then 20-year old daughter in order to improperly claim Customer 9's daughter as a qualified dependent for the EIC. Customer 9's tax return was prepared at Defendants' 7 Mile Store in March 2013.

- f. In January 2013, Customer 10 went to Defendants' Peterboro Store to have her 2012 tax return prepared. On Customer 10's tax return, her preparer inflated the reported income Customer 10 actually earned from a Schedule C business from approximately \$5,000-\$7,000 to more than \$12,000 and incorrectly claimed head-of-household status, which, in turn, improperly increased Customer 10's claim for the EIC to more than \$5,000. Customer 10 had three children throughout 2012, but told her preparer that the children lived with Customer 10's mother. Because Customer 10's children did not live with Customer 10, they did not qualify as a basis for Customer 10 to claim head-of-household status.
- g. Customer 11's 2012 tax return was prepared in February 2013 at the 8 Mile Headquarters Store. To claim an inflated EIC exceeding \$4,000, Customer 11's tax return includes a fraudulent Form 4137 that reports \$6,796 of additional, fictitious income from tips Customer 11 purportedly received. Customer 11 only

earned \$3,730 in wages from her W-2 employer and received no tips as part of her employment. To conceal this fraud, someone at Defendants' 8 Mile Headquarters Store altered Customer 11's Liberty Tax Client Data Sheet to add the bogus \$6,796 of tip income without Customer 11's knowledge *after* Customer 11 had already signed the sheet. Customer 11's Liberty Tax Client Data Sheet was among the documents Defendants produced to the IRS after it requested Customer 11's customer file.

39. In addition to fraudulent claims for the EIC, Defendants' employees repeatedly prepare tax returns that include other false claims for tax credits including child tax credits (*see supra* ¶¶ 38(b), 38(c)), education credits, and energy credits. For example

- a. Customer 12 had her 2014 tax return prepared at Defendants' Woodward Store in January 2015 that fraudulently claimed a refundable education credit of \$989. Customer 12 reported less than \$11,000 in income for 2014, but her tax return reported \$3,890 in education expenses she paid for attending Wayne County Community College for at least half-time beginning in 2014. Customer 12's preparer also reported using a Form 1098-T issued by the college to Customer 12, which purportedly listed payments the school received for tuition and expenses for Customer 12's attendance that qualify for the education credit. Wayne County Community College has no record that Customer 12 attended the college in 2014, and the IRS has no record of a 1098-T issued to Customer 12 by Wayne County Community College. Additional customers in 2015, including Customer 13 and Customer 14, also had tax returns prepared by Defendants that claimed education credits for attending Wayne County Community College in 2014 and reported

that Defendants' employees used Forms 1098-T to prepare those tax returns. Like Customer 12, Wayne County Community College has no record that Customer 13 or Customer 14 attended the school in 2014, and the IRS has no record that Wayne County Community College issued them 1098-T's for 2014.

- b. In February 2013, Customer 15 had his 2011 tax return prepared at the 8 Mile Headquarters Store. The preparer fraudulently claimed a \$500 residential energy credit for Customer 15, even though Customer 15 did not make any purchases that would qualify him for the credit and never discussed the topic with his preparer. Defendants' customer file for Customer 15 includes no documentation to substantiate a claim for a residential energy credit.

Bogus Expense Deductions

40. Defendants repeatedly prepare and file tax returns that inflate expenses or include fictitious expenses, such as medical, real estate, and employee expenses, as the basis for tax deductions to fraudulently understate their customers' tax liabilities. For example:

- a. Defendants inflated claimed deductible business expenses on Customer 16's 2014 tax return, which was prepared at Defendants' Woodward Store in March 2015. For example, Customer 16's preparer claimed that she had more than \$1,000 from overnight travel expenses (*e.g.*, lodging, airplane, car rental expenses), which Customer 16, a nurse, did not incur.
- b. In March 2013, Customer 17 had her 2012 tax return prepared at the 8 Mile Headquarters Store. Defendants' preparer falsely claimed more than \$10,000 in fictitious medical expenses as the basis for a deduction on Schedule A of Customer 17's 2012 tax return, which combined with an erroneous deduction for

tax preparation expenses, resulted in a fraudulent claim for refund exceeding \$1,100. Customer 17 did not incur these medical expenses. Customer 17 did not provide Defendants with any documentation to support the claimed deductions, or otherwise instruct her preparer to claim the medical expenses as a deduction on her tax return. Defendants retained no documentation in their files for Customer 17 to support the medical expenses deduction.

- c. Customer 18, a resident of Hazel Park, went to the 8 Mile Headquarters Store to have his 2012 tax return prepared in February 2013. His 2012 tax return filed by Defendants reports more than \$7,800 as a claimed medical expenses deduction on Schedule A. No documentation in Defendants' files for Customer 18 supports these claimed expenses. Customer 18 did not incur these medical expenses. The fake medical expenses, combined with other false claims for deductions, understated Customer 18's tax liability for 2012 by more than \$1,700.
- d. In April 2013, Customer 19, a resident of Detroit, went to Defendants' Gratiot Store to have her 2012 tax return prepared. The tax return prepared for Customer 19 fraudulently reported various claims for expense deductions, including more than \$5,600 of medical expenses, \$2,000 for real estate taxes, and \$3,700 for unreimbursed employee expenses. Customer 19 did not incur any of these expenses or provide her preparer any support to claim them on her 2012 tax return. The documents in Defendants' files for Customer 19 include no substantiation for these claimed deductions. In addition, like Customer 15 (*see supra* ¶ 39(b)), Customer 19's 2012 tax return included a bogus claim for the residential energy credit.

- e. Customer 20 went to Defendants' 8 Mile Headquarters Store in February 2013 to have his 2012 tax return prepared. Customer 20's preparer did not ask any questions about medical expenses, but Customer 20's tax return includes bogus claims for a deduction for approximately \$13,000 in purported medical expenses. Defendants did not retain any documentation to support any claimed deduction for medical expenses. Customer 20's tax return also claims head-of-household status, even though Customer 20 did not qualify and instructed his preparer not to claim this status. Combined, the errors and fraud appearing on Customer 20's 2012 tax return understated his tax liability by more than \$2,700.

Violation of IRS PTIN Requirements

41. Anyone who prepares or assists in preparing federal tax returns for compensation must have a valid Preparer Tax Identification Number (PTIN) issued by the IRS. *See* 26 U.S.C. § 6109(a)(4); 26 C.F.R. § 1.1609-2(d). Paid preparers must include their PTIN on each tax return they prepare and file with the IRS. PTINs serve as an essential part of tax administration and the Government's effort to ensure compliance with the internal revenue laws by allowing the IRS to identify paid tax preparers on tax returns.

42. Defendants knowingly violate IRS PTIN rules by filing tax returns with incorrect PTINs and by allowing employees to prepare customer tax returns without a valid PTIN.

43. Some of Defendants' employees improperly use the PTINs of other employees, both with and without the permission of the actual PTIN holder. These unregistered tax preparers then file tax returns that falsely identify other individuals as the tax return preparer. For example, during 2013, Defendants hired Employee 3 to prepare tax returns at the 8 Mile Headquarters Store. Employee 3 did not have a PTIN during the 2013 tax season, but

nonetheless prepared multiple tax returns, including by using the PTIN of Employee 4, one of Defendants' other employees.

Harm Caused by Defendants and their Employees

44. The preparation of fraudulent tax returns by Defendants and their employees has harmed the public and the United States. These practices harm the public because Defendants and their employees have prepared false or fraudulent tax returns that understate many customers' correct income tax liabilities and/or overstate the refunds due, thus illegally causing these customers to incorrectly report their federal tax liabilities.

45. The preparation of fraudulent tax returns by Defendants' employees has harmed their customers by illegally causing them to incorrectly report their federal tax liabilities and underpay their taxes. These customers are liable for taxes owed and may be liable for sizeable penalties and interest.

46. Defendants also harm their customers by charging them unconscionably high fees. For example, Defendants charged Customer 21, who reported less than \$11,000 of income for 2012, more than \$660 to prepare his tax return (which comprised more than 23% of Customer 21's refund claim). Similarly, Defendants charged Customer 10 (*supra*, ¶ 38(f)) more than \$590, even though Customer 10's reported income was less than \$13,000. As noted above, Defendants also falsely increased Customer 10's reported income to increase her EIC refund claim on the tax return they prepared and filed on her behalf.

47. Defendants' fraudulent practices likewise harm the United States Treasury in the form of lost tax revenue.

48. The preparation of improper tax returns at Defendants' Liberty Tax Service stores

spans at least six years. The IRS has made adjustments to hundreds of tax returns filed by Defendants' stores for the 2008, 2009, 2010, 2011, 2012, and 2013 tax years. The audit adjustments have led to tax deficiencies owed to the United States for all six years that exceed \$4.5 million.

49. Based on a random sample of tax returns prepared by Defendants in 2013 for the 2012 tax year, the IRS conducted interviews with more than 120 customers associated with these tax returns. From those interviews, the IRS determined that Defendants' improper tax preparation practices resulted in an average tax deficiency exceeding \$500 for these 120 randomly selected customers. Applied to the universe of the 2,254 tax returns Defendants prepared and filed in 2013, the United States estimates a tax harm of at least \$1.2 million for 2013 alone.

50. Defendants' misconduct further harms the United States and the public by requiring the IRS to devote scarce resources to detecting that misconduct and to assessing and collecting lost tax revenues from Defendants' customers.

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

52. The harm to the government and the public will increase unless Defendants are enjoined because—given the seriousness and pervasiveness of Defendants' improper conduct—without an injunction, Defendants are likely to continue preparing false and fraudulent federal income tax returns. An injunction will serve the public interest because it will put a stop to Defendants' conduct and to the harm that such conduct causes the United States and its citizens.

COUNT I: INJUNCTION UNDER I.R.C. § 7407

53. The United States incorporates by reference the allegations contained in paragraphs 1 through 52.

54. Under I.R.C. § 7407, the United States may seek an injunction against any tax return preparer who has engaged in any “fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws,” or who has “engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title.”

55. If a return preparer’s misconduct is continual or repeated and the court finds that a narrower injunction (*e.g.*, prohibiting specific enumerated conduct) would not be sufficient to prevent the preparer’s interference with the proper administration of federal tax laws, the court may enjoin the person from further acting as a return preparer.

56. Defendants’ employees have continually and repeatedly prepared and filed with the IRS false federal income tax returns on behalf of their customers. As a result, Defendants’ employees have continually and repeatedly engaged in fraudulent or deceptive conduct which substantially interferes with the proper administration of the internal revenue laws.

57. Defendants’ employees are tax return preparers who have repeatedly and continually prepared or submitted returns or portions of returns that contained unreasonable positions and substantially understated the liability for tax on the return.

58. Defendants’ employees have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal tax returns that understated their customers’ liabilities based on unrealistic, frivolous and reckless positions. Defendants’

employees, through the actions described above, recklessly or intentionally disregard IRS rules or regulations.

59. Defendants' employees have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695. The Treasury Regulations promulgated under § 6695(g) prohibit a return preparer from claiming the EIC without first conducting proper due diligence and documenting his or his compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6695-2. Defendants' employees do not comply with these due diligence requirements by ignoring, disregarding, or failing to adequately verify information provided by customers.

60. Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695(c) by knowingly employing tax return preparers without PTINs to prepare customer tax returns or otherwise furnishing false identifying numbers on their customers' tax returns.

61. Injunctive relief is appropriate to prevent this misconduct because, absent an injunction, Comer and employees of Defendants' tax preparation stores will be free to prepare or assist in preparing more false federal income tax returns and engage in other misconduct as described in this complaint.

62. Defendants should be permanently enjoined under I.R.C. § 7407 from acting as federal tax return preparers because a more limited injunction would be insufficient to stop them from further violations of I.R.C. § 6694 and I.R.C. § 6695, as well as interfering with the proper administration of the tax laws, such as by doctoring their customers' files and altering prepared tax returns without customer authorization.

COUNT II: INJUNCTION UNDER I.R.C. § 7408

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

64. Under I.R.C. § 7408(c)(1), a district court may enjoin any person from, *inter alia*, engaging in conduct subject to penalty under I.R.C. § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

65. Section 6701 penalizes any person who aids or assists in, procures, or advises with respect to the preparation of any portion of a federal tax return, refund claim, or other document who knows (or has reason to believe) that such portion 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."

66. Comer's employees acting under his supervision caused the preparation of false and fraudulent tax returns and other documents, including preparing, assisting, and/or advising with respect to the presentation and preparation of federal tax returns for customers that they knew would understate the customers' correct tax liabilities. Defendants' employees knowingly prepare, assist, and/or advise with respect to the presentation and preparation of returns claiming bogus income and bogus expense deductions. Defendants' employees procured and assisted the preparation of false and fraudulent tax returns by preparing and filing tax returns that they knew or should have known were false or fraudulent, and by encouraging the filing of tax returns they knew or should have known were false or fraudulent. As a result, Defendants have engaged in conduct subject to penalty under I.R.C. § 6701.

67. If the Court does not enjoin Defendants, they are likely to continue engaging in conduct subject to penalty under I.R.C. § 6701. The preparation of returns claiming improper expenses and deductions is widespread throughout Defendants' stores, 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)

68. The United States incorporates by reference the allegations contained in paragraphs 1 through 67.

69. Under I.R.C. § 7402(a), a court may issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

70. Defendants' employees have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws, including intentionally understating customers' tax liabilities and filing false federal tax returns on behalf of customers, as well as manipulating customer files in order to conceal their fraud from the IRS.

71. Unless enjoined, Defendants are likely to continue engaging in improper conduct, including filing false and fraudulent returns on behalf of taxpayers. If not enjoined from engaging in fraudulent-filing conduct, Defendants and Defendants' employees will inflict irreparable injury upon the United States because the government will wrongfully provide federal income tax refunds to individuals not entitled to receive them or will collect less than the correct amount of tax from individuals who owe taxes to the United States. Injunctive relief is therefore appropriate under I.R.C. § 7402(a).

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

A. That the Court find that Defendants have continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694, 6695, and 6701, and that injunctive relief is appropriate under I.R.C. §§ 7402, 7407, and 7408;

B. That the Court find that Defendants have substantially interfered with the enforcement and administration of the internal revenue laws, and that injunctive relief against them is appropriate to prevent further misconduct pursuant to I.R.C. §§ 7402(a), 7407(b)(2), and 7408(b)(2);

C. That the Court permanently enjoin Defendants and their representatives, agents, servants, employees, and anyone in active concert or participation with them, from directly or indirectly:

- a. acting as federal tax return preparers, or filing, 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 Craig M. Comer's own personal tax returns;
- b. filing, providing forms for, or otherwise aiding and abetting the filing of IRS Forms 1040, 1040X, 8867, 8863, Schedule C, or any other IRS forms containing false or fabricated information;
- c. owning, managing, controlling, working for, profiting from, or volunteering for a tax return preparation business;
- d. seeking permission or authorization (or helping or soliciting others to seek permission or authorization) to file tax returns with an IRS Preparer Tax Identification Number ("PTIN") and/or IRS Electronic Filing Identification

Number (“EFIN”), or any other IRS service or program by which one prepares or files tax returns;

- e. using, maintaining, renewing, obtaining, transferring, selling, or assigning any PTIN(s) or EFIN(s);
- f. engaging in conduct subject to penalty under I.R.C. §§ 6694, 6695 or 6701, including: preparing and filing tax returns or other documents that understate the tax liabilities of others, 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 a taxpayer’s entitlement to a federal tax refund, failing to comply with required due diligence procedures, failing to furnish tax return preparer identifying numbers, and promoting any false tax or tax-return scheme;
- g. representing anyone other than Craig Comer before the IRS; and
- h. engaging in any other conduct that is subject to penalty under the Internal Revenue Code or that interferes with the proper administration and enforcement of the internal revenue laws.

D. That the Court, pursuant to I.R.C. §§ 7402, 7407, and 7408, enter an order requiring Defendants, within 30 days of receiving the Court’s order, to contact by U.S. mail and, if an e-mail address is known, by e-mail, all persons for whom Defendants have prepared federal tax returns, amended tax returns, or claims for refund since January 1, 2011, enclosing a copy of the executed injunction against them. The injunction should require that: (i) other than the executed injunction, no additional materials may be included in the notification to Defendants’ customers unless approved by the United States or the Court; and (ii) Defendants shall file with

the Court, within 10 days thereafter, a sworn certificate stating that they have complied with this requirement;

E. That this Court order Defendants to provide to the United States a list of all individuals and entities for whom they have provided tax preparation services since January 1, 2011;

F. That this Court allow the government full post-judgment discovery to monitor Defendants' compliance with the injunction;

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

H. That this Court grant the United States such additional relief as the Court deems just and appropriate.

Dated: January 28, 2016.

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/s/ Russell J. Edelstein

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