

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 9:16-cv-80280

v.

RENEL HERARD individually and
doing business as HERARD TAX SERVICES,
and HERARD SECURITY & TRAINING, INC.,

Defendants.

COMPLAINT FOR PERMANENT INJUNCTION

The plaintiff, the United States of America, alleges as follows against Renel Herard (“Herard”), Herard Renel individually and doing business as Herard Tax Services, and Herard Security & Training, Inc. (collectively “defendants”).

1. The United States of America seeks to permanently enjoin the defendants from:
 - (a) preparing, assisting in the preparation of, or directing the preparation of federal tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for others;
 - (b) engaging in activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, and 6701; and
 - (c) engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws.

Jurisdiction and Venue

2. This action is authorized and requested by the Chief Counsel of the Internal Revenue Service (IRS), a delegate of the Secretary of the Treasury of the United States, and is commenced at the direction of the Attorney General of the United States.

3. Jurisdiction is conferred on this Court by 26 U.S.C. §§ 7402(a) and 28 U.S.C. §§ 1340 and 1345.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 26 U.S.C. § 7407(a) because the defendants prepare tax returns within this judicial district, and a substantial part of the events giving rise to this claim occurred within this judicial district.

Parties

5. Defendant Herard is a paid tax return preparer who operates a tax return preparation business in West Palm Beach. Herard is the sole proprietor of Herard Tax Services, and the shareholder of Herard Security & Training, Inc. Herard, individually and through his sole proprietorship and his corporation, has been preparing tax returns for customers since 2009. Herard and his businesses operate out of an office at 2215 North Military Trail, Suite F, West Palm Beach, Florida.

6. As a paid return preparer, Herard obtained from the IRS a Preparer Identification Number (“PTIN”) PXXXXXX3581. Additionally, Herard obtained for his sole proprietorship an Electronic Filing Information Number (“EFIN”) of XX1688. Herard Security & Training, Inc. has an Employer Identification Number (“EIN”) of XX-XXX8857 from the IRS, but does not have an EFIN.

7. Herard holds no professional certifications. During an investigation of his practices as a return preparer, he reported to the IRS that he once sold cell phones, operated a barber shop, and currently offers traffic school and other classes for those with traffic and criminal offenses. Herard advised the IRS that he attended Florida International University where he studied criminal justice and reports earning a bachelor's of science degree.

8. Herard took a class at H&R Block to learn how to prepare federal income tax returns. He has no other tax or accounting education. He considers himself to be knowledgeable in income tax preparation. His fee range is \$50 to \$800 to prepare a return. He told the IRS that the amount he charges his customers depends on how many Forms W-2 the customer has and the size of the refund Herard can obtain for the customer.

9. Herard did not report on his individual tax return for 2013 all of the fees he received as a tax return preparer. He earned \$200,000 but only reported \$28,400. Besides underreporting his income, Herard misstated his filing status as head of household, despite being married. As a married individual filing separately from his spouse, this single misstatement on his personal income tax return increased his standard deduction amount by approximately \$3,000. Herard also falsely claimed the refundable fuel tax credit, which is one of his signature schemes as a preparer of false and/or fraudulent returns for others.

Summary of Defendants' Activities

10. Herard, individually and through his business entities, prepares hundreds of federal income returns each filing season.

11. For the processing years 2011 to 2015 (covering tax years 2010 to 2014), the defendants cumulatively prepared and filed at least 4,300 individual tax returns, typically

preparing between 700 and 1,000 returns per year. The returns were filed using the Heard Tax Service's EFIN but do not consistently identify the preparer. Some identify Herard by his PTIN or social security number while others simply indicate the returns were prepared by Herard Security & Training, Inc. and reference its EIN. Herard is the only tax return preparer at his business. While an employee, Geo Toussaint, completes some parts, Herard reviews and approves all the returns filed by his businesses.

12. Herard's practice of omitting his PTIN or SSN makes it impossible to state with certainty the precise number of returns he prepares. The EIN assigned to Herard Security & Training, Inc., as well as the EFIN used by HSI Tax Services allow the IRS to track the returns filed by those defendants. The table below lists the approximate total of individual tax returns prepared by and/or filed using those identifiers, an overwhelming number of which claimed refunds.

Processing Year	Number of Returns Filed	Returns with Refunds
2011	958	948 (99%)
2012	612	600 (98%)
2013	1,014	1,004 (99%)
2014	716	657 (99%)
2015	1,020	1,020 (100%)
TOTAL:	4,320	4,229

13. The IRS has been aided in identifying Herard's fraudulent practices by his customers, who have filed complaints with the IRS about Herard. In one instance, Herard's customer alleged that Herard prepared two different returns. One was a dummy return given to the customer and a return he filed. The one he filed claimed a higher refund (and thus a larger

fee) from a bogus business loss the customer (as a wage earner) never incurred, as well as an Earned Income Tax Credit the customer never requested and was not entitled to claim.

14. This abuse was not an isolated incident. Since at least 2011, income tax returns prepared by Herard and his businesses have understated the filing taxpayer's liability by creating or inflating deductions and overstated refunds by falsely claiming credits. Falsely claimed credits included the Education Credit, which the defendants repeatedly claimed on behalf of taxpayers who were not in school and who did not pay education-related expenses.

15. The defendants also claimed false Fuel Tax Credits, medical and child care expenses, misrepresented the filing status of their customers, and fabricated business losses for non-existent businesses. All of this conduct was devoted to a singular purpose – to decrease the taxes reported and/or increase the refunds paid to the defendants' customers through fraudulent or improper means.

16. Of 3,300 returns filed by the defendants through processing year 2014, the IRS has identified more than 2,500 returns with characteristics consistent with fraudulent refund claims. A review of 325 returns prepared by Herard revealed fraud on 93% of them.

17. One such characteristic is the disproportionate number of returns that claim the Fuel Tax Credit ("FTC"). In contrast to the IRS's estimate that less than 5% of taxpayers are entitled to claim the credit, an examination of 303 individual income tax returns prepared by the defendants for tax years 2012 and 2013 showed that Herard fraudulently claimed the credit on 172 (57%) of the returns. The loss to the U.S. Treasury in the form of tax refunds attributable to those fraudulent credits is \$242,613. Moreover, that refund amount does not take into account

the other fraudulent claims on those tax returns such as fake Schedule C expenses, overstated Earned Income Tax Credits, and incorrect filing statuses.

18. In most, if not all cases, the defendants' abuse of the FTC can be detected from the return itself. The FTC allows a taxpayer to claim a refundable tax credit for federal excise taxes on gasoline and diesel fuel as a business-related credit when the gas is used in vehicles for farming business purposes, non-highway purposes in a trade or business, or operation of school buses. The FTC is not permitted for fuel used commuting to and from work. Nor may it be claimed for fuel that the taxpayer did not purchase. The quantities of gasoline claimed to have been purchased by the defendants' customers – thousands of gallons – even if they fell within the farming or non-highway driving restrictions, are grossly excessive. For example, one customer's return claimed the taxpayer drove 350 miles a day to a hair salon she purportedly operated in addition to working as a salaried employee in a different location. The address of the non-existent hair salon, *i.e.*, the location to which the customer drove each day, listed on the filed Schedule C – Statement of Profit or Loss from Business, is the address where Herard operates his tax return preparation business.

19. In addition to fraudulent FTCs, the defendants also claimed Education Credits (American Opportunity and Lifetime Learning Credits) for customers who did not incur education expenses and did not qualify for the credits.

a. The American Opportunity Tax Credit is a credit for qualified education expenses paid for an eligible student for the first four years of higher education, with a maximum annual credit of \$2,500 per eligible student. If the credit brings the amount of tax owed to zero, the taxpayer can have refunded 40 % of any remaining amount of the credit (up to \$1,000).

b. The annual amount of the Lifetime Learning Credit is 20% of the first \$10,000 of qualified education expenses paid for all eligible students with a maximum allowable amount of \$2,000 for tax year 2015 (20% × \$10,000).

c. Colleges and universities are required by law to provide students with a Form 1098-T, Tuition Statement of tuition billed and paid and report that information to the IRS. However, IRS audits revealed that the defendants prepared and filed returns falsely claiming education credits for customers for which no Form 1098-T was filed.

20. In interviews with IRS investigators, customers of the defendants who claimed FTCs and Education Credits stated that they did not seek the credits or report to the defendants that they were entitled to them.

21. The defendants' claiming of false refundable credits increased the amount of the tax refund (and thus the fees) Herard generated. In addition, Herard and his businesses routinely claimed fraudulent losses and deductions in a calculated scheme to understate the tax his customers actually owed. Specifically, the defendants prepared returns that fabricated losses claimed on Schedule C – Profit or Loss from Business. Losses were claimed for fictitious businesses, or were the result of grossly exaggerated or fabricated business expenses.

22. In interviews with IRS investigators, customers of the defendants whose returns included a Schedule C stated that they either did not operate a business (and thus, never incurred the business expenses reported on their returns), or paid business expenses in amounts far less than those claimed on their returns. According to those customers, they were unaware of the fabricated or exaggerated deductions, and did not ask the defendants to deduct those items on their returns.

Specific Examples of Defendants' Fraudulent Schemes

23. The returns described below demonstrate the schemes employed by the defendants to understate tax liabilities, overstate credits, and claim improper refunds for their customers. To protect the identity of those individuals, the complaint refers to each customer by number, *e.g.*, Customer 1 (abbreviated to C1), etc.

Fraudulent Tax Return Preparation for Customer 1

24. Herard prepared a Form 1040 individual income tax return for tax years 2013 and 2014 for Customer 1 ("C1"), an unmarried man who resides in his sister's home and pays rent. C1 is a taxi driver and receives a Form 1099 annually that reports the income he earns. C1 incurred no business or medical expenses in 2013.

25. C1's 2013 return contains a myriad of false claims.

a. C1's return falsely claimed an \$8,950 Head of Household exemption even though C1 did not meet its requirements as a resident in his sister's home. If C1 had properly filed as a Single taxpayer, his exemption would have been reduced to \$6,100, thereby increasing his tax liability.

b. Additionally, C1's return improperly identified his adult son, who lives in Canada, as residing with him and being eligible as an additional child for purposes of the Earned Income Tax Credit ("EITC"). Thus, the refundable EITC of \$5,372 is overstated because only one of C1's children, not two, qualified.

c. C1's return reported \$17,784 in income as a taxi driver and claimed an FTC of \$1,446 from the purchase of 7,900 gallons of off-highway business use of gasoline.

Taxis do not run off highway and C1 was not eligible for the FTC. Also, to have purchased that much gas in 2013 would have cost the taxpayer approximately \$24,000.

d. Not only does the 2013 return claim fraudulent credits, but Herard also fabricated a Schedule C that claimed a phony business loss of \$10,531. The loss was the product of fictitious business expenses for vehicles and travel that C1 did not incur, and which wrongly reduced C1's taxable income from \$28,315 to \$17,784.

e. As a result of Herard's practices, C1 claimed a refund of \$5,305 he was not entitled to receive.

26. Like the 2013 return, the return Herard prepared for C1 for the 2014 tax year is also false.

a. C1's 2014 tax return falsely claimed Head of Household status.

b. C1 erroneously claimed a son residing in Canada as a dependent to increase his EITC.

c. The 2014 return included a completely fabricated Schedule C with \$5,873 in non-existent business expenses.

27. In addition to these abuses, Herard added a new scam that he employed on returns due after the effective date of the Affordable Care Act by perverting the Premium Tax Credit (Form 8962). This refundable tax credit is designed to help eligible individuals and families with low or moderate income afford health insurance purchased through the Health Insurance Marketplace, also known as the Exchange, beginning in 2014. C1 did not purchase health insurance through the Marketplace and is not a taxpayer eligible to claim the Premium Tax Credit, but Herard claimed a credit of \$3,120 nonetheless. The IRS identified the fraud and

disallowed the credit. Although C1's 2014 return claimed a refund of \$7,452, C1 reported to the IRS he received less than half that amount.

28. As confirmed by C1, Herard intentionally manufactured credits and expenses on his 2013 and 2014 tax returns so that C1 would receive thousands of dollars in refunds to which he was not entitled. Herard faked credits and expenses on C1's tax returns to garner a larger refund for C1 as part of his customer maintenance scheme, whereby he promised refunds to his customers even when they were not entitled to them under the law.

Fraudulent Tax Return Preparation for Customer 2

29. Herard prepared a Form 1040 individual income tax return for tax years 2013 and 2014 for C2, who earned wages in the hotel industry and received Forms W-2, which he provided to Herard.

30. C2's 2013 return contains false claims as follows:

- a. C2's return fabricated a \$1,444 refundable FTC.
- b. Although C2 did not own or operate a business, Herard concocted a Schedule C that falsely claimed C2 as the proprietor of "clean," an apparent reference to a non-existent cleaning business, whose stated business address does not exist. This is a common fake business designation by preparers engaged in tax fraud. The \$15,011 in expenses listed on the Schedule C were fabricated by Herard to produce a bogus business loss that reduced C2's \$33,217 taxable income to \$18,206. This represented a reduction in C2's taxable income by more than 40 percent.
- c. The combination of the fabricated FTC and business loss allowed C2 to claim a refund of \$2,145, when, in actuality, he owed income taxes.

31. The return Herard prepared for C2 for the 2014 tax year is also false, containing similar fabrications.

a. C2's return claimed a fake FTC of \$1,431.

b. The 2014 return prepared by Herard contained a fake Schedule C with the same false address as the 2013 return, this time claiming \$16,927 in phony business expenses.

These fake expenses reduced C2's wage income from \$34,203 to \$18,265.

c. Herard also overstated C2's tax withholding by \$1,381, which allowed him to overstate the refund C2 claimed by at least that amount.

d. The 2014 return listed the preparer as HSI Tax Services, at 2215 Military Trail, with PTIN PXXXX5146, which is not the PTIN assigned to Herard.

32. C2 did not provide information or documents to Herard which claimed or supported the false business expenses, FTCs, or overstated withholding amounts. He merely provided Herard his Forms W-2 from his hotel jobs. C2's 2013 and 2014 returns accurately reflect the income reported on the forms, but Herard falsified the returns by claiming thousands of dollars in phony expenses and credits.

Fraudulent Tax Return Preparation for Customer 3

33. Herard has been preparing Form 1040 individual income tax returns for C3 since at least 2012.

34. C3 is a construction worker who received a Form 1099 for tax year 2012 that reported income of \$6,170. His return falsely reflected as follows:

a. Herard claimed a fake \$1,000 education credit for C3 by submitting a false Form 8863, listing "PBSC" – presumably Palm Beach State College – as the educational

institution. C3 did not attend college, and no learning institution reported to the IRS that C3, or anyone on his behalf, paid any college tuition.

b. Herard also falsely claimed a \$1,464 FTC although C3 incurred no such expenses for fuel. Because both credits were refundable, C3's return overstated his refund by at least \$2,464.

35. The tax return Herard prepared for C3 for 2014 also contained fabricated credits and expenses, including:

- a. A false FTC of \$1,244;
- b. A bogus Schedule C, which falsely claimed \$9,464 in expenses incurred by a non-existent construction business; and
- c. Herard reported that \$750 in taxes had been withheld for C3 during 2014 when in fact, no taxes were withheld from his pay.

Fraudulent Tax Return Preparation for Customer 4

36. Herard prepared a Form 1040 individual income tax return for tax years 2012 and 2014 for C4, who earned \$16,437 working in the food service industry.

37. The 2012 return Herard prepared for C4 was false in the following respects:

a. Herard falsely claimed a FTC of \$1,731 from the purchase of 6,400 gallons of off-highway business use of gasoline and 2,800 gallons of kerosene used in commercial aviation. C4 did not incur these fuel expenses.

b. Herard also falsely claimed an education credit of \$1,000 even though C4 did not report attending Palm Beach College, the institution listed on the Form 8863. Neither is there a Form 1098-T from the college to verify any tuition payments on C4's behalf.

c. Consequently, the fraudulent FTC and education credits resulted in a refund overstated by \$2,731.

38. The 2014 return Herard prepared for C4 contained the following false claims:

a. C4's Form W-2 showed wages as \$31,860, but Herard falsely listed wages as \$26,774, thereby reducing C8's taxable income by \$5,086.

b. Herard brazenly claimed an overstated refund for C4 of \$7,486 comprised, in part, of refundable credits C4 was not entitled to claim, including:

i. \$1,000 in education credits;

ii. \$1,427 in FTCs; and

iii. Herard's new fraud vehicle – the Premium Tax Credit – of \$2,299.

c. Herard also created a false Schedule C for a business listed as “home family,” with a non-existent address and fake expenses of \$11,740.

d. Additionally, Herard falsely listed C4's home address as 2215 N. Military Trail F, which is Herard's office address.

e. Of the \$7,486 refund issued, C4 reports having received approximately \$4,000.

f. Herard improperly listed HSI Tax Services as the preparer with a PTIN not assigned to Herard.

Fraudulent Tax Return Preparation for Customer 5

39. Herard prepared a Form 1040 individual income tax return for 2013 for C5, a single woman, with W-2 income of \$75,727 that she earned as a postal worker. Less than 10% of that – \$5,494 – was withheld from her paychecks for federal income tax. With such a small

amount withheld, a scrupulous return preparer would expect C5 to be liable for additional tax with her 2012 return. Herard, however, prepared a return that claimed a refund.

40. The return Herard prepared was false in the following ways:

a. Herard claimed a fraudulent FTC credit of \$2,471 for the alleged purchases of 13,500 gallons of gasoline. This “purchases” never occurred. If it had occurred, at \$3 per gallon, the purchases would have cost C5 \$40,500 (*i.e.*, more than half her income) in one year.

b. Herard also prepared a Schedule C for a phony “hair salon,” with a non-existent street address, which reported no gross receipts but claimed \$31,661 in expenses that C5 did not incur. This resulted in a phony business loss that significantly reduced C5’s verifiable wage income from \$75,728 to \$44,067.

c. With the fake FTC, rather than having to pay taxes she owed, C5’s claimed refund was \$3,300. According to published IRS tax table for 2013, income tax on C5’s wage income, after a \$6,100 personal deduction as an unmarried filer, and a \$3,900 personal exemption, was \$12,236. After subtracting the withholding of \$5,494, the tax she owed was \$6,866 to the IRS. Due to Herard’s fraud, C5 received a refund, rather than paying the tax she owed.

Fraudulent Tax Return Preparation for Customer 6

41. Herard prepared a 2014 Form 1040 individual income tax return for C6, with W-2 income of \$26,547 for his work at a restaurant. Herard made the following false statements on C6’s 2014 return:

a. Herard falsely claimed a FTC of \$1,427 for 7,800 gallons of gasoline.

b. Herard falsely claimed a \$1,000 education credit for Palm Beach College although C6 did not attend that college or any other.

c. Herard concocted \$5,782 in expenses for a fake “maint” [sic] business with a non-existent address, which was recorded on the Schedule C. Presumably, “maint” referred to a non-existent maintenance business in the same manner that “clean” referred to a non-existent cleaning business on C2’s return.

d. As a result of Herard’s false claims, C6 received an improper refund of \$9,537 for 2014, approximately \$3,400 more than he was entitled to receive.

e. Additionally, Herard erroneously listed HSI Tax Services, rather than himself, as the preparer, and using a PTIN not assigned to him.

Harm to the United States

42. The defendants’ pattern of preparing returns that understated their customers’ taxes and/or overstated their refunds, through the schemes described above, has resulted in the loss of significant federal tax revenue.

43. In addition, the defendants’ actions have forced the United States to expend significant resources to examine and correct the returns they prepared.

44. In many instances, the defendants’ understatement of their customers’ liabilities and their other fraudulent practices caused the United States to issue refunds that the customers were not entitled to receive.

45. Based on the returns it has examined from the 2011 to 2015 processing years, the IRS estimates that the United States has lost millions of dollars in tax revenue from the defendants’ consistent understatement of liabilities/overstatement of refunds on returns filed by

the defendants. In addition, the United States has had to bear the substantial cost of examining the returns the defendants have prepared and collecting the understated liabilities from their customers.

COUNT I
INJUNCTION UNDER 26 U.S.C. § 7407
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. §§ 6694 AND 6695

46. The United States incorporates by reference the allegations in paragraphs 1 through 45.

47. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a person who is a tax return preparer from engaging in certain prohibited conduct or from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, *inter alia*, the following:

(a) Engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a tax return preparer who prepares a return that contains an understatement of tax liability or an overstatement of a refund due to an unreasonable position that the return preparer knew or should have known was unreasonable; and

(b) Engaging in any other fraudulent or deceptive conduct which substantially interferes with the proper administrations of the Internal Revenue laws.

48. In order for a court to issue such an injunction, the court must find that:

(a) The tax return preparer engaged in the prohibited conduct; and

(b) Injunctive relief is appropriate to prevent the recurrence of such conduct.

49. If a tax return preparer's conduct is continual or repeated and the court finds that a narrower injunction would not be sufficient to prevent the preparer's interference with the proper

administration of the internal revenue laws, the court may permanently enjoin the person from acting as a tax return preparer. *See* 26 U.S.C. § 7407(b).

50. The defendants have continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing returns that understate the filers' tax liabilities and overstate their refunds based on unreasonable and reckless positions. As described above, the defendants prepare returns that claim deductions for expenses that were not incurred by the taxpayer and credits to which the taxpayer is not entitled. The defendants did so with the knowledge that the positions they took on the returns were unreasonable and lacked substantial authority. The defendants have thus engaged in conduct subject to penalty under 26 U.S.C. § 6694(a).

51. Additionally, the defendants engaged in conduct subject to penalty under 26 U.S.C. § 6694(b) by willfully understating customers' liability and acting with a reckless and intentional disregard of rules and regulations.

52. The defendants have continually and repeatedly engaged in conduct that violates 26 U.S.C. § 6694 and which substantially interferes with the administration of the internal revenue laws. Injunctive relief is necessary to prevent this misconduct because, absent an injunction, the defendants are likely to continue preparing false federal income tax returns.

53. Herard has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695(b) by failing to properly identify himself and his company and sign returns he prepared.

54. The defendants have continually and repeatedly engaged in conduct that violates 26 U.S.C. §§ 6694 and 6695 and which substantially interferes with the administration of the

internal revenue laws. Injunctive relief is necessary to prevent this misconduct because, absent an injunction, the defendants are likely to continue preparing false federal income tax returns.

55. A narrower injunction would be insufficient to prevent the defendants' interference with the administration of the federal tax laws. The defendants prepare returns understating the filer's liability through multiple schemes which report false information on their customers' tax returns. In addition, the IRS may not yet have identified all of the schemes used by the defendants to understate income. Failure to permanently enjoin the defendants will require the IRS to spend additional resources to uncover all of their future schemes. The harm resulting from these schemes includes both the expenditures of these resources and the revenue loss caused by the improper deductions and credits the defendants claim on returns they prepare. Accordingly, only a permanent injunction is sufficient to prevent future harm. Each defendant should be permanently enjoined from acting as a tax return preparer.

**COUNT II:
INJUNCTION UNDER 26 U.S.C. § 7408
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. § 6701**

56. The United States incorporates by reference the allegations contained in paragraphs 1 through 45.

57. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under 26 U.S.C. § 6701, which penalizes a person who aids or assists in the preparation of tax returns that the person knows will result in an understatement of tax liability.

58. The defendants have engaged in conduct subject to penalty under 26 U.S.C. § 6701 by preparing or directing the preparation of income tax returns that claim credits they

knew that the taxpayer was not eligible to take, and by preparing returns that claim deductions they knew to be false or inflated.

59. The defendants' repeated actions, including those described in paragraphs 23 through 45 above, fall within 26 U.S.C. § 7408(c)(1), and injunctive relief is appropriate to prevent recurrence of this conduct.

60. Accordingly, the defendants should be permanently enjoined from preparing any returns that improperly claim or inflate a claim to the education credit or claim false or inflated deductions.

**COUNT III:
INJUNCTION UNDER 26 U.S.C. §7402 FOR UNLAWFUL
INTERFERENCE WITH THE ENFORCEMENT OF INTERNAL REVENUE LAWS**

61. The United States incorporates by reference the allegations contained in paragraphs 1 through 45.

62. Section 7402(a) of the Internal Revenue Code authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of internal revenue laws.

63. The defendants have repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of internal revenue laws.

64. If the defendants continue to act as tax return preparers, their conduct will result in irreparable harm to the United States, and the United States has no adequate remedy at law.

65. The defendants' conduct has caused and will continue to cause substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable. Moreover unless the defendants are enjoined from preparing returns, the IRS will have to devote

substantial and unrecoverable time and resources auditing their customers individually to detect false, fraudulent, or overstated refund claims in future returns.

66. The detection and audit of erroneous tax credits and deductions claimed on returns prepared by the defendants will be a significant burden on IRS resources.

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

A. That the Court find that the defendants have repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695 and that injunctive relief is appropriate under 26 U.S.C. § 7407 to prevent recurrence of that conduct;

B. That the Court find that the defendants have repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. § 6701 and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent recurrence of that conduct;

C. That the Court find that the defendants have repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the internal revenue laws, and that injunctive relief against the defendants is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a);

D. That the Court enter a permanent injunction prohibiting the defendants or any other person working in concert or participation with them from directly or indirectly:

(1) preparing, assisting in the preparation of, or directing the preparation of federal income tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than himself;

(2) engaging in activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, and 6701; and

(3) engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws.

E. That the Court enter an injunction requiring Herard, at his own expense:

(1) To send by certified mail, return receipt requested, a copy of the final injunction entered against him in this action, as well as a copy of the Complaint setting forth the allegations as to how the defendants fraudulently prepared federal income tax returns, to each person for whom he or she prepared federal income tax returns or any other federal tax forms after January 1, 2012;

(2) To turn over to the United States copies of all returns or claims for refund that he or she prepared after January 1, 2012;

(3) To turn over to the United States a list with the name, address, telephone number, email address, and social security number or other taxpayer identification number of all customers for whom the defendants prepared returns after January 1, 2014;

(4) To surrender to the Secretary of the Treasury or his delegate any and all PTINs held by, or assigned to, or used by each defendant pursuant to 26 U.S.C. § 6109, and the EFIN held by, assigned to, or used by each defendant.

(5) To prominently post a copy of the injunction in the defendants' place of business where tax returns were prepared by any defendants.

(6) To file a sworn statement with the Court evidencing the defendants' compliance with the foregoing directives within forty-five (45) days of entry of the final injunction in this action; and

(7) To keep records of the defendants' compliance with the foregoing directives, which may be produced to the Court, if requested, or the United States pursuant to paragraph F, below;

F. That the Court enter an order allowing the United States to monitor the defendants' compliance with the injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

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

Respectfully submitted,

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