

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 2:19-cv-00653-RAJ-DEM
)	
v.)	
)	
FRANCHISE GROUP INTERMEDIATE)	
L 1, LLC, d/b/a LIBERTY TAX SERVICE)	
)	
Defendant.)	
_____)	

[PROPOSED] ORDER

United States and Franchise Group Intermediate L 1, LLC stipulate and agree as follows:

1. On December 3, 2019, the United States initiated this action against Franchise Group Intermediate L 1, LLC (“Franchise Group”) seeking an order from this Court pursuant to 26 U.S.C. § 7402(a).
2. The United States and Franchise Group (the “Parties”) stipulate to resolve this matter through the proposed order below (the “Order”). The Parties agree that pursuant to 26 U.S.C. § 7402(a), the Order is “necessary or appropriate for the enforcement of the internal revenue laws.”
3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402(a).
4. Entry of the Order only resolves this civil action against Franchise Group without factual admissions or findings. Except as set forth in any separate agreement, nothing in this Order precludes the government from pursuing any other current or future civil or criminal

matters or proceedings or precludes Franchise Group from contesting liability in any such matters or proceedings.

5. The Parties recognize that this Order has been negotiated by the Parties in good faith and will avoid litigation among the Parties, and that this Order is fair, reasonable, and in the public interest.

6. The Parties waive the entry of findings of fact and conclusions of law.

7. The Parties understand and agree that the Order will be entered in accordance with Fed. R. Civ. P. 65 and will constitute the final judgment in this matter. The Parties waive the right to appeal from this judgment and agree that they will bear their own respective costs, including any attorneys' fees or other expenses of this litigation.

8. The Parties further understand and agree that the Court will retain jurisdiction over this matter for the purpose of implementing and enforcing the Order. Franchise Group understands that if it violates the Order, it may be subject to civil and criminal sanctions for contempt of court.

9. The Parties agree that it is in the interests of justice to facilitate the ability of Franchise Group to disclose return information to the Independent Monitor (as defined herein), and for the Independent Monitor to disclose return information to the U.S. Contact (as defined herein) notwithstanding any restrictions of 26 U.S.C. § 7216(a).

NOW THEREFORE, BASED ON THE FOREGOING AND THE COURT HAVING FOUND THAT THE PARTIES' AGREEMENT IS FAIR, REASONABLE AND IN THE PUBLIC INTEREST, IT IS HEREBY ORDERED, pursuant to 26 U.S.C. § 7402(a) and in accordance with Fed. R. Civ. P. 65, effective from the date of entry of this Order, that Franchise Group shall be bound by the following terms and conditions set by this Court:

Table of Contents

I.	Definitions	p. 3
II.	Term/Duration	p. 5
III.	Parties Bound by this Order	p. 6
IV.	Purpose of this Order	p. 6
V.	Permanent Bars on Individuals/Disclosures to Law Enforcement	p. 6
VI.	Engagement of an Independent Monitor	p. 9
VII.	Franchise Group’s Compliance Department	p. 26
VIII.	Onsite Compliance Review at Liberty Tax Service Stores	p. 28
IX.	Enhancements to Internal Controls	p. 32
X.	Training Requirements	p. 43
XI.	Franchise Agreements	p. 46
XII.	Whistleblower Program	p. 48
XIII.	Mandatory Notifications to Third Parties	p. 49
XIV.	Financial Products	p. 51
XV.	Miscellaneous	p. 53

I. Definitions: As used in this Order:

- A. “Franchise Group” shall include Franchise Group Intermediate L 1, LLC and all subsidiaries of that entity, including but not limited to JTH Tax, LLC, as well as any entity controlled by, or under common control with, Franchise Group Intermediate L 1, LLC.
- B. “Liberty Tax Service” shall refer to any tax preparation store operating under that brand name or any brand name owned or operated by Franchise Group (*e.g.* Siempre Tax), or that is owned or operated by any individual or entity pursuant to a franchise agreement entered into with Franchise Group.
- C. The “U.S. Contact” shall refer to the representative designated by the United States Department of Justice or IRS for the purpose of implementation of this Order.
- D. The “Independent Monitor” shall be a neutral third party engaged to monitor Franchise Group’s compliance with this Order and conduct the activities

described below. Unless the Independent Monitor is replaced in accordance with Paragraph VI(G) of this Order, the Independent Monitor shall be Dixon Hughes Goodman, LLP.

- E. “Monitoring Period” shall be the total time period during which Franchise Group is required to engage an Independent Monitor in compliance with this Order.
- F. “Termination” of any Liberty Tax Service franchisee shall mean any unilateral termination of a franchise agreement by Franchise Group for any reason (other than expiration of a franchise agreement), as well as any repurchase or transfer of a franchise territory that results in the cessation of a franchisee’s status as a Liberty Tax Service franchisee. Similarly, “termination” of an employee at a Company-Owned Store shall include any action by Franchise Group that results in the cessation of such person’s employment, and “termination” of an area developer agreement shall include any unilateral termination by Franchise Group or any action (other than expiration of a contract) that results in the cessation of such person’s status as an area developer.
- G. “Mystery Shopper Visits” shall refer to visits to Liberty Tax Service stores by individuals retained by Franchise Group to pose as customers and to test compliance with federal tax laws and regulations at the store location.
- H. “Onsite Compliance Reviews” shall refer to inspections of customer files retained by Liberty Tax Service stores and conducted by individuals sent by Franchise Group to examine those files to test compliance with federal tax laws and regulations at the store location. In the event that Franchise Group decides to digitize aspects of Onsite Compliance Reviews, and if both Parties agree,

Franchise Group may conduct Onsite Compliance Reviews remotely in light of such digitization.

- I. “Red Flag/Fraud Alerts” shall refer to Franchise Group’s computerized system to identify suspicious or potentially false or fraudulent tax returns prepared at Liberty Tax Service stores.
 - J. “Automatic Holds” shall refer to systems in place at Franchise Group that prevent the transmission to the IRS of tax returns prepared at Liberty Tax Service stores that have specific items reported on the tax return.
 - K. The “Preparer Blacklist” shall refer to Franchise Group’s list of tax return preparers Franchise Group bars from submitting tax returns for filing with the IRS.
 - L. “Company-Owned Store” shall refer to any tax preparation store owned or operated by Franchise Group.
 - M. “Filing Season” means the period commencing on the date the IRS begins accepting filed individual tax returns for the previous calendar year and ending on the April deadline to file individual tax returns for the previous calendar year (without extensions).
 - N. The “chief executive officer of Franchise Group” means the chief executive officer or primary business leader for Franchise Group, and not the chief executive officer or primary business leader of Franchise Group’s parent entity or entities.
- II. Term/Duration: Following entry by the Court, the term/duration of this Order shall remain permanently in effect where set forth below. The term/duration of the Monitoring

Period shall be set by Paragraph VI(E). Otherwise, all other provisions of this Order shall remain in full effect for sixty (60) months.

- III. Parties Bound by this Order: This Order shall apply to Franchise Group, its successors and assigns, and those otherwise bound by law. For no less than sixty (60) months following entry of this Order, if Franchise Group enters into any agreement or multiple agreements that results in an assignment or transfer of more than fifteen percent (15%) of its franchise agreements, either through one agreement or transaction or through multiple agreements or transactions, to any single third party, Franchise Group shall require that third party, as a condition of such assignment or transfer, to agree to be bound by the terms of this Order for the remainder of its term. For purposes of Section III of this Order, the term any single third party shall include the single third party itself and any related party as defined in 26 U.S.C. § 267(b).
- IV. Purpose of this Order: The terms of this Order require Franchise Group to maintain reasonable, adequate resources and controls to prevent the preparation of false or fraudulent tax returns at Liberty Tax Service stores and to prevent the transmission of false or fraudulent tax returns by Franchise Group to the IRS. The terms of this Order require Franchise Group to enact specified measures to provide sufficient reporting to the U.S. Contact and, if necessary, this Court to evaluate whether Franchise Group is complying with the terms of this Order during its term.
- V. Permanent Bars on Individuals/Disclosures to Law Enforcement.
- A. Franchise Group shall permanently refrain from taking the following actions with respect to John T. Hewitt (founder and former chief executive officer of Liberty Tax Service):

- i. Hiring or otherwise engaging John T. Hewitt as an executive, advisor, consultant, or employee of Franchise Group;
 - ii. Granting or authorizing the sale to John T. Hewitt of any area developer or franchise agreement;
 - iii. Nominating John T. Hewitt to the board of directors of Franchise Group (or of the parent entity or entities of Franchise Group); or
 - iv. Granting John T. Hewitt any options or other rights to acquire any equity interest in Franchise Group (or in the parent entity or entities of Franchise Group).
- B. Within 30 days after entry of this Order, Franchise Group shall fully disclose in writing to the U.S. Contact the content and findings of any internal or external review or investigation of officers or employees of Franchise Group conducted within the past sixty (60) months that found: (1) any violation under Title 26 of the U.S. Code by the officer or employee; (2) any willful, reckless, or negligent failure by any officer or employee of the company to prevent violations of Title 26 of the U.S. Code by preparers at any Company-Owned Store; or (3) any willful, reckless, or negligent failure by any officer or employee of Franchise Group to prevent violations of Title 26 of the U.S. Code by individuals working at any franchised Liberty Tax Service locations.
- C. Franchise Group shall permanently refrain from hiring or engaging any individual identified in Paragraph V(B) above as an executive, advisor, consultant, employee, franchisee, area developer, or in any capacity.

D. Franchise Group shall permanently refrain from hiring or engaging any individual franchisee (or any individual with an ownership interest in any entity operating as a Liberty Tax Service franchisee) or any individual area developer (or any individual with an ownership interest in any entity operating as a Liberty Tax Service area developer) as an executive, advisor, consultant, employee, franchisee, area developer, or in any capacity:

- i. Who Franchise Group terminated in whole or in part due to a failure, individually or through ownership of any entity, to comply with federal tax laws;
- ii. Who, based on inquiry by Franchise Group, individually or through ownership of any entity, had an Electronic Filing Identification Number (“EFIN”) revoked by the IRS (that was not subsequently reinstated by the IRS);
- iii. Who, based on inquiry by Franchise Group, had a Preparer Tax Identification Number (“PTIN”) revoked by the IRS (that was not subsequently reinstated by the IRS); or
- iv. Who, based on inquiry by Franchise Group: (1) was assessed any penalty under 26 U.S.C. §§ 6694, 6695, 6700, 6701, 6707, 6708 or any other penalty provision of the Internal Revenue Code applicable to return preparation activities; (2) was assessed any penalty under 26 U.S.C. § 6662(a) for underpayments described in § 6662(b)(6) or (b)(7); (3) was assessed any penalty under 26 U.S.C. §§ 6662A, 6663, 6702, or 6707A; (4) was assessed any penalty under 31 U.S.C. § 5321 for willful violations

of the individual's 31 U.S.C. § 5314 obligations; (5) has not filed a Form 1040, U.S. Individual Income Tax Return, for the past five (5) tax years in violation of Title 26 of the U.S. Code; or (6) has more than \$5,000 of outstanding federal tax liabilities and has not entered into an installment plan with the IRS to pay such outstanding liabilities.

E. For no less than sixty (60) months following entry of this Order, if Franchise Group discovers evidence of any conduct potentially subject to penalty under 26 U.S.C. §§ 6694, 6695, and/or 6701 and/or any potential criminal violation of the federal laws by tax return preparers at Liberty Tax Service stores, Franchise Group shall disclose, in writing to the U.S. Contact, the following information within thirty (30) days of such discovery:

- i. A description of the conduct;
- ii. The tax year(s) involved;
- iii. The identity of any individuals known to have been involved in the conduct, including the name and preparer tax identification number ("PTIN"), if applicable, for such individual(s);
- iv. The electronic filing identification number ("EFIN") associated with the conduct; and
- v. The names and social security numbers of the Liberty Tax Service customers associated with the conduct.

VI. Engagement of an Independent Monitor.

A. Within fifteen (15) days following the date of entry of this Order, Franchise Group shall engage the Independent Monitor, at Franchise Group's expense.

- B. Purpose: The Independent Monitor shall, pursuant to the terms of this Order, review and evaluate Franchise Group's controls in place to prevent the preparation of false or fraudulent federal income tax returns at Liberty Tax Service stores, and to prevent the transmission of false or fraudulent tax returns by Franchise Group to the IRS, and shall review and evaluate Franchise Group's compliance with the terms of this Order. The Independent Monitor shall, pursuant to the terms of this Order, report his/her findings to the U.S. Contact, who shall evaluate such findings and notify the Court of any material violation of this Order. In addition to the specific requirements set forth below, to assess Franchise Group's compliance with this Order and conduct the activities described in this Order, Franchise Group shall enable the Independent Monitor reasonable access to documentation in Franchise Group's custody and control (including, without limitation, information contained in databases relevant to the Independent Monitor's duties under this Order), and access to Franchise Group officers and employees. The Independent Monitor shall have no authority to make, or to require Franchise Group to make, any business decision on behalf of Franchise Group.
- C. Attorney-Client/Work Product Privileges: Nothing in this Order requires Franchise Group to waive any applicable attorney-client, attorney work product, or other privilege belonging to Franchise Group.
- D. Qualifications of the Independent Monitor.
- i. The Independent Monitor shall be (or include, if an entity) an actively enrolled agent in good standing, actively licensed certified public

accountant in good standing, certified fraud examiner in good standing, or actively licensed attorney in good standing.

- ii. The Independent Monitor shall have sufficient capabilities and resources, including support staff, to fulfill the duties assigned to the Independent Monitor in this Order.

E. Length of Monitoring Period: Franchise Group shall engage the Independent Monitor for no less than thirty-six (36) months after entry of this Order.

F. Selection of the Independent Monitor:

- i. Franchise Group shall propose to the U.S. Contact, for approval by the U.S. Contact or a committee within the U.S. Department of Justice, the appointment of an Independent Monitor to serve in that capacity during the Monitoring Period. Franchise Group shall propose no fewer than three (3) candidates to serve as the Independent Monitor. If the United States does not approve any of the three (3) candidates, Franchise Group shall continue to propose no fewer than three (3) candidates at a time until approval of the Independent Monitor by the U.S. Contact or a committee within the U.S. Department of Justice.

- ii. Franchise Group shall provide the following information to the U.S. Contact for approval of a proposed Independent Monitor.

- 1. A written description of the proposed Independent Monitor's qualifications and credentials, including the number of staff expected to be assigned (with their qualifications/resumes) and a proposed annual budget detailing the total estimated costs that will

be incurred by Franchise Group by engaging the Independent Monitor (including anticipated time/hourly fees and other expenses).

2. A written certification by Franchise Group that it will not otherwise employ or be affiliated with the proposed Independent Monitor for a period of not less than two (2) years from the date of termination of the Independent Monitor's Term.
3. A written certification by Franchise Group that the proposed Independent Monitor is not a current or recent (*i.e.*, within the prior two (2) years) employee, agent, or representative of Franchise Group (or the parent entity/entities of Franchise Group or any other entities owned or controlled by Franchise Group's parent entity/entities) and holds no interest in, and has no relationship with Franchise Group (or the parent entity/entities of Franchise Group or any other entities owned or controlled by Franchise Group's parent entity/entities), its employees, officers, or directors. In the event that the proposed Independent Monitor holds any shares in Franchise Group (or the parent entity or entities of Franchise Group), the written certification shall include a representation that Franchise Group will require the proposed Independent Monitor to divest such shares prior to being retained by Franchise Group.

4. A written certification by the proposed Independent Monitor that it is not a current or recent (*i.e.*, within the prior two (2) years) employee, agent, or representative of Franchise Group (or the parent entity/entities of Franchise Group or any other entities owned or controlled by Franchise Group's parent entity/entities) and holds no interest in, and has no relationship with Franchise Group (or the parent entity/entities of Franchise Group or any other entities owned or controlled by Franchise Group's parent entity/entities), its employees, officers, or directors. In the event that the proposed Independent Monitor holds any shares in Franchise Group (or the parent entity or entities of Franchise Group), the written certification shall include a covenant to divest such shares prior to being retained by Franchise Group.
5. A written certification by the proposed Independent Monitor that it has notified any clients that the proposed Independent Monitor also represents in any matter involving the U.S. Department of Justice Tax Division and that, if required, the proposed Independent Monitor has either obtained a waiver from those clients or has withdrawn from that other matter.
6. A written certification by the proposed Independent Monitor that it and any staff members it intends to assign to this matter have no conflict of interest that would prevent him/her/them from accepting the role of Independent Monitor.

Representatives of the United States may conduct interviews, make inquiries, or request additional relevant documentation from any proposed Independent Monitor as part of the approval process.

- G. Replacement of the Independent Monitor: If for any reason the Independent Monitor is unavailable or unable to perform its obligations under this Order, or if the U.S. Contact notifies Franchise Group that the Independent Monitor must be replaced because the U.S. Contact believes the Independent Monitor is unable or unfit to perform its obligations or is otherwise failing to perform its obligations, or if both Parties believe that it would be in the best interest of furthering the purposes of this Order to replace the Independent Monitor, then the Parties shall cooperate to identify a replacement as quickly as possible. The selection process for any replacement of the Independent Monitor shall occur as described in Paragraph VI(F) above. In the event that thirty (30) or more days elapse in which an Independent Monitor is not in place during a Filing Season, then the Monitoring Period shall be extended by an additional twelve (12) months unless the Parties otherwise agree that the Monitoring Period need not be extended. Otherwise, in the event that thirty (30) or more consecutive days elapse in which an Independent Monitor is not in place, then the Monitoring Period shall be extended by an additional period equal to the period during which an Independent Monitor was not in place unless the Parties otherwise agree that the Monitoring Period need not be extended.

H. Disclosures to the Independent Monitor:

- i. To facilitate the ability of the Independent Monitor to perform its obligations under this Order, and to ensure that Franchise Group can disclose to the Independent Monitor information obtained by Franchise Group in connection with the preparation of returns at Liberty Tax Service stores, it is ordered pursuant to 26 U.S.C. § 7216(b)(1)(B) that:
 1. Franchise Group is permitted to disclose to the Independent Monitor such information related to the Independent Monitor's performance of its obligations hereunder; and
 2. The Independent Monitor is permitted to disclose to the U.S. Contact such information related to the performance of its obligations hereunder.
- ii. To the extent this Court orders any portion of this Order or its Exhibits to remain under seal, the Independent Monitor shall be permitted to retain a complete copy of the Order, including any portions under seal. The Independent Monitor shall treat any under seal portion of this Order as confidential. Upon termination of the Monitoring Period or replacement of any Independent Monitor, the Independent Monitor shall destroy any copies of this Order that are under seal that are in his/her possession.

I. IRS Contact with the Independent Monitor/Franchise Group

- i. Franchise Group shall execute all necessary consent forms under 26 U.S.C. § 6103 for the IRS to communicate directly with the Independent Monitor with respect to Liberty Tax Service return preparation activities.

- ii. The engagement of an Independent Monitor shall not alter the IRS's authority (or any law enforcement agency's authority) to obtain information directly from Franchise Group. Franchise Group shall fully cooperate with the U.S. Contact and representatives of the IRS or United States Department of Justice to provide requested information directly to monitor compliance with this Order and/or monitor compliance with federal tax laws, subject to Paragraph VI(C).

J. Reporting Duties of the Independent Monitor.

- i. The Independent Monitor shall provide written reports as described in this Order. The Independent Monitor shall simultaneously distribute all written reports to the U.S. Contact and to a contact designated by Franchise Group.
- ii. Initial Review and Report by the Independent Monitor.
 1. Within fifteen (15) days after retention, the Independent Monitor shall commence a review to ascertain the sufficiency of Franchise Group's systems, controls and staffing in place to ensure against the preparation of false or fraudulent federal tax returns at Liberty Tax Service stores and the transmission of false or fraudulent tax returns by Franchise Group to the IRS.
 2. Within fifteen (15) days after retention, to assist the initial review, Franchise Group shall provide the Independent Monitor with:
 - a. A current organizational chart showing Franchise Group's officers and management;

- b. A current organizational chart for Franchise Group's compliance department, with information on the professional qualifications and experience of all individuals depicted thereon;
 - c. Copies of all tax return preparation training materials currently in use by the company and/or provided to franchisees and company-owned stores;
 - d. Copies of all forms and checklists used by Franchise Group's compliance department;
 - e. Background on all mystery shopper programs currently employed by Franchise Group; and
 - f. The executive summary of the compliance task force dated January 2018.
3. Within thirty (30) days after retention, Franchise Group will provide the Independent Monitor with an orientation briefing at Franchise Group's headquarters to provide background on Franchise Group's compliance program and the results of the past year's compliance reviews.
4. Franchise Group shall allow the Independent Monitor to conduct interviews of officers and employees of Franchise Group on topics the Independent Monitor determines are relevant to its initial review of Franchise Group's systems, controls and staffing in place to ensure against the preparation of false or fraudulent federal tax

returns at Liberty Tax Service stores and the transmission of false or fraudulent tax returns by Franchise Group to the IRS. Counsel for Franchise Group may observe any such interviews provided that such counsel does not interfere with, or otherwise inhibit, the ability of the Independent Monitor to obtain non-privileged information that may be relevant to its review. The Independent Monitor shall notify the U.S. Contact within five (5) days of any interview if it believes that counsel for Franchise Group has interfered with, or inhibited the ability of the Independent Monitor to obtain non-privileged information that may be relevant to its review.

5. Following this review, the Independent Monitor shall provide a written report of any findings and recommendations for any changes or improvements to Franchise Group's systems, controls or staffing in place to ensure against the preparation of false or fraudulent federal tax returns at Liberty Tax Service stores and the transmission of false or fraudulent tax returns by Franchise Group to the IRS.
- iii. Quarterly Updates by Franchise Group to the Independent Monitor: On a quarterly basis (no later than twenty (20) business days following the end of each calendar quarter), Franchise Group's compliance department will provide the Independent Monitor with the following reports and information:

1. A written description of any changes to the membership of the compliance department.
2. A report summarizing any recommendations made by the compliance department to Franchise Group's executive management during the reporting period to terminate any area developer, franchisee, or employee of any Company-Owned Store due to violations of the federal tax laws and as well as any resulting actions taken by Franchise Group. (*See Paragraph VII(B)(ii) below.*)
3. Copies of all reports and documents Franchise Group is required to provide to the Independent Monitor with respect to Onsite Compliance Reviews conducted by the compliance department during the previous calendar quarter.
4. Copies of all reports and documents Franchise Group is required to provide to the Independent Monitor with respect to Mystery Shopper Visits conducted during the previous calendar quarter.
5. A description of any changes to Red Flag/Fraud Alerts issued by Franchise Group during the previous calendar quarter.
6. Data sufficient to identify the volume and type of Red Flag/Fraud Alerts issued during the previous calendar quarter, including the identity of the store location and the owner of the store location, as well as documentation showing that Franchise Group reviewed any

information or supporting materials provided by each Liberty Tax Service store in response to the Red Flag/Fraud Alert.

7. A report summarizing any recommendations made by the compliance department to Franchise Group's executive management during the reporting period to modify or enhance Franchise Group's compliance program and the status of any such recommendations.
8. All documentation Franchise Group is required to provide to the Independent Monitor showing all area developer and franchisee terminations during the previous calendar quarter, including a written description of the reasons for the termination.
9. All documentation Franchise Group is required to provide to the Independent Monitor regarding Automatic Holds.
10. All documentation Franchise Group is required to provide to the Independent Monitor regarding authorizations to change a customer's federal tax return or fees charged to the customer by Liberty Tax Service after the customer initially signs the tax return.
11. A listing of all preparers added or removed from Franchise Group's Preparer Blacklist during the previous calendar quarter, including a description of the reasons or grounds for the addition or removal and documentation verifying that Franchise Group conducted all required vetting to remove a preparer from the Preparer Blacklist.

12. A summary of any whistleblower complaints received by Franchise Group during the previous calendar quarter that relate to return preparation activities, including information on the status or results of investigation of each complaint and any available contact information for the whistleblower.

13. Certification by the vice president of compliance that Franchise Group has distributed all notices required by this Order.

With advance notice of one (1) week, Franchise Group shall allow the Independent Monitor to conduct interviews of officers and employees of Franchise Group, as well as allow reasonable access to additional documents (including, without limitation, information contained in databases) within Franchise Group's custody and control relevant to the quarterly updates. Counsel for Franchise Group may observe any such interviews provided that such counsel does not interfere with, or otherwise inhibit, the ability of the Independent Monitor to obtain non-privileged information that may be relevant to its review. The Independent Monitor shall notify the U.S. Contact within five (5) days of any interview if it believes that counsel for Franchise Group has interfered with, or inhibited the ability of the Independent Monitor to obtain non-privileged information that may be relevant to its review.

iv. Annual Review and Report: No later than ninety (90) days following each twelve (12) month portion of the Monitoring Period, the Independent Monitor shall provide a written annual report, setting forth in detail:

1. An analysis of the sufficiency of the staffing and quality of Franchise Group's compliance department and its execution of Franchise Group's compliance program. The analysis shall include:
 - a. An assessment of whether Franchise Group maintains adequate resources (*e.g.* number of staff/qualified staff/staff time spent on tax law compliance, technology resources, etc.) and controls to reasonably ensure against the preparation of false or fraudulent tax returns at Liberty Tax Service stores and the transmission of false or fraudulent tax returns by Franchise Group to the IRS;
 - b. A summary of any changes made during the prior twelve (12) months to the compliance department that affect the resources and capabilities it has to reasonably ensure against the preparation of false or fraudulent tax returns at Liberty Tax Service stores or the transmission of false or fraudulent tax returns by Franchise Group to the IRS, including changes to staffing, technology resources, budget, as well as the compliance department's role, responsibilities, and authority within Franchise Group; and
 - c. Recommendations, if any, for improvements or enhancements to Franchise Group's compliance department in furtherance of the purposes of this Order.

2. An analysis of the annual results of Onsite Compliance Reviews and Mystery Shopper Visits during the prior twelve (12) months, including:
 - a. An assessment of the sufficiency of the sample and review methodology of Onsite Compliance Reviews observed by the Independent Monitor (or individual directly employed by the Independent Monitor);
 - b. Identification by the Independent Monitor of any Liberty Tax Service stores that it deems as high risk for non-compliance with tax laws; and
 - c. An assessment of any actions (or planned actions) taken by Franchise Group as a result of the Onsite Compliance Reviews and Mystery Shopper Visits.
3. An analysis of any recommendations made by Franchise Group's compliance department to terminate any franchisee, area developer, or employee of a Company-Owned Store.
4. Any recommendations and conclusions whether any information collected by Franchise Group during the prior twelve (12) months justifies termination of any franchisee or any employee of a Company-Owned Store.
5. A summary of all Red Flag/Fraud Alerts issued by Franchise Group during the prior twelve (12) months, including:

- a. A summary of any changes made to Red Flag/Fraud Alerts employed Franchise Group during the reporting period;
- b. A summary of the results of Franchise Group's review of responses to Red Flag/Fraud Alerts, including statistics showing the percentage of Red Flag/Fraud Alerts where the review found errors or fraud consistent with the Red Flag/Fraud Alert;
- c. Copies of the Franchise Group's compliance department documentation of the results of its review of responses to Red Flag/Fraud Alerts (including the PTIN appearing on the reviewed tax returns, the EFIN used to transmit the tax return, the customer's social security number, and the tax year(s) involved), and any actions taken by Franchise Group as a result of its reviews;
- d. Any analysis by the Independent Monitor of the sufficiency of Franchise Group's compliance department's review of information or supporting materials provided by each Liberty Tax Service store in response to Red Flag/Fraud Alerts; and
- e. Identification by the Independent Monitor of any Liberty Tax Service stores that it deems as high risk for non-compliance with tax laws.

6. A summary of Franchise Group's Preparer Blacklist identifying who is on the list, and an evaluation of documentation prepared by Franchise Group's compliance department regarding changes to the list during the prior twelve (12) months and an analysis of the compliance department's decisions regarding any such changes.
7. A summary and analysis of actions taken by Franchise Group's compliance department with respect to returns subject to Automatic Holds during the prior twelve (12) months.
8. A summary and analysis of Franchise Group's controls to prevent unauthorized changes to federal tax returns after a customer has signed the tax return.
9. A summary of any exceptions granted by the vice president of compliance regarding individuals authorized to conduct Onsite Compliance Reviews.
10. A summary of any exceptions granted by the vice president of compliance regarding individuals authorized to serve as area developers or tax return preparer trainers.
11. Copies of any forms approved by the vice president of compliance for use in Liberty Tax Service stores for collecting customer information for use in preparing federal tax returns.
12. Whether Franchise Group has otherwise complied with each of the terms of this Order.

All documentation provided by Franchise Group to the Independent Monitor required as part of its quarterly updates shall be included with the Annual Review and Report provided to the U.S. Contact.

- K. Annual Budget: Unless otherwise agreed by Franchise Group and the U.S. Contact in writing, Franchise Group shall not be required to compensate an approved Independent Monitor more than 110% of the total budget that the Independent Monitor submitted as part of the process for the U.S. Contact to approve the Independent Monitor.

VII. Franchise Group's Compliance Department.

- A. The primary function of Franchise Group's compliance department shall be to monitor, detect, and report (both to law enforcement, and internally at Franchise Group so it can take appropriate remedial actions) non-compliance with federal law, tax laws, and regulations, as well as to ensure effective quality control over tax return preparation throughout the Liberty Tax Service system, including franchised locations and Company-Owned Stores, to prevent violations of federal law, tax laws and regulation The compliance department:
- i. Shall be provided by Franchise Group with sufficient budget, resources, and qualified staff to effectively implement the primary function of the compliance department as described in Paragraph VII(A) above;
 - ii. Shall include at least one attorney with at least seven (7) years of experience in tax matters, relevant legal or regulatory compliance matters, and/or internal investigations; and
 - iii. May also have such other compliance duties as may be assigned to it by

Franchise Group's board of directors and executives, including duties associated with compliance with Franchise Group policies and franchise agreements, as long as those duties do not interfere with the compliance department's primary function as described in Paragraph VII(A) above.

B. Department Vice President: Franchise Group shall appoint a vice president in charge of Franchise Group's compliance department, who shall be: (1) a full-time officer and employee of Franchise Group; and (2) based at Franchise Group's offices in Virginia Beach or such other location where Franchise Group may maintain its headquarters. The vice president of compliance shall report directly to the chief executive officer of Franchise Group and shall make regular reports to the risk and audit committees of the board of directors of Franchise Group's parent entity or entities. The vice president of compliance shall be responsible for:

- i. Overall supervision and execution of Franchise Group's compliance program, including enforcing tax return-preparation quality control nationwide, as well as maintaining controls to prevent, detect, and report violations of federal law and regulations, penalty misconduct, and fraud; and
- ii. Identifying and recommending, in writing, to Franchise Group's executive officers, including the chief executive officer, the termination of Liberty Tax Service franchisee owners, employees of Company-Owned Stores, or area developers due to violations of federal law and regulations, fraud, failure to maintain adequate controls to ensure against the preparation and

transmission of false or fraudulent federal tax returns to the IRS, or any other serious/material misconduct identified from the results of Onsite Compliance Reviews, Mystery Shopper Visits, or by any other means.

1. Any written recommendation for termination must include an explanation (*e.g.* facts in support) of the basis of the recommendation.
2. Copies of all such written recommendations shall be provided to the Independent Monitor.

VIII. Onsite Compliance Reviews at Liberty Tax Service Stores.

A. For no less than sixty (60) months following entry of this Order, Franchise Group shall conduct Onsite Compliance Reviews of customer files at Liberty Tax Service stores as follows:

i. Individuals conducting Onsite Compliance Reviews:

1. Onsite Compliance Reviews shall not be conducted by any individual who is a current or former Liberty Tax Service franchisee, franchisee employee, or area developer, is related (by family, as defined in 26 U.S.C. § 318(a)(1) and 26 U.S.C. § 267(c)(4)) to any current or former Liberty Tax Service franchisee, franchisee employee, or area developer, or by anyone with any conflict of interest.
2. Onsite reviewers shall be actively licensed attorneys in good standing, actively enrolled agents in good standing, actively licensed certified public accountants in good standing, certified

fraud examiners in good standing, or have at least three (3) years of experience in relevant internal audit matters or as a professional tax return preparer as described in 26 CFR § 301.7701-15.

Notwithstanding the restrictions in this Paragraph VIII(A)(i)(2), the vice president of compliance may, on a case-by-case basis, approve an individual as an onsite reviewer if the vice president of compliance determines that the proposed onsite reviewer is otherwise qualified to conduct the review, provided that no exceptions may be made with respect to the restrictions in Paragraph VIII(A)(i)(1). Any such approval must be documented by the vice president of compliance with an explanation for the reasons of the approval and included in the quarterly report to the Independent Monitor, who shall include an evaluation of such matters in the annual report to the U.S. Contact.

- ii. Certain requirements regarding Onsite Compliance Reviews are set forth in Exhibit C to this Order.
- iii. Franchise Group shall require all onsite reviewers to create a written record (for use by Franchise Group's compliance department and to be provided to the Independent Monitor) indicating and describing the nature and extent of any non-compliant customer file reviewed.
- iv. To evaluate the performance and sufficiency of Franchise Group's Onsite Compliance Reviews, one individual (either the Independent Monitor or a staff member employed by the Independent Monitor) will accompany

onsite reviewers on a sufficient sample of Onsite Compliance Reviews to evaluate their performance and sufficiency, provided that the Independent Monitor (or staff member employed by the Independent Monitor) shall observe the Onsite Compliance Reviews but shall not conduct any reviews as part of its work. The Independent Monitor shall determine the number of Onsite Compliance Reviews to observe, with the expectation that the Independent Monitor (or staff member employed by the Independent Monitor) shall observe a sufficient number of reviews to be able to evaluate the effectiveness of the onsite reviewers and that the number of Onsite Compliance Review visits observed by the Independent Monitor shall be no less than twenty (20). The Independent Monitor and Franchise Group's compliance department shall coordinate in advance regarding the scheduling of the reviews to be observed. Franchise Group may not inform any Liberty Tax Service store in advance that the Independent Monitor (or staff member employed by the Independent Monitor) will attend an Onsite Compliance Review.

- v. Franchise Group will provide the Independent Monitor the results of each Onsite Compliance Review each quarter during the Monitoring Period, including:
 - 1. A spreadsheet summarizing the findings of all Onsite Compliance Reviews;
 - 2. A description of any compliance deficiencies;

3. The names, social security numbers, and all available contact information of Liberty Tax Service customers whose returns were reviewed;
 4. The tax year(s) involved;
 5. The identity of the preparer of each return reviewed, including the preparer's name and Preparer Tax Identification Number ("PTIN");
 6. The Electronic Filing Identification Number ("EFIN") used to file each reviewed return;
 7. Any actions taken by Franchise Group as a result of each Onsite Compliance Review; and
 8. Copies of all documents created by the onsite reviewer that memorialize his/her findings/review, including all documents described in Paragraph VIII(A)(iii) above.
- B. For no less than sixty (60) months following entry of this Order, Franchise Group shall conduct Mystery Shopper Visits at Liberty Tax Service stores as follows:
- i. Individuals conducting Mystery Shopper Visits: Mystery Shopper Visits shall be conducted by individuals who reasonably will be perceived by Liberty Tax Service store personnel as a potential customer. For the avoidance of doubt, Franchise Group may engage a third-party provider of mystery shoppers.
 - ii. All Mystery Shopper Visits must occur during the Filing Season.

- iii. Certain requirements regarding Mystery Shopper Visits are set forth in Exhibit C to this Order.
- iv. Franchise Group's compliance department shall require all individuals conducting Mystery Shopper Visits to create a written record (for use by Franchise Group's compliance department and to be provided to the Independent Monitor) describing the results of each Mystery Shopper Visit.
- v. Franchise Group shall provide the Independent Monitor the results of each Mystery Shopper Visit each quarter during the Monitoring Period, including:
 - 1. A description of any compliance deficiencies found by the mystery shoppers, including copies of the written record created by the mystery shopper for each visit;
 - 2. The identity of the preparer of the mystery shopper's tax return, including the preparer's name and PTIN;
 - 3. The EFIN used to prepare the tax return; and
 - 4. Any actions taken by Franchise Group as a result of each Mystery Shopper Visit.

IX. Enhancements to Internal Controls.

- A. Automatic Holds: For no less than sixty (60) months following entry of this Order, Franchise Group shall maintain certain Automatic Holds on the transmission of federal tax returns to the IRS prepared at any Liberty Tax Service store to verify the accuracy of the tax return. Except as provided in Exhibit D,

Franchise Group shall not transmit to the IRS any automatically held tax return unless it obtains certain required information and it confirms the accuracy of the tax return. Any tax return subject to an Automatic Hold shall not be considered a “stockpiled” return within the meaning of IRS Publication 1345.

- i. Franchise Group shall provide to the Independent Monitor a summary at least every quarter during the Monitoring Period documenting for each Automatic Hold: (1) whether Franchise Group obtained the required confirmation for each Automatic Hold and if so describing that confirmation; and (2) any instance when Franchise Group did not receive sufficient confirmation, the PTIN of the tax return preparer who prepared that tax return, the EFIN used to transmit the return, the tax year of the return, and the customer’s social security number.
 - ii. For no less than sixty (60) months following entry of this Order, in addition to any Automatic Holds selected by Franchise Group’s compliance department, the Automatic Holds applied by Franchise Group shall, at a minimum, include the holds specified in Exhibit D to this Order, which also describes the information required to confirm the accuracy of the tax returns subject to such holds.
- B. Red Flag/Fraud Alerts: For no less than sixty (60) months following entry of this Order, Franchise Group shall maintain a system of automated Red Flag/Fraud Alerts as follows:
- i. Franchise Group shall use all Red Flag/Fraud Alerts that it applied as of January 2018, and shall not reduce the threshold under which any existing

Red Flag/Fraud Alerts were applied as of January 2018, unless a written justification for any change is provided by the vice president of compliance to the Independent Monitor, who shall address its evaluation of the reasonableness of such change in the annual report to be provided to the U.S. Contact.

- ii. All Red Flag/Fraud Alerts shall require a response by the franchisee (or its delegate), or by the store manager for any Company-Owned Store, which response shall include information or supporting documentation necessary to address the alert.
 1. Franchise Group shall require the response to any Red Flag/Fraud Alert to occur within three (3) business days of the alert. If Franchise Group does not transmit a return to the IRS pending review of any response to a Red Flag/Fraud Alert, such return shall not be considered a “stockpiled” return within the meaning of IRS Publication 1345.
 2. Within thirty (30) days of any response to a Red Flag/Fraud Alert, Franchise Group’s compliance department shall review the response and supporting documentation provided by the Liberty Tax Service store necessary to address the alert (including relevant portions of customer files) to evaluate whether further action or investigation may be appropriate.
 3. Franchise Group’s compliance department shall document the results of this review, including any findings, a written evaluation

of any documents provided by the Liberty Tax Service store in response to the alert, the PTIN appearing on the reviewed tax return, the EFIN used to transmit the tax return, the customer's social security number, the tax year(s) involved, and any actions taken by Franchise Group as a result of the alert response.

4. The Independent Monitor shall evaluate the compliance department's documented reviews of responses to Red Flag/Fraud Alerts, and shall address its evaluation of the reasonableness of such reviews in the annual report to be provided to the U.S.

Contact.

- C. Controls against unauthorized modification to tax returns: Within six (6) months after entry of this Order (and for no less than the remainder of the sixty (60) months following entry of this Order), Franchise Group shall implement the following policies to prevent improper and/or unauthorized changes to tax returns after customers sign completed tax returns:

- i. Franchise Group shall require that all Liberty Tax Service stores separately document any change to a tax return after a customer initially signs the tax return if the change involves amounts that differ by more than the threshold amounts of "Total Income," "AGI," "Total tax," "Federal income tax withheld," "Refund," or "Amount you owe" permitted in IRS Publication 1345, or if the fees charged to the customer are changed after the customer initially signs the tax return.

- ii. For any changes required to be documented pursuant to Paragraph IX(C)(i), Franchise Group shall require that the Liberty Tax Service store obtain a hand-signed signature from the customer on a form describing and authorizing each such change to the tax return or fees charged, which signature shall be retained with the customer file (either in hardcopy form or electronic copy if the customer file is retained in an electronic format) at the Liberty Tax Service store for no less than three (3) years.
- iii. Any tax preparation software used by Franchise Group shall track any changes made to a tax return after the customer initially signs the return. The compliance department shall use that data as part of its Onsite Compliance Reviews and other compliance activities to ensure that Liberty Tax Service stores are obtaining and retaining signatures as required pursuant to Paragraph IX(C)(ii). Franchise Group shall also review each hand-signed signature form referenced in Paragraph IX(C)(ii) as described in Exhibit E to this Order.
- iv. Franchise Group's compliance department shall provide a summary of the results of these reviews to the Independent Monitor each quarter during the Monitoring Period. For any tax return or fee change without proper documentation, Franchise Group shall provide the Independent Monitor with a description of the changes to the return or fees, the PTIN used on the tax return, the tax year of the return, the EFIN used to transmit the tax return, and social security number of the customer. Franchise Group shall also document and report to the Independent Monitor any actions

Franchise Group took upon finding any unauthorized changes to a customer tax return or fees.

- D. Preparer Blacklist: For no less than sixty (60) months following entry of this Order, Franchise Group shall maintain a program for blacklisting preparers to prevent individuals identified as higher risk for preparing false or fraudulent federal tax returns at Liberty Tax Service stores as follows:
- i. Franchise Group's compliance department shall maintain record keeping measures and procedures to document the basis for blacklisting a preparer, or removing a blacklisted preparer from the list.
 - ii. Blacklisted tax return preparers shall include all tax return preparers:
 1. Who worked for any Liberty Tax Service franchisee that Franchise Group terminated, due in whole or in part, to findings of fraud or violations of tax law;
 2. Who owned or partially-owned a Liberty Tax Service franchise that Franchise Group terminated, due in whole or in part, to findings of fraud or violations of tax law;
 3. Who worked for any Liberty Tax Service franchisee that had an Electronic Filing Identification Number ("EFIN") revoked by the IRS (unless the EFIN is reinstated); or
 4. Who worked for any Liberty Tax Service franchisee that was enjoined by a U.S. District Court pursuant to 26 U.S.C. §§ 7402, 7407, or 7408.

Any such preparers blacklisted by Franchise Group cannot be removed from the Preparer Blacklist, unless the removal from the Preparer Blacklist is approved by the vice president of compliance (with a written explanation and any relevant documentation justifying removal from the Preparer Blacklist, which documentation shall include the name, contact information of the preparer, and the preparer's PTIN). Such written explanation must be provided in the quarterly submissions to the Independent Monitor, who shall include an evaluation of the vetting process employed by Franchise Group's compliance department to remove individuals from the Preparer Blacklist, and an evaluation of any decisions to remove individuals from the Preparer Blacklist, in its annual report to the U.S. Contact.

- iii. Removal of any tax return preparer from the preparer blacklist shall require Franchise Group to document its vetting process for removal, which shall include, at a minimum:
 1. A documented review by the compliance department of statistics related to returns prepared by the tax return preparer that are relevant to determine whether the tax return preparer engaged in the preparation of false or fraudulent returns. Such statistics shall include tax returns described in Exhibit D of this Order.
 2. If the compliance department concludes that the tax return preparer should be removed from the preparer blacklist based on the statistical review described in Paragraph IX(D)(iii)(1) (and does

not review customer files for tax returns prepared by the tax return preparer in reaching that conclusion), a written explanation for why no such review of customer files was undertaken.

3. A documented review by the compliance department of no less than the lesser of (i) twenty (20) randomly selected customer files or (ii) the customer files for all tax returns prepared by the tax return preparer, to determine whether the tax return preparer engaged in the preparation of false or fraudulent returns. This requirement of Paragraph IX(D)(iii)(3) to review customer files in order to remove a preparer from the blacklist only applies where, during the most recent filing season, twenty-five percent (25%) or more of the total number of tax returns prepared by that individual at Liberty Tax Service stores claimed a refundable tax credit (*i.e.*, a tax return preparer subject to this Paragraph IX(D)(iii)(3) cannot be removed from the preparer blacklist based only on a statistical review as described in Paragraph IX(D)(iii)(2)).
 4. A finding by the compliance department that the tax return preparer did not engage in the willful, reckless, or negligent preparation of false or fraudulent returns, and that the tax return preparer complied with any applicable record retention regulations.
- E. Schedule A deductions: Franchise Group shall permanently require all Liberty Tax Service stores to collect and retain copies of all documentation used to support items reported on Schedule A.

- F. Schedule C tax returns with claims for tax credits.
- i. As a permanent requirement under this Order, Franchise Group shall inform all Liberty Tax Service store managers, franchisees, and their tax return preparers that in addition to complying with all federal tax laws and regulations, they may not prepare and transmit federal income tax returns for filing with the IRS that claim Schedule C income or expenses in combination with a claim for a tax credit unless the Liberty Tax Service customer can prove the existence of the Schedule C business for the tax year at issue. Franchise Group shall permanently maintain and implement a policy that failure to comply with this requirement shall be grounds for termination of any such Liberty Tax Service store employee's employment (if the store is owned by Franchise Group) or franchisee's franchise agreement.
 - ii. For no less than sixty (60) months, Franchise Group shall instruct all Liberty Tax Service stores that the information contained in Exhibit B (which shall be disclosed to all Liberty Tax Service store managers, franchisees, and their tax return preparers) must be used to document the existence of a business.
 - iii. For no less than sixty (60) months, at least once every twelve (12) months, Franchise Group shall require every store manager of a Liberty Tax Service store, and every tax return preparer, to review and confirm that each has read and fully understood the contents of Exhibit B, and to

maintain copies of such confirmations (either in hard copy or electronic form) for no less than five (5) years.

- iv. For no less than sixty (60) months, Franchise Group shall require each Liberty Tax Service store to retain all records the tax return preparer relied upon as proof that the Schedule C business exists and proof for the income and expenses reported for the Schedule C business.
- v. For no less than sixty (60) months, Franchise Group shall require each Liberty Tax Service store to prepare and maintain a list of all returns for which any record reconstruction procedures are utilized, which list shall include the names, zip code and the social security numbers associated with the return, as well as the name and PTIN of the preparer. Such list can be maintained through Franchise Group's tax return preparation software.

- G. For no less than sixty (60) months, any Company-Owned Store must have at least one actively licensed certified public accountant in good standing, actively enrolled agent in good standing, actively licensed attorney in good standing, or professional tax return preparer (as described in 26 CFR § 301.7701-15) with at least three (3) years of experience available to oversee the preparation of tax returns at each store location. To the extent that is not practicable (i) for any Company-Owned Store owned by Franchise Group as of the date of entry of this Order, during the 2020 or 2021 Filing Seasons, or (ii) for any Company-Owned Store acquired by Franchise Group after the date of entry of this Order for the first two Filing Seasons following such acquisition, Franchise Group shall have one or

more such individuals available to oversee the preparation of tax returns at each store location, with such oversight to be provided remotely and through regular on-site visits to each store location throughout the Filing Season. In addition, for each Company-Owned Store for which this Filing Season exception applies, Franchise Group will remotely review the lesser of fifteen (15) or 50% of the federal income tax returns that each such Company-Owned Store transmitted during the previous day that claimed a refundable tax credit. Franchise Group will document these remote reviews and provide the documentation to the Independent Monitor. No individual may serve in this capacity if, based on inquiry by Franchise Group, he/she: (1) was assessed any penalty under 26 U.S.C. §§ 6694, 6695, 6700, 6701, 6707, 6708 or any other penalty provision of the Internal Revenue Code applicable to return preparation activities; (2) was assessed any penalty under 26 U.S.C. § 6662(a) for underpayments described in § 6662(b)(6) or (b)(7); (3) was assessed any penalty under 26 U.S.C. §§ 6662A, 6663, 6702, or 6707A; (4) was assessed any penalty under 31 U.S.C. § 5321 for willful violations of the individual's 31 U.S.C. § 5314 obligations; (5) has not filed a Form 1040, U.S. Individual Income Tax Return, for the past five (5) tax years in violation of Title 26 of the U.S. Code; or (6) has more than \$5,000 of outstanding federal tax liabilities and has not entered into an installment plan with the IRS to pay such outstanding liabilities.

H. Area Developers

- i. For no less than sixty (60) months, all new area developers shall be actively enrolled agents in good standing, actively licensed certified public

accountants in good standing, or lawyers in good standing. New area developers may also be professional tax return preparers (as described in 26 CFR § 301.7701-15) with at least five (5) years of experience.

- ii. Franchise Group shall permanently refrain from engaging any individual as a new area developer who, based on inquiry by Franchise Group: (1) was assessed any penalty under 26 U.S.C. §§ 6694, 6695, 6700, 6701, 6707, 6708 or any other penalty provision of the Internal Revenue Code applicable to return preparation activities; (2) was assessed any penalty under 26 U.S.C. § 6662(a) for underpayments described in § 6662(b)(6) or (b)(7); (3) was assessed any penalty under 26 U.S.C. §§ 6662A, 6663, 6702, or 6707A; (4) was assessed any penalty under 31 U.S.C. § 5321 for willful violations of the individual's 31 U.S.C. § 5314 obligations; (5) has not filed a Form 1040, U.S. Individual Income Tax Return, for the past five (5) tax years in violation of Title 26 of the U.S. Code; or (6) has more than \$5,000 of outstanding federal tax liabilities and has not entered into an installment plan with the IRS to pay such outstanding liabilities.

X. Training Requirements.

A. At all Company-Owned Stores:

- i. For no less than sixty (60) months, Franchise Group shall require that all live tax preparation training of employees be conducted by lawyers, CPAs, enrolled agents, or individuals with at least five (5) years' experience as either a professional tax return preparer (as described in 26 CFR § 301.7701-15) or trainer of others to prepare federal tax returns.

Notwithstanding these conditions, the vice president of compliance may, on a case-by-case basis, approve an individual as a trainer if the vice president of compliance determines that the proposed trainer has the skill and background to qualify to train individuals to prepare federal income tax returns, and provides written documentation supporting such determination to the Independent Monitor, who shall include an evaluation of the same in its next annual report to the U.S. Contact.

- B. Franchise Group shall permanently refrain from engaging any trainer for tax return preparers who, based on inquiry by Franchise Group: (1) was assessed any penalty under 26 U.S.C. §§ 6694, 6695, 6700, 6701, 6707, 6708 or any other penalty provision of the Internal Revenue Code applicable to return preparation activities; (2) was assessed any penalty under 26 U.S.C. § 6662(a) for underpayments described in § 6662(b)(6) or (b)(7); (3) was assessed any penalty under 26 U.S.C. §§ 6662A, 6663, 6702, or 6707A; (4) was assessed any penalty under 31 U.S.C. § 5321 for willful violations of the individual's 31 U.S.C. § 5314 obligations; (5) has not filed a Form 1040, U.S. Individual Income Tax Return, for the past five (5) tax years in violation of Title 26 of the U.S. Code; or (6) has more than \$5,000 of outstanding federal tax liabilities and has not entered into an installment plan with the IRS to pay such outstanding liabilities.
- C. For no less than sixty (60) months, the substance of all video training programs for tax return preparation training provided by Franchise Group shall be prepared by lawyers, CPAs, enrolled agents, or individuals with at least five (5) years' experience preparing federal tax returns or training others to prepare federal tax

returns, provided that the video training programs may be presented by any person selected by Franchise Group. Franchise Group shall permanently refrain from engaging any individual from serving in either capacity if, based on inquiry by Franchise Group, he/she: (1) was assessed any penalty under 26 U.S.C. §§ 6694, 6695, 6700, 6701, 6707, 6708 or any other penalty provision of the Internal Revenue Code applicable to return preparation activities; (2) was assessed any penalty under 26 U.S.C. § 6662(a) for underpayments described in § 6662(b)(6) or (b)(7); (3) was assessed any penalty under 26 U.S.C. §§ 6662A, 6663, 6702, or 6707A; (4) was assessed any penalty under 31 U.S.C. § 5321 for willful violations of the individual's 31 U.S.C. § 5314 obligations; (5) has not filed a Form 1040, U.S. Individual Income Tax Return, for the past five (5) tax years in violation of Title 26 of the U.S. Code; or (6) has more than \$5,000 of outstanding federal tax liabilities and has not entered into an installment plan with the IRS to pay such outstanding liabilities.

- D. Franchise Group shall implement measures to ensure prospective preparers do not cheat on tests used by the company, including:
- i. Warnings to preparers and prospective preparers that cheating will result in blacklisting;
 - ii. Warnings to all Liberty Tax Service store personnel that failure to report cheating to Franchise Group's compliance department will result in blacklisting; and
 - iii. Written verification to Franchise Group (in hardcopy or by electronic means) by both the prospective preparer and franchise owners (or in the

case of Company-Owned Stores, the store manager) verifying compliance with Franchise Group's training requirements.

- XI. Franchise Agreements: Franchise Group shall be permanently required to include in all future franchise agreements the following terms.
- A. Any new franchisee who is not an actively enrolled agent in good standing, actively licensed certified public accountant in good standing, actively licensed lawyer in good standing, or an individual with at least three (3) years' experience as a professional tax return preparer (as described in 26 CFR § 301.7701-15), shall be required to retain an actively enrolled agent in good standing, actively licensed certified public accountant in good standing, actively licensed attorney in good standing, or individual with at least four (4) years' experience as either a professional tax return preparer (as described in 26 CFR § 301.7701-15) or trainer (consistent with the terms described in Paragraph XI.B. below) of others to prepare federal tax returns as a full-time employee between December to May with tax compliance oversight responsibilities over tax return preparers during their first two (2) years that they operate any Liberty Tax Service store.
- B. Franchise Group shall require that all live tax preparation training of employees be conducted by lawyers, CPAs, enrolled agents, or individuals with at least five (5) years' experience as either a professional tax return preparer (as described in 26 CFR § 301.7701-15) or trainer of others to prepare federal tax returns. No individual may serve as a trainer for tax return preparers if based on inquiry by Franchise Group, he/she: (1) was assessed any penalty under 26 U.S.C. §§ 6694, 6695, 6700, 6701, 6707, 6708 or any other penalty provision of the Internal

Revenue Code applicable to return preparation activities; (2) was assessed any penalty under 26 U.S.C. § 6662(a) for underpayments described in § 6662(b)(6) or (b)(7); (3) was assessed any penalty under 26 U.S.C. §§ 6662A, 6663, 6702, or 6707A; (4) was assessed any penalty under 31 U.S.C. § 5321 for willful violations of the individual's 31 U.S.C. § 5314 obligations; (5) has not filed a Form 1040, U.S. Individual Income Tax Return, for the past five (5) tax years in violation of Title 26 of the U.S. Code; or (6) has more than \$5,000 of outstanding federal tax liabilities and has not entered into an installment plan with the IRS to pay such outstanding liabilities.

- C. Franchisees shall be required to submit any blank forms they intend to use with customers to gather information for use on or in preparing a tax return for approval by the vice president of compliance prior to use of any such forms with a customer.
- D. All franchisees shall be required to provide to Franchise Group's compliance department the following:
 - i. Notification within five (5) business days of discovery of any federal or state audits of tax returns prepared at a franchise location, inquiries by federal or state authorities arising from the preparation of any tax return or the sale of any product at a franchise location;
 - ii. Notification within five (5) business days of discovery of any assessment of any penalty for violation of tax law or tax regulations by any owner or individual employee arising from the preparation of a tax return, including

but not limited to an such findings by the IRS or any state tax authority;

and

- iii. Copies of any written notification or correspondence from/to the federal or state authorities referenced in Paragraphs XI(D)(i) or (ii) above.

E. All franchisees shall be required to disclose the identity and contact information to Franchise Group of all partial owners or active/silent partners, including any individuals or entities with any financial interest in the franchise. No prospective franchise owner or active/silent partner may be added to a franchise agreement unless such person has first delivered to Franchise Group written documentation confirming that such person has satisfied IRS suitability to obtain (or be associated with) an EFIN.

F. No person who prepares or supervises the preparation of federal tax returns at Liberty Tax Service stores shall be permitted to undertake such activities unless such person has an active PTIN.

XII. Whistleblower Program: Franchise Group shall permanently be required to maintain multiple methods to encourage employees, franchisees, and franchisee employees to report suspected fraudulent activity.

A. The vice president of compliance shall have a budget during the sixty (60) month term of this Order from which he/she may grant discretionary cash awards to whistleblowers whose tips provide specific and actionable information leading to the discovery of potential or actual fraudulent activity and that permits Franchise Group to sanction or otherwise take action against the perpetrators, including, without limitation, termination of the franchisee(s) involved.

- B. All whistleblower complaints alleging tax preparation fraud or misconduct, or otherwise making allegations of potential tax fraud, will be forwarded to the Independent Monitor within thirty (30) days after Franchise Group receives the complaint during the Monitoring Period.
- C. The Independent Monitor will forward to the U.S. Contact any complaints he/she deems warrant further investigation by Franchise Group, including a description of all actions taken by Franchise Group in response to a complaint during the Monitoring Period.

XIII. Mandatory Notifications to Third Parties.

- A. Within fifteen (15) days following entry of this Order, Franchise Group shall distribute the notification attached to this Order as Exhibit A to every area developer, franchise owner, and store manager of any Company-Owned Store. Franchise Group. For no less than sixty (60) months, Franchise Group shall also distribute Exhibit A to any individuals or entities that become new Liberty Tax Service franchisees or area developers prior to execution of the franchise/area developer agreement. For no less than sixty (60) months, Franchise Group shall require every franchise owner or store manager to distribute Exhibit A to every tax return preparer employed at each Liberty Tax Service store as follows:
 - i. At least once every twelve (12) months, Franchise Group shall require every store manager of a Liberty Tax Service store, and every tax return preparer, to review and confirm the details of Exhibit A, and to maintain copies of such confirmations (either in hard copy or electronic form) for no less than five (5) years.

ii. Any changes to Exhibit A must be approved by both Parties or this Court.

B. For no less than sixty (60) months, Franchise Group shall disclose to prospective purchasers (prior to any sale closing) of any existing Liberty Tax Service store or franchise territory the following information in Franchise Group's custody or control:

- i. Whether any Mystery Shopper Visits conducted at the store or within the franchise territory within the thirty-six (36) months prior to the proposed sale date identified any preparers who engaged in willful, reckless, or negligent preparation of false or fraudulent federal tax returns, or otherwise committed any violations of federal tax laws or regulations;
- ii. Whether any Onsite Compliance Reviews conducted at the store or within the franchise territory within the thirty-six (36) months prior to the proposed sale date identified any preparers who engaged in willful, reckless, or negligent preparation of false or fraudulent federal tax returns, or otherwise committed any violations of federal tax laws or regulations;
- iii. Whether any employees at the store or franchise territory were added to Franchise Group's preparer blacklist within twenty-four (24) months of the proposed sale date; and
- iv. Copies of all Red Flag/Fraud Alerts sent by Franchise Group to any store within the franchise territory within the twenty-four (24) months prior to the proposed sale date.

XIV. Financial Products.

- A. Franchise Group shall permanently refrain from providing any financing or other financial support of any kind to a franchisee of any Liberty Tax Service store for any “Cash in a Flash” incentives, or other similar incentive programs, unless the franchisee agrees that it will only provide such incentives to tax return customers who provide all documentation required by law for the preparation and filing of their returns, including:
- i. All Forms W-2 for any customer who reports wage income, provided that a paystub may be accepted in situations where the customer has been unable to secure and provide a Form W-2 and the date is February 1 (of the year after the tax year) or later;
 - ii. All Forms W-2R, W-2G, 1099, or 1099R, unless the customer is unable to secure and provide these forms and the date is February 1 (of the year after the tax year) or later;
 - iii. All Forms 1098-T if claiming an education credit;
 - iv. All documentation the tax return preparer relies upon to document the existence of a Schedule C business (*see Exhibit B*);
 - v. All documents to substantiate any claim of a qualifying child, such as school records/statements, landlord/property management statements, healthcare provider statements, medical records, placement agency statements, social service records/statements, or Indian tribal official statements;

- vi. All documents to substantiate any claim of a disabled dependent, such as statements by a medical doctor or other healthcare provider, or statements of social service agencies or program statements; and
 - vii. All documentation the tax return preparer relies upon when completing due diligence requirements for the Earned Income Tax Credit, American Opportunity Tax Credit, Child Tax Credit (including the Additional Child Tax Credit), Credit for Other Dependents, Head-of-Household Status, or any reporting item that requires due diligence review as set forth on an IRS Form 8867.
- B. Franchise Group shall permanently refrain from providing any financing or other financial support of any kind to a franchisee of any Liberty Tax Service store for any “Cash in a Flash” incentives, or other similar incentive programs, unless such franchisee agrees that:
- i. It will not recoup any sums disbursed to a customer as “Cash in a Flash,” or similar cash incentive, by increasing the fee that it charges the customer for preparation of the customer’s tax return; or
 - ii. If any sums disbursed to a customer as “Cash in a Flash,” or similar cash incentive, is recouped by increasing the fee charged to the customer for preparation of the customer’s tax return, the store will clearly disclose this fact in writing before disbursing any “Cash in a Flash” or similar cash incentive to the customer.
- C. Franchise Group shall inform all franchisees and store managers of Company-Owned Stores of Paragraph XIV’s terms in this Order.

XV. Miscellaneous.

- A. Social Security Numbers: In any case where this Order requires Franchise Group to provide reports including the social security numbers associated with particular returns prepared by Liberty Tax Service, Franchise Group may redact all but the last four digits of any social security number so long as Franchise Group agrees to assist the IRS in identifying the taxpayer(s) associated with the relevant tax return if additional information is required for that purpose. For purposes of this Order, the term social security number means a social security account number described in 26 U.S.C. § 6109(d), an individual taxpayer identification number described in 26 U.S.C. § 6109(i), or any other taxpayer identifying number described in 26 U.S.C. § 6109.
- B. Hand-Signed Signatures: In any case where this Order requires hand-signed signatures, such signatures may be obtained either (i) in physical form on hard-copy paper or (ii) electronically on an electronic signature pad or similar electronic signature-recording device.
- C. Designation of Amounts Paid to Come Into Compliance with Law: Expenses incurred by Franchise Group to undertake compliance measures required by this Order, including amounts paid by Franchise Group to the Independent Monitor, shall be treated as expenses incurred by Franchise Group in the ordinary course of business to come into compliance with the law, and shall not be subject to the limitation set forth in 26 U.S.C. § 162(f)(1).

IT IS FURTHER ORDERED that, this Order constitutes the final judgment in this action without the entry of findings of fact or conclusions of law.

IT IS FURTHER ORDERED that the Court will retain jurisdiction over this action for purpose of implementing and enforcing this Order and any additional orders necessary and appropriate to the public interest.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Signed this _____ day of _____, 2019.

Raymond A. Jackson
United States District Judge

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United States Attorney

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