

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
SMART TAX OF NORTH CAROLINA,	)	Case 5:07-cv-00125-FL
INC.,	)	
d/b/a Jackson Hewitt Tax Services,	)	
FARRUKH SOHAIL,	)	
ADEEL ALI, and	)	
JOHN WIZNER,	)	
	)	
Defendants.	)	

**STIPULATED PERMANENT INJUNCTION AND FINAL JUDGMENT**  
**AGAINST DEFENDANTS**  
**SMART TAX, ALI, AND WIZNER**

The United States has filed a complaint seeking a permanent injunction under 26 U.S.C. §§ 7402, 7407, and 7408 against defendants Smart Tax of North Carolina, Inc. (Smart Tax of North Carolina), Farrukh Sohail, Adeel Ali, and John Wizner. Defendant Sohail will agree to an injunction against him, which will be entered in the United States District Court for the Northern District of Georgia. Additionally, Sohail has agreed to dispose of his interest in Smart Tax of North Carolina, Inc. within 45 days of entry of this order. Accordingly the United States and Sohail are separately stipulating to dismissal with prejudice of the

Government's complaint against Sohail in this case.

The remaining defendants ("defendants") consent to the entry of this permanent injunction. Defendants understand that this permanent injunction constitutes the final judgment in this matter, and waive the entry of findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure. This order completely resolves the issues between Plaintiff and Defendants in North Carolina and nothing in this order confers upon any person not a party to this order any rights or remedies.

Defendants waive the right to appeal from this stipulated injunction. Defendants further understand and agree that the Court will retain jurisdiction over this matter for the purposes of implementing and enforcing this injunction.

### **ORDER**

**IT IS ORDERED THAT** defendants Smart Tax of North Carolina, Ali, and Wizner, and anyone acting in concert with them who has actual notice of this injunction, are enjoined for five years from the date of this order under I.R.C.

§§ 7402 and 7407 from:

- a. engaging in conduct subject to penalty under IRC § 6694, including preparing federal income tax returns that assert or contain frivolous positions, that contain or assert unrealistic positions that are not disclosed (within the meaning of

§ 6662(d)(2)(B)(ii)) on the return, or that contain or assert positions that willfully or recklessly understate a customer's liability as set forth under § 6694(b).

- b. knowingly and intentionally instructing, advising, or assisting customers to understate their federal tax liabilities on federal tax returns;
- c. engaging in any other activity subject to penalty under IRC § 6694;
- d. engaging in any activity subject to penalty under IRC § 6695, including failing to satisfy the earned income credit due-diligence requirements under § 6695(g) (and the accompanying Treasury regulations);
- e. preparing and filing federal tax returns based on information known or suspected to be fraudulent, such as claiming false dependents, using suspicious or fraudulent W-2s, reporting income or deductions or losses from sham businesses;
- f. engaging in conduct subject to penalty under IRC § 6701, including preparing, or helping others to prepare, any tax forms or other documents to be used in connection with any material matter arising under the internal revenue laws which the defendant or defendant's employee knows will (if so used) result in the understatement of another person's tax liability;
- g. misrepresenting the terms of this injunction to employees, customers, or prospective customers;
- h. instituting or enforcing policies that Smart Tax of North Carolina will not challenge or question customers (at some point before such customers' returns are filed with the IRS) who present to preparers suspicious or fraudulent information;
- i. refraining from teaching preparers basic fraud-detection

techniques; and

- j. providing assistance to employees, during the administration of the test, in taking any test that employees must pass in order to be a Smart Tax of North Carolina return preparer, or allowing someone else take the test for a Smart Tax employee.

**IT IS FURTHER ORDERED** pursuant to I.R.C. § 7402 that defendant Smart Tax of North Carolina shall institute the following measures and keep them in place for a minimum of three years from the date of this order:

(a) Smart Tax of North Carolina will implement annual training for all its employees to familiarize them, before they prepare (or supervise the preparation of) any tax returns, with applicable laws, rules, and regulations pertaining to such matters as the claiming of dependents, eligibility for various tax filing statuses (and in particular the limits on claiming head-of-household status), eligibility for (and due-diligence requirements pertaining to) the earned income credit, child credit, educational credits, fuel tax credits, and rules pertaining to deductions for home-based businesses. The training shall include familiarizing employees with the requirements of this injunction, and about the consequences of violating it. The training will also explain the role of Jackson Hewitt Tax Service Inc.'s ("Jackson Hewitt") Chief Tax Compliance Officer (CTCO), give all trainees the Jackson Hewitt

tax compliance “hotline” telephone number and contact information for Smart Tax of North Carolina’s Tax Compliance Officer Designee, and explain that any employee who observes suspicious or illegal conduct at Smart Tax of North Carolina should report it to the Smart Tax of North Carolina Tax Compliance Officer Designee and/or the Jackson Hewitt tax compliance “hotline.” The training will also make clear that any employee making such a report to the Smart Tax of North Carolina Tax Compliance Officer Designee and/or the Jackson Hewitt tax compliance “hotline” will be protected from retaliation by defendants for doing so.

(b) Smart Tax of North Carolina’s EITC-due-diligence training shall include, but not be limited to:

- (1) how to detect and stop EITC fraud before returns are prepared and filed, including but not limited to procedures to detect bogus W-2 forms, identify false dependent information, and identify incorrect filing status;
- (2) mandatory training sessions before each tax season providing instruction to all return preparers and supervisors on the EITC-due-diligence-procedures in Treas. Reg. § 1.6695-2(b), IRC § 6695(g);
- (3) administering mandatory examinations to all return preparers

before each tax season, testing their knowledge of the EITC due-diligence procedures in Treas. Reg. 1.6695-2(b) and IRC § 6695(g); and

(4) the design and application of a supervisory quality control enforcement mechanism to ensure all preparers are adhering to the EITC due diligence procedures in Treas. Reg. 1.6695-2(b) and IRC § 6695(g).

(c) Smart Tax of North Carolina will give the IRS, Jackson Hewitt Tax Services, Inc. and the independent monitor (referred to below) at least 72 hours advance e-mail notice of the time(s) and location(s) of all employee training and testing required by this injunction, and permit them to attend and observe without prior notice any or all such training and testing. The independent monitor will provide reports to Smart Tax of North Carolina and counsel for the United States from time to time on the implementation of such training and testing. The monitor will promptly report to Smart Tax of North Carolina and counsel for the United States any significant irregularities observed in training or testing procedures.

(d) Smart Tax of North Carolina shall ensure that all its retail tax preparation offices have adequate working photocopy machines to enable employees to

copy and maintain customer records, including copies of documents customers provide that are reasonably necessary to substantiate their entitlement to EITC and any other tax credit or deduction (photocopying of voluminous records related to tax deductions shall not be required); and

**IT IS FURTHER ORDERED** that defendant Smart Tax of North Carolina shall, for three years from the date of this order, perform the following fraud detection / due diligence measures when preparing federal income tax returns for customers:

(a) Smart Tax of North Carolina shall take reasonable steps to verify a customer's employment, as reported on W-2 forms, before submitting the tax return to Jackson Hewitt for filing with the IRS (such steps could include, but are not limited to, one or more of the following steps—calling the employer, reviewing a recent pay stub/wage statement the customer received from the employer, asking the customer questions about his or her employment);

(b) Smart Tax of North Carolina shall maintain a customer file for each Smart Tax customer;

(c) Smart Tax of North Carolina shall post prominently at its offices (and kiosks if permitted by the kiosk lease) signs warning that fraud will be reported to law-enforcement authorities with no return filed;

(d) Smart Tax of North Carolina shall require customers to produce government-issued identification before preparing the customer's tax return. Smart Tax of North Carolina shall make copies of customers' identification and maintain the copies in that customer's file;

(e) Smart Tax of North Carolina shall require social security cards, an acceptable government-issued equivalent identification, a birth certificate, or an acceptable healthcare record for all dependents being claimed by customers, showing the necessary relation between the customer and the dependent, before preparing the customer's tax return, unless a social security card is already on file with Smart Tax because the customer is a returning customer. Smart Tax of North Carolina shall further require each customer to write by hand on a piece of paper names of all claimed dependents and their relationship to the customer. The Smart Tax preparer shall then sign and date the paper and ensure that it is placed in the customer's file. Smart Tax of North Carolina shall also confirm that the social security number on any provided social security card or other identification or record matches the social security number for the dependent claimed on the tax return;

(f) Smart Tax of North Carolina shall require all customers filing as "Head of Household" to complete in their own handwriting a paper Head of Household



checklist (in a form agreed to by Smart Tax of North Carolina and counsel for the United States) before the customer's return is filed. All customers claiming Head of Household status on their return must complete and sign the checklist, certifying that they satisfy all requirements for Head of Household status. The Smart Tax preparer shall then sign and date the checklist and ensure that it is placed in the customer's file;

(g) Smart Tax of North Carolina shall ensure that its preparers do not suggest to customers that documentation supporting or substantiating return information, such as W-2 forms, receipts, and expense logs, are not necessary;

(h) Smart Tax of North Carolina shall alert the IRS by sending an e-mail to \*LDC@irs.gov within 72 hours of encountering any suspicious, questionable, or fraudulent activity or return information. The e-mail or other communication shall describe the nature of the activity and/or return information, and any known social security numbers associated with the customer or return information. Smart Tax shall maintain the emails or communications sent pursuant to this provision for four years from the date of this order. The records of these communications shall be made available on request to the IRS or Department of Justice Tax Division.

(i) When a customer seeks to change or re-file a tax return because the return was not accepted by the IRS, Smart Tax of North Carolina shall require the customer to physically appear at a Smart Tax store to verify, through government-issued identification, any new dependents or social security number(s) being provided by the customer and/or the claimed dependent, and fill out a new handwritten dependent form and/or Head of Household checklist as described above. However, this paragraph does not apply to situations in which Smart Tax committed a typographical error (such as misspelling a customer's name or incorrectly transcribing the customer's social security number) that can be confirmed, verified, and corrected using copies of the customer's identification documents already on file with Smart Tax;

(j) Smart Tax of North Carolina shall not base employee compensation or bonuses on the mere number of returns prepared by employees or on the number or percentage of returns prepared showing tax overpayments; and

(k) Smart Tax of North Carolina shall instruct its employees not to accept without question customer worksheets or customers' handwritten or oral information, but rather will require its employees to make reasonable inquiries in the face of questionable, suspicious, inconsistent, incomplete, or

possibly fraudulent information.

**IT IS FURTHER ORDERED** that nothing in this injunction shall prohibit any enjoined party from accepting for tax filing purposes, credible information from a taxpayer which the accepting party does not know to be false.

**IT IS FURTHER ORDERED** that, for all customers for whom Smart Tax of North Carolina prepares federal income tax returns during the period from December 1, 2007 through April 30, 2008, Smart Tax of North Carolina will provide the customer with a one-page summary of this injunction before their return is prepared. The summary will state that any customer who wishes to see a copy of the injunction may receive one from Smart Tax of North Carolina on request. The content and form of the one-page summary must be approved by counsel for the United States by November 15, 2008.

Smart Tax shall also post an enlarged copy of the summary in every store in a location that is visible to all customers and employees in the store.

**IT IS FURTHER ORDERED** that Smart Tax of North Carolina shall institute for three years mandatory criminal background checks for all employees and shall not employ any individual whom the background check shows to have been convicted of a felony in the past seven years or ever convicted of a felony involving violent crime, dishonesty/fraud or tax evasion, or any person who the

background check shows to have been convicted of a misdemeanor involving dishonesty/fraud or tax evasion in the past seven years.

**IT IS FURTHER ORDERED** that Smart Tax of North Carolina will implement controls for supervising and monitoring tax preparation readiness testing and certifications with respect to such monitoring.

**IT IS FURTHER ORDERED** that Smart Tax of North Carolina will review tax preparation and return data during the tax-preparation season to identify anomalous patterns in tax-preparation activities that should be subject to further scrutiny, and Smart Tax of North Carolina will implement a system to investigate and respond promptly to any concerns raised by Jackson Hewitt with respect to any anomalous patterns in Smart Tax of North Carolina tax-preparation activities that Jackson Hewitt identifies through its own compliance efforts.

**IT IS FURTHER ORDERED** that Smart Tax of North Carolina shall retain an independent monitor for one year. The monitor will be a qualified tax professional, whose appointment shall be subject to the approval of the United States. The independent monitor shall be paid up to \$10,000 per year by Smart Tax of North Carolina to undertake the following activities and report on them on a quarterly basis (or more often as appropriate) to Smart Tax of North Carolina and counsel for the United States:

- (a) monitoring Smart Tax's training of its employees to ensure that all employees receive training as set forth in this Order; and
- (b) monitoring the administration of every tax preparer readiness test given by Smart Tax of North Carolina that must be passed by employees before employees can prepare any customer's tax return.

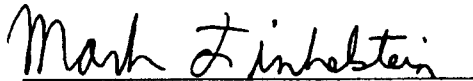
**IT IS FURTHER ORDERED** that Smart Tax of North Carolina and/or the independent monitor shall provide to counsel for the United States, on request, copies of all records and reports mandated by this Order. Failure to do so within ten days of such request will constitute a violation of this Order.

**IT IS FURTHER ORDERED** that the Court retains jurisdiction to enforce this injunction and the United States may engage in post-judgment discovery to monitor defendants' compliance with this injunction.

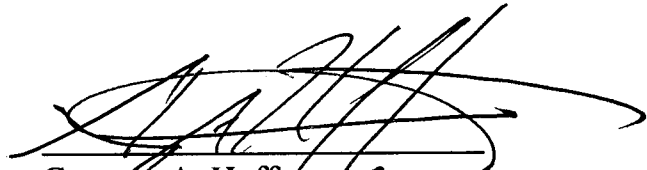
**IT IS FURTHER ORDERED** that this Order shall serve as a final judgment in this matter, with each party to bear its own costs.

Consented and Agreed to:

GEORGE E.B. HOLDING  
United States Attorney



Mark Finkelstein  
Smith Moore LLP  
PO Box 27525  
Raleigh, NC 27611  
Telephone: (919) 755-8819  
Mark.Finkelstein@smithmoorelaw.com  
NC Bar # 13187  
Counsel for All Defendants



Grayson A. Hoffman  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 7238  
Washington, DC 20044  
Telephone: (202) 616-2904  
Facsimile: (202) 514-6770  
Grayson.A.Hoffman@usdoj.gov  
VA Bar # 73726  
Counsel for the United States

SO ORDERED:

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JUDGE LOUIS WOOD FLANAGAN  
U.S. DISTRICT JUDGE

Dated this \_\_\_\_ day of \_\_\_\_\_, 2007.