

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,	)
	)
Plaintiff,	) CASE NO.
	)
vs.	) COMPLAINT FOR PERMANENT
	) INJUNCTION AND OTHER
DANIEL L. PREWETT; FRANCES CARLSON;	) EQUITABLE RELIEF
ELIZABETH GEORGE; NATALIE SWANEY;	)
ELSIE CHOUINARD;	)
SIMPLE FINANCIAL SOLUTIONS;	)
JH ACCOUNTING SERVICES, and	)
JH INVESTMENT SERVICES	)
	)
Defendants.	)
_____	)

The plaintiff, the United States of America, complains and alleges against defendants Daniel L. Prewett, Frances Carlson, Elizabeth George, Natalie Swaney, Elsie Chouinard, Simple Financial Solutions, JH Accounting Service, and JH Investment Service, as follows:

1. This is a civil action brought by the United States pursuant to sections 7402(a), 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) (“IRC”) to enjoin defendants and anyone in active concert or participation with them from:
  - a. Acting as federal tax return preparers or requesting, assisting in, or directing the preparation and/or filing of federal tax returns for any person or entity other than themselves;
  - b. Representing anyone before the Internal Revenue Service;
  - c. Engaging in conduct subject to penalty under IRC § 6694;
  - d. Engaging in conduct subject to penalty under IRC § 6695, including failing to exercise due diligence in determining eligibility for the Earned Income Tax Credit (EITC);

- e. Engaging in activity subject to penalty under IRC § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that the defendants know would, if used, result in an understatement of another person's tax liability; and
- f. Engaging in any other conduct subject to any penalty under the Internal Revenue Code or any conduct that interferes with the administration and enforcement of the internal revenue laws.

### **Jurisdiction**

2. This suit is brought under IRC §§ 7402, 7407, and 7408 to enjoin defendants from preparing federal income tax returns for others, engaging in any activity subject to penalty under IRC §§ 6694, 6695, or 6701, and engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

3. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28, United States Code, and IRC §§ 7402(a), 7407, and 7408.

4. Venue is proper under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to this claim occurred in this judicial district.

### **Defendants**

5. Prewett, Chouinard, George, and Swaney reside in Sarasota, Florida, within this judicial district.

6. Carlson resides in Bradenton, Florida, within this judicial district.

7. Simple Financial Solutions, JH Accounting Services, and JH Investment Services conduct business at offices located at 5753 Beneva Road, Sarasota, Florida, within this judicial district.

### **Defendants' Background**

8. Before 1984, Daniel L. Prewett was self-employed in New York State and conducted business as an insurance salesman, financial consultant, and tax advisor through related entities called the Cash Management Company ("CMC"), Empire Management ("EM"), and the International Insurance Group ("IIG").

9. In connection with the IIG business, Prewett induced nineteen people to purchase insurance policies and continue to pay premiums on those contracts when, in fact, no insurance company existed, and no valid policies were ever issued. Prewett defrauded his customers by converting their payments for his own use. He was caught and pled guilty to twelve counts of a seventeen-count indictment for grand larceny and insurance fraud. *People v. Prewett*, 126 A.D.2d 86 (N.Y. App. Div. 1987). Prewett also pled guilty to making false statements to a federal officer related to tax-return information under 18 U.S.C. § 1001.

10. As part of the same scheme, Prewett forged checks and converted funds paid to him from EM and CMC customers related to his services as a financial and tax advisor. *See Hanrahan v. Albany County Probation Dep't*, 119 A.D.2d 334 (N.Y. App. Div. 1986); *Zelikofsky v. Prewett*, 124 A.D.2d 418 (N.Y. App. Div. 1986); *Heffernan v. Norstar Bank of Upstate New York*, 125 A.D.2d 887 (N.Y. App. Div. 1986).

11. Many of Prewett's EM and CMC customers filed civil suits against him, alleging that they were defrauded, and sought restitution of the payments made to Prewett. *See Hanrahan v. Albany County Probation Dep't*, 119 A.D.2d 334 (N.Y. App. Div. 1986); *Zelikofsky v. Prewett*, 124 A.D.2d 418 (N.Y. App. Div. 1986).

12. Prewett was incarcerated and ordered to pay \$120,000 restitution as a term of probation. Following his release from prison, Prewett started negotiating the purchase of a Jackson Hewitt tax return preparation franchise in the Sarasota, Florida area.

13. In 1990, Prewett traveled to Florida, among other places, in order to research the purchase of the Jackson Hewitt franchise. In March 1990, Prewett was arrested in New York for violating his parole by traveling to Florida, and for failing to pay restitution related to the 1984 grand-larceny conviction.

14. On June 21, 1993, Prewett, posing as his associate and childhood friend Allan Scott, submitted an application to Jackson Hewitt Tax Service, Inc. of Parsippany, New Jersey, to purchase two Jackson Hewitt franchises in the Sarasota, Florida area. On the application, Prewett signed Allan Scott's name and falsely reported that Scott was self-employed, having terminated his (Scott's) employment with the New York State Division of Real Estate Development. On the same form, Prewett falsely stated that Scott resided in Sarasota, Florida, and had experience preparing federal income tax returns. Contrary to the statements made on the application forms filed with Jackson Hewitt, Prewett was, in fact, describing his own background rather than Scott's and simply listed Scott's name on the forms as Prewett's nominee.

15. On information and belief, Prewett used Scott's name and Social Security number on Prewett's application forms to conceal Prewett's past criminal convictions from Jackson Hewitt and to facilitate the purchase of the Jackson Hewitt franchises under false pretenses.

16. On October 7, 1993, a corporation that Prewett had recently created Simple Financial Solutions, Inc., ("SFS"), purchased the two Jackson Hewitt franchises from Jackson

Hewitt, Inc. The check used to pay for the franchises was signed by Prewett's wife, Elizabeth George, and drawn on an account held by Prewett.

17. Prewett signed Allan Scott's name on all SFS incorporating documents that were filed with the Secretary of State of Florida. Those documents list Scott as the sole shareholder and director of SFS, but Scott never participated in the management or operations of SFS. Scott was merely the nominee of alter ego of Prewett. Elizabeth George was the only other corporate officer listed on SFS's corporate filings. Prewett was the true owner and director of SFS, but concealed his ownership and management of the corporation.

18. Prewett signed Scott's name on the franchise agreement between Jackson Hewitt Tax Service and SFS. The agreement required SFS to prepare only *individual* state and federal income tax returns, not corporation, partnership, or other returns.

19. In June 1997, Prewett formed JH Accounting Services, Inc., for the purpose of preparing income tax returns for partnerships, corporations, and other entities. JH Accounting Services' articles of incorporation listed 5777 Beneva Road, Sarasota, Florida, as the entity's address. That was the address where the SFS Jackson Hewitt franchise operated. Allan Scott was not listed as an officer of JH Accounting Services. Rather, Prewett was listed as the president, secretary, and treasurer of JH Accounting.

20. In September 1997, Prewett formed a third corporation, Jackson Hewitt Investment Services, Inc., ("JHIS"). He did not obtain permission from Jackson Hewitt Tax Services, Inc. for JHIS to use the name "Jackson Hewitt" in the corporation's name. JHIS shared the same offices as the SFS Jackson Hewitt franchise. JHIS was purportedly organized to promote various tax, financial, and real estate investments to Prewett's customers. The

corporate documents filed with the Florida Secretary of State list Prewett as JHIS's vice-president, secretary, director, and treasurer. Prewett forged Allan Scott's signature on the JHIS corporate filing documents. Scott was never aware that he was listed as an officer of JHIS.

21. Prewett named his investment company "Jackson Hewitt Investment Services," and the related accounting firm "JH Accounting Services," to cause customers to believe the companies were affiliated with or approved by Jackson Hewitt Tax Service, Inc., the franchiser. Similarly, Prewett further misled customers by operating JH Accounting and JHIS at the SFS Jackson Hewitt franchise location, 5777 Beneva Road, Sarasota, Florida. Later, when Jackson Hewitt Tax Services, Inc, the franchiser, learned of Prewett's arrest on charges of alleged drug dealing and money laundering, Jackson Hewitt Tax Services ordered Prewett to remove the name "Jackson Hewitt" from the name of JHIS because JHIS was not authorized to use the name "Jackson Hewitt." In response, Prewett changed JHIS's name from "Jackson Hewitt Investment Services" to "JH Investment Services." It remains in business using that name today.

22. After forming SFS, JH Accounting, and JHIS, Prewett employed defendants Carlson, Swaney, and Chouinard, as income tax preparers. Since then, these defendants and Prewett, SFS, JH Accounting, and JHIS have acted in concert to prepare false income tax returns for customers in to fraudulently eliminate or reduce their customers' reported income tax liabilities.

23. To promote himself and his businesses (SFS, JH Accounting, and JHIS), Prewett made numerous false claims to prospective customers about his education and experience. For example, Prewett falsely boasted to customers that he held a Ph.D. degree and was an attorney licensed in New York and Florida.

24. From at least 2002 on, Prewett and George supervised employees who worked at SFS, JH Accounting, and JHIS, including the other individual defendants and seasonal employees. Swaney began working for Prewett and his three corporations in early 2003. She is a licensed Certified Public Accountant.

25. From 2002 until Prewett's arrest on drug-dealing and money-laundering charges in late 2006, the SFS Jackson Hewitt franchise prepared approximately 7,500 individual federal income tax returns annually. Many of the individual income tax returns that the defendants prepared falsely and fraudulently understated the customers' tax liabilities. Those understatements were not caused by loose controls or carelessness; the defendants intentionally made the understatements in a concerted and willful effort to help their customers under-report their income and their tax liabilities.

26. Defendants prepared false and fraudulent Schedules A and C for federal income tax returns prepared for their customers, and also bogus claims for refundable tax credits.

27. Defendants also prepared corporate and partnership federal income tax returns containing bogus and false information.

28. Defendants helped SFS Jackson Hewitt customers organize partnerships and corporations in order to improperly reduce or eliminate the customers' reported tax liability. To accomplish this, defendants fraudulently deducted expenses on corporate, partnership, or entity tax returns. Defendants then improperly claimed the same deductions on the customers' individual income tax returns. For example, as part of the scheme, defendants reported payments from the corporation or partnership on Schedule C of customers' individual income tax returns, but reported amounts less than the deduction taken on the corporate or partnership

tax return. For example, defendants reported a deduction and payment for wages from the S corporation in the amount of \$63,164, but reported only \$25,255 of income on the same customer's form 1040 on the line reporting income from S corporation. Next, defendants fraudulently reduced their customer's reported individual income tax liability by deducting the same expenses on Schedule C that were already claimed as business expenses for the related corporations. For the same customer's tax return described above, defendants deducted, among other things, \$40,543 for "car & truck" expenses and then deducted \$29,250 for the same expense on Schedule C of the customer's individual income tax return for the same business.

29. In many cases, the duplicate expenses claimed on both the entity and individual tax returns were fraudulent because they were deductions for personal expenses with no valid business purpose. In other words, the expenses were not deductible even once, much less twice.

30. For example, one of defendants' customers, a dentist working in the Sarasota area with \$860,967 in adjusted gross income for 2001, reported \$204,901 of tax due and owing on his 2001 individual income tax return, which was prepared by another preparer, before he retained defendants' services. After the dentist had defendants prepare his 2003 tax return, he reported adjusted gross income of \$331,896 but reported only \$4,779 of income tax due. Defendants fraudulently reduced this customer's 2003 reported income tax liability as follows:

- a. During a five-minute discussion, the dentist told Prewett that he wanted to purchase, but could not afford, a 47' yacht valued at \$781,650." Prewett told the customer that he could afford the purchase if he deducted the cost of the vessel as a business expense.
- b. Thereafter, defendants prepared and Frances Carlson personally delivered to the dentist a limited liability corporation (LLC) agreement" for a sham entity to be used to fraudulently deduct the cost of the yacht. The LLC agreement listed the dentist, his wife, and his two children as the sole members of the LLC. Prewett was named as the LLC's registered agent.



The LLC's purported business address was the same address as Prewett's SFS Jackson Hewitt franchise.

- c. In February 2003, the customer obtained a loan in his own name and purchased the yacht. The customer then fraudulently conveyed the yacht to the sham LLC in November 2003, but did not transfer the title and loan-repayment obligations to the LLC. The transfer agreement, prepared by Prewett, stated that the customer was entitled to use the yacht 50% of the time for personal purposes. But the yacht was used solely for personal pleasure, and the LLC had no valid business purpose. Consequently, the customer could not legally deduct any part of the yacht purchase or related expenses. IRC §§ 162 and 262.
- d. On the LLC's 2003 federal income tax return, defendant Carlson deducted \$200,955 of depreciation and interest expenses associated with the purchase of the yacht. In addition, defendants deducted 100% of the operating costs associated with the yacht as business expenses, even though it was used exclusively for personal purposes.
- e. Next, defendants prepared a Schedule K-1 for the LLC to issue to the customer, which stated that the customer was entitled to \$98,473 as his *pro rata* share of expenses associated with the LLC for 2003. But the customer's 2003 federal income tax return reported a \$199,054 deduction with respect to the sham business.
- f. When audited by the IRS, the customer acknowledged that the defendants had claimed deductions on the return related to non-deductible, personal expenses. This customer further agreed that he under-reported and underpaid his 2003 tax liability by \$198,572, and was liable for penalties totaling \$53,375. The SFS Jackson Hewitt franchise also prepared his 2004 federal income tax return, claiming similar improper deductions. When audited by the IRS, the customer agreed that he under-reported and underpaid his 2004 income tax liability by \$198,415, and was liable for penalties totaling \$17,907.

31. After being questioned about his fraudulent tax preparation practice by the IRS, Prewett admitted that he helped customers form over 1,000 sham LLCs similar to the one used to purchase the customer's yacht as described above in paragraph 30. In each instance, Prewett charged customers to form the sham entity, and then directed them to transfer personal assets to the entity. Thereafter, Prewett or his staff fraudulently reduced the customers' reported tax

liabilities by improperly deducting costs associated with personal non-business assets and activities as business expenses.

32. Prewett also misrepresented to the sham-LLC customers that JH Accounting Services held a valid license to perform accounting services in Florida.

33. Some time before April 22, 2003, JH Accounting Services applied for a firm license to practice public accounting under the false representation that Natalie Swaney, rather than Prewett owned JH Accounting. The Florida Board of Accountancy issued a license to the JH Accounting on April 22, 2003, based on that false representation.

34. As early as 2002, however, Prewett falsely represented that JH Accounting Services was a licensed accounting firm, and the firm performed audits before the license was issued. On February 18, 2003, the Florida Board of Accountancy received a complaint against Natalie Swaney and JH Accounting indicating that an audit had been completed in 2002 showing numerous errors. In response, Swaney filed an affidavit executed by Prewett stating that he had completed the audit described in the complaint, and had signed Swaney's name without her knowledge and consent. On June 10, 2004, JH Accounting Services's firm license to practice public accounting was revoked. Swaney was reprimanded by the Florida Board of Accountancy and was order to pay costs related to the complaint filed against her.

35. In October of 2006, state law enforcement officers arrested Prewett, who was charged with participating in a cocaine-distribution ring and laundering drug money through JHIS. The arrest and charges were widely publicized and, on information and belief, shortly thereafter came to the attention of Jackson Hewitt Tax Services, Inc. Shortly after that, Jackson Hewitt Tax Services, Inc. pressured Scott and Prewett to cause SFS sell its Jackson Hewitt

franchises by December 1, 2006. SFS did sell the franchises by that date, and thereafter has not operated as a Jackson Hewitt franchise. Prewett fled the country after his arrest, but was caught in Italy and is there awaiting extradition to the United States.

36. After numerous lawsuits were filed against Prewett, Elizabeth George filed documents with the Florida Secretary of State to remove Prewett's name as an officer of SFS, JH Accounting Services, and JHIS. In December 2006, Elsie Chouinard formed Round the Clock Accounting ("Round the Clock"), an entity that purchased the assets of JH Accounting. On information and belief, Prewett advised and assisted Chouinard in forming Round the Clock to perpetuate the same schemes he had previously used to defraud the IRS, using her as his alter ego. The sales agreement states that Chouinard paid \$1,000 for the JH Accounting business, and that she will pay Prewett an additional \$199,000 through an installment agreement.

37. Carlson, Chouinard, and Swaney continue to prepare income tax returns for customers. Prewett and George continue to manage and direct SFS, JH Accounting, and JH Investment Services in order to continue their tax-fraud scheme.

#### **I. Defendants' Fraudulent Income Tax Return Preparation**

38. From 1995 on, Prewett operated several Jackson Hewitt stores within the Sarasota area, along with his wife, Elizabeth George. From 2002 on, Prewett, George, and the remaining defendants' tax-preparation business for individuals, partnerships, and corporations has focused on improperly reducing their customers' reported income tax liabilities by preparing and filing false income tax returns.

39. Defendants' fraudulent tax preparation activities include filing false individual, partnership, and corporate tax returns for at least the past four years. During that period,

defendants actively encouraged, advised, and instructed their employees to prepare tax returns that understated income, inflated expenses, and included false claims for the earned income tax credit (EITC).

40. For customers who had only individual income tax returns prepared by Prewett's Jackson Hewitt franchise, defendants prepared Schedules A and Schedules C that included fictitious or inflated expenses to reduce or eliminate the customers' wage income. These customers typically were low-to-moderate income earners living in the Sarasota area. In 2004, Prewett described the practice at the SFS Sarasota Jackson Hewitt franchise by stating: "we can be as aggressive as you want to be on your taxes." Elsie Chouinard clarified that being "aggressive" meant that if a customer's tax return reported taxes owing, additional false expenses were added to eliminate the amount of tax due, or to show a refund, because their customers "would not accept" paying taxes. In addition, at a gathering of Prewett's and SFS's employees, Frances Carlson stated that when customers were close to the EITC income threshold limits, she improperly directed employees to "put away the 1099 income statement they received, and not to include that in income," which allowed the customers improperly to claim the maximum EITC.

41. Defendants also prepared for customers individual and entity income tax returns with duplicate expenses claimed on both returns. This pattern was repeated numerous times by each of the defendants.

42. Example 1: on March 30, 2005, Elsie Chouinard prepared a federal income tax return for an S corporation related to the customer's landscaping business, which reported a distribution to the customer in the amount of \$13,141. On the S corporation's 2004 federal

income tax return defendant Chouinard deducted expenses related to sham “offices” and “telephone” expenses. Chouinard also prepared this customer’s individual 2004 income tax return, which included a Schedule C showing that the customer operated a landscape business, but was self-employed. Despite the \$13,141 payment to the customer reported on the S corporation’s return, the customer’s individual return reported that he received only \$3,006 from the S corporation. In addition, the Schedule C claimed bogus business deductions related to the purported “business use” of the customer’s home.

43. Example 2: on March 10, 2005, Chouinard prepared a 2004 federal income tax return for an S corporation related to a customer’s construction business, which reported a payment to payment to the customer in the amount of \$26,132. The same customer’s individual 2004 tax return, prepared by Prewett, reported a distribution from the S corporation in the amount of \$1,699. On the customer’s S corporation’s 2004 return, Chouinard also deducted “car & truck” expenses, “telephone,” “utilities,” “internet services,” and “office expenses.” On the customer’s individual 2004 return, Prewett deducted the same “car & truck” expenses, “office expenses,” and “utilities” on Schedule C. The Schedule C reported gross receipts in the amount of \$21,991, which was actually part of the distribution paid from the S corporation. In addition, Prewett and Chouinard omitted \$2,440 of income ( $\$26,132 - \$21,991 - \$1,699 = \$2,440$ ).

44. Example 3: on April 12, 2005, Natalie Swaney prepared a 2004 federal income tax return for an S corporation related to a customer’s wall-covering business, which reported a distribution to the customer in the amount of \$24,456. On the S corporation’s return Swaney deducted “office,” “telephone,” and “car & truck” expenses. The same customer’s 2004 individual return reports no income from an S corporation. But on the return’s Schedule C,

gross receipts are reported for the same wall-covering business in the amount of \$19,140, omitting \$5,316. In addition, the same expense deductions are repeated on the customer's individual tax return, for the same business, leaving net income of \$14,958.

45. The same pattern described in Examples 1-3, above is repeated on numerous other returns the defendants prepared. In each case, defendants omit income on the customer's individual income tax return that is reported as paid to them on the entity return. Defendants also falsely and fraudulently reduced customers' tax liability by claiming the same deductions on the corporate and individual income tax returns.

46. Additional examples of defendants' fraudulent misstatements of their customers' income include:

**2004-2005 Tax Year**

Amount Reported Paid to Shareholder on Form 1120S	Corporate Return Preparer	Amount Reported as S Corp. Income on Form 1040	Individual Income Tax Return Preparer
\$67,737	Carlson	\$7,248	Tellia
\$16,685	George	\$0	Prewett
\$51,100	Swaney	\$0	Prewett
\$61,031	Carlson	\$5,953	Prewett
\$21,000	Carlson	(\$1,021)	Carlson

\$63,164	Carlson	\$25,255	Carlson
\$20,589	Carlson	(\$27,310)	Carlson
\$144,635	Carlson	\$27,070	Carlson
\$115,306	Carlson	(\$38,953)	Carlson

47. In addition, defendants improperly report the distribution paid from the customers' corporation as "gross receipts" on Schedule C, rather than S corporation income as required. Defendants' method of improperly characterizing that income also has the effect of falsely and fraudulently reducing, or eliminating in some case, the customer's reported employment tax obligations. That is, since the defendants cause the distribution paid from the corporation to be mischaracterized as gross receipts, FICA or FUTA taxes are not paid on those amounts. *See* IRC § 3102.

## **II. Defendants' False & Deceptive Conduct**

48. Defendants also engaged in false and deceptive conduct in dealing with their customers and the IRS.

49. On nearly every individual federal income tax return that the defendants prepared, they listed Daniel Prewett as the customers' "third-party designee" for the IRS to contact with questions. When IRS audits were initiated, Prewett filed IRS Form 2848, "Power of Attorney" forms falsely declaring under penalty of perjury that he was an attorney licensed to practice law in Florida and New York. Prewett's misrepresentation of his qualifications to both his customers and the IRS is false and deceptive conduct subject to injunction under IRC § 7407(b)(1)(B).

50. During an IRS audit of another customer's individual income tax return, an IRS revenue agent questioned Swaney and Prewett about the customer's ability to pay his substantial personal expenses, since, although he was a physician, he had reported only \$37,000 of taxable

income for 2003. Prewett and Swaney had no explanation for the discrepancy, and concealed from the revenue agent the fact that the customer was the 100% shareholder of his medical practice, which had significant income. The revenue agent's investigation further revealed that the corporate medical practice was improperly paying and deducting the customer's non-deductible personal expenses, including legal fees associated with his divorce, the cost of his automobile, and his sport boat. None of this was reported on the customer's income tax return. Swaney told the revenue agent that Swaney "did not want to complicate the audit" by disclosing the customer's interest in the corporation.

### **III. Defendants' Tax-Fraud Scheme Fraudulently Reduced Customers' Income Tax Liabilities**

51. Since at least 1999, Prewett has actively encouraged, advised, and instructed customers to create fictitious businesses to claim non-deductible personal expenses as valid business expense deductions.

52. Prewett engaged in this unlawful conduct as an owner and officer of SFS, JH Accounting, and JHIS. In that role, Prewett boasted having significant experience related to business and tax law, and charged customers to form LLCs as a mechanism to illegally reduce or eliminate their reported federal tax obligations.

53. During an interview with the IRS, Prewett admitted that he had set up thousands of LLCs for customers and charged significant sums for those services.

54. As part of the scheme, Prewett targets wealthy people such as physicians and dentists.

55. In one case, Prewett organized an LLC for a dentist who worked in the Sarasota area (not the yacht-owning dentist described in paragraph 30, above). The address listed on the



LLC's incorporating document was the same as Prewett's SFS Jackson Hewitt franchise. On the LLC's income tax returns defendant Swaney claimed deductions for the dentist's vacation home, motorcycles, ATVs, boats, and other personal assets that had no business purpose.

56. The false businesses the defendants report on their customers' income tax returns are bogus entities created to help evade federal income taxes by falsely deducting personal expenses as purported business expenses.

### **Defendants' Knowledge the Tax-Fraud Schemes**

57. Defendants know the federal income tax returns they prepare for customers fraudulently reduce their customers' reported tax liabilities.

58. Defendants know that their customers are not allowed to deduct personal expenses on their federal income tax returns.

59. Defendants also know that their customers have been the subject of IRS audits because the income tax returns they prepared contain false and fraudulent information.

### **Harm to the Public**

60. The tax-fraud schemes that defendants promote, and their fraudulent income tax return preparation services harm the government by fraudulently reducing their customers' reported tax liabilities.

61. The IRS is harmed because it must dedicate scarce resources to detecting and examining inaccurate returns filed by defendant's customers, prepare substitute returns for customers failing to file tax returns, and attempt to recover unpaid taxes.

62. The IRS estimates that defendants have caused losses to the Treasury exceeding

\$80 million since 1994.

63. The IRS further estimates that the tax losses attributable to the fraudulent tax returns prepared for partnerships, corporations and other entities might exceed \$50 million since 1994.

64. Thus, the total estimated tax losses attributable to the defendants' fraudulent tax return preparation activities exceeds \$130 million.

65. For defendants' customers whose fraudulent returns the IRS has identified, the IRS must audit them, review and respond to correspondence, request that they file correct returns, assess penalties, and collect the amount due. This effort is required for each return filed.

66. In addition to the harm caused by defendants' preparation of tax returns that understate their customers' tax liabilities, defendants' activities undermine public confidence in the administration of the federal tax system and incite noncompliance with the internal revenue laws.

67. Defendants' customers have been harmed because they have paid defendant fees to prepare tax returns that understate their correct federal income tax liabilities. Customers who receive erroneous refunds then must pay back the taxes plus interest. Regardless of whether the IRS issues a refund, customers may have to pay penalties and some customers could also face criminal prosecution.

68. The IRS estimates that during 2001 the difference between the amount of taxes paid by U.S.-taxpayers, and the amount that should have been paid, equaled \$345 billion. *See* <http://www.irs.gov/newsroom/article/0,,id=154496,00.html>. Tax-fraud schemes such as those promoted by defendant contribute to the under-reporting of taxes estimated in the report.

**Count I: Injunction under IRC § 7407 for violation of IRC §§ 6694 and 6695**

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

70. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin an income tax preparer from:

- a. engaging in conduct subject to penalty under IRC § 6694 (which penalizes a tax return preparer who prepares or submits a return that contains an unrealistic or frivolous position);
- b. engaging in conduct subject to penalty under IRC § 6695 (which penalizes a tax return preparer who fails to sign a return as a paid preparer or to furnish an identifying number on the return or to keep a list of customers or copies of tax returns and turn over the list or copies to the IRS upon request); or
- c. engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a federal income tax return preparer.

71. Defendants have prepared numerous federal income tax returns that included false or fraudulent deductions for non-deductible personal expenses and fictitious businesses. In so

doing, defendants unlawfully understated their customers' federal tax liabilities and asserted positions that they knew or reasonably should have known were unrealistic or frivolous within the meaning of IRC § 6694.

72. On some returns, defendants and their employees fail to sign their name as the income tax preparer, subjecting them to further penalty under IRC § 6695.

73. Defendants failed to exercise due diligence in determining their customers' eligibility for EITC, thereby subjecting them to penalty under IRC § 6695(g).

74. Prewett misstated his qualifications as an income tax preparer, thus subjecting him to an injunction under IRC § 7407(D).

75. Defendants' actions, as described above, are subject to the penalties listed in IRC § 7407(b)(1)(A) and (D), and are thus subject to being enjoined under IRC § 7407.

76. If they are not enjoined, defendants are likely to continue preparing and filing tax returns with false or fraudulent deductions, and using sham entities to evade the proper reporting and payment of tax.

**Count II: Injunction under IRC § 7408 for violation of IRC §§ 6700 and 6701**

77. The United States incorporates by reference the allegations in paragraphs 1 through 76.

78. IRC § 7408 authorizes a court to enjoin persons engaging in any conduct subject to penalty under IRC § 6701 from engaging in such conduct or any conduct subject to penalty under the Internal Revenue Code if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

79. Section 6700 imposes a penalty on any person who organizes or participates in

the sale of a plan or arrangement and in so doing makes a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by reason of participating in the plan or arrangement which that person knows or has reason to know is false or fraudulent as to any material matter.

80. IRC § 6701 imposes a penalty on any person who prepares or assists in the preparation of a return, affidavit, or other document that the person knows or has reason to believe will be used in connection with any material matter arising under the internal revenue laws, and that the person knows would result in an understatement of tax liability.

81. Defendants prepared false and fraudulent individual and entity income tax returns, LLC incorporating documents for fictitious businesses, individual income tax returns, and other documents containing false information. Defendants knew or had reason to believe that the returns they prepared would be used in connection with material matters arising under the internal revenue laws.

82. Defendants knew that the returns and other documents they prepared would result in understatements of their customers' tax liabilities because they knowingly deducted their customers' personal expenses on the customer's tax returns, false and fraudulently deducted the cost of yachts, automobiles, and other assets that had no business purposes, and prepared other documents that fraudulently inflated expenses reported on their customers' federal income tax returns.

83. Defendants organize fictitious partnerships and other entities to assist their customers in deducting as business expenses personal expenses that lack any business purpose.

84. Defendants knew or had reason to know that these statements were false or

fraudulent statements within the meaning of 26 U.S.C. § 6701.

85. If they are not enjoined, defendants are likely to continue organizing and selling these tax-fraud schemes.

**Count III: Injunction under IRC § 7402(a) for unlawful interference with the enforcement of the internal revenue laws**

86. The United States incorporates by reference the allegations of paragraphs 1 through 87.

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

88. Defendants, through their actions as described above, have engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

89. The federal income tax returns that defendants prepared for their customers improperly and illegally understated their customers' federal income tax liabilities.

90. If defendants are not enjoined from engaging in fraudulent and deceptive conduct, such as preparing false or fraudulent tax returns, the United States will suffer irreparable injury from revenue losses caused by defendants.

91. That irreparable injury outweighs the harm to defendants of barring them from acting as federal income tax preparers, in light of the egregious nature of defendants' conduct.

92. The public interest would be advanced by enjoining defendants because an injunction will stop their illegal conduct and the harm the conduct is causing to the United States Treasury.

93. If defendants are not enjoined, they are likely to continue to interfere with the enforcement of the internal revenue laws.

WHEREFORE, the United States prays as follows:

A. That the Court find that Daniel L. Prewett, Frances Carlson, Elizabeth George, Natalie Swaney, Elsie Chouinard, Simple Financial Solutions, JH Accounting Service, and JH Investment Service have continually and repeatedly engaged in conduct subject to penalty under IRC §§ 6694 and 6695, and have continually and repeatedly engaged in other fraudulent or deceptive conduct substantially interfering with the administration of the tax laws, and that a narrow injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court find that Daniel L. Prewett, Frances Carlson, Elizabeth George, Natalie Swaney, Elsie Chouinard, Simple Financial Solutions, JH Accounting Service, and JH Investment Service have engaged in conduct subject to penalty under IRC § 6701, and that injunctive relief under IRC § 7408 is appropriate to prevent a recurrence of that conduct;

C. That the Court find that Daniel L. Prewett, Frances Carlson, Elizabeth George, Natalie Swaney, Elsie Chouinard, Simple Financial Solutions, JH Accounting Service, and JH Investment Service have engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and IRC § 7402(a);

D. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Daniel L. Prewett, Frances Carlson, Elizabeth George, Natalie Swaney, Elsie Chouinard, Simple Financial Solutions, JH Accounting Service, and JH Investment Service, and all those in active concert or participation with them from:

- (1) Acting as federal tax return preparers or requesting, assisting in, or directing the preparation or filing of federal tax returns for any person or entity other than themselves;

- (2) Appearing as representatives on behalf of any person or organization before the Internal Revenue Service;
- (3) Understating customers' tax liabilities as penalized by IRC § 6694;
- (4) Failing to provide a tax identification number or sign tax returns for which defendants are tax-return preparers, and other conduct subject to penalty under IRC § 6695;
- (5) Engaging in activity subject to penalty under IRC § 6701, including preparing or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that they know would result in an understatement of another person's tax liability;
- (6) Organizing, promoting, marketing, or selling any tax shelter, plan or arrangement that advises or assists customers to attempt to violate the internal revenue laws or unlawfully evade the assessment or collection of their federal tax liabilities;
- (7) Falsely informing customers that they may continue to control and receive beneficial personal enjoyment from assets irrevocably transferred to partnerships, corporations, or other entities;
- (8) Falsely informing customers that their personal assets can be transferred to various business entities to be claimed personal expenses to reduce their federal tax liability; and
- (9) Engaging in any other conduct subject to any penalty under the Internal Revenue Code, or any conduct that interferes with the administration and enforcement of the internal revenue laws.

E. That the Court, pursuant to IRC §§ 7402(a), 7407, and 7408, enter an injunction requiring Daniel L. Prewett, Frances Carlson, Elizabeth George, Natalie Swaney, Elsie Chouinard, Simple Financial Solutions, JH Accounting Service, and JH Investment Service, within twenty days, to contact by United States Mail and, if an e-mail address is known, by e-mail, all persons for whom they and those in active concert with them prepared a federal tax return to inform them of the Court's findings concerning the falsity of their prior representations, and enclose a copy of the permanent injunction against them;



F. That the Court retain jurisdiction over Daniel L. Prewett, Frances Carlson, Elizabeth George, Natalie Swaney, Elsie Chouinard, Simple Financial Solutions, JH Accounting Service, and JH Investment Service, and over this action for the purpose of enforcing any permanent injunction entered against defendants;

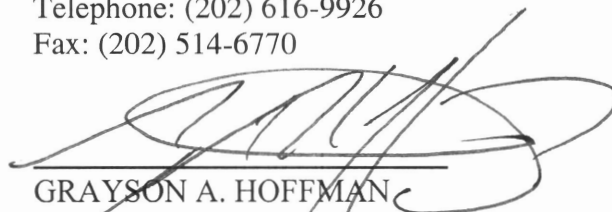
G. That the United States be entitled to conduct discovery for the purpose of monitoring defendants' compliance with the terms of any permanent injunction entered against them; and

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

JAMES R. KLINDT  
United States Attorney



THOMAS M. NEWMAN  
Trial Attorney, Tax Division  
United States Department of Justice  
Post Office Box 7238  
Washington, DC 20044  
Telephone: (202) 616-9926  
Fax: (202) 514-6770



GRAYSON A. HOFFMAN  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 7238  
Ben Franklin Station  
Washington, DC 20044  
Telephone: (202) 616-2904  
Facsimile: (202) 514-6770  
Grayson.A.Hoffman@usdoj.gov  
VA Bar # 73726