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18 UNITED STATES DISTRICT COURT
 19 CENTRAL DISTRICT OF CALIFORNIA
 20 WESTERN DIVISION

21 UNITED STATES OF AMERICA,)	Case No. CV 13-1052-MWF(Ex)
22 Plaintiff,)	ORDER OF PERMANENT INJUNCTION AGAINST HENOCK TEFERI, RUTH BERHANE, AND PLOVER FINANCIAL SERVICES LLC
23 vs.)	
24 HENOCK TEFERI, RUTH)	
25 BERHANE, PLOVER FINANCIAL)	
26 SERVICES, LLC (d/b/a Instant Tax)	
27 Service),)	
28 Defendants.)	

1 Pursuant to the Stipulation of Permanent Injunction Against Henock Teferi,
2 Ruth Berhane, And Plover Financial Services LLC, and all matters properly made
3 part of the record:

- 4 1. Defendants, without admitting any of the allegations in the complaint,
5 waive the entry of findings of fact and conclusions of law and voluntarily
6 consent to the entry of this permanent injunction without further notice and
7 agree to be bound by its terms.
- 8 2. Defendants admit that the Court has personal jurisdiction over them
9 pursuant to 28 U.S.C. §§ 1340 and 1345, and subject matter jurisdiction
10 pursuant to 26 U.S.C. §§ 7402(a), 7407(a) and 7408(a).
- 11 3. Defendants further understand and agree that:
 - 12 a. This Agreed Order of Permanent Injunction will be entered under
13 Fed. R. Civ. P. 65 and will result in the entry, without further notice,
14 of a Final Judgment in this matter;
 - 15 b. Defendants waive the right to appeal from this Agreed Order of
16 Permanent Injunction;
 - 17 c. The Parties will bear their own costs, including any attorneys' fees or
18 other expenses of this litigation;
 - 19 d. The Court will retain jurisdiction over this matter for the purpose of
20 implementing and enforcing this Agreed Order of Permanent
21 Injunction;
 - 22 e. If Defendants violate this Injunction, Defendants may be subject to
23 civil and criminal sanctions for contempt of court;
 - 24 f. The United States may conduct full post judgment discovery to
25 monitor compliance with this Injunction.
 - 26 g. Entry of this Agreed Order of Permanent Injunction does not resolve
27 nor precludes the government from pursuing any other civil matters
28 or proceedings, including penalties, or any current or future criminal

1 matters or proceedings, nor precludes the Defendants from contesting
2 liability in any matter or proceeding.

3 h. Plover and Defendants have separated from ITS Financial LLC and
4 TCA Financial LLC and are now operating a separate tax preparation
5 business from these entities. Plover terminated its franchise
6 agreement with ITS Financial LLC and is currently in litigation with
7 ITS Financial LLC.

8 **I. IT IS HEREBY ORDERED**, pursuant to I.R.C. §§ 7402, 7407 and 7408,
9 Defendants Teferi, Berhane and Plover, and any individual or entity acting
10 in active concert or participation with them, including representatives,
11 agents, servants, employees, and attorneys, are **PERMANENTLY**
12 **ENJOINED** from directly or indirectly, by use of any means or
13 instrumentalities from:

14 i. Engaging in conduct subject to penalty under 26 U.S.C. § 6701,
15 including aiding, instructing, assisting, encouraging, enabling,
16 inciting, or advising (or supervising or managing others who aid,
17 instruct, assist, encourage, enable, incite, or advise) with respect
18 to the preparation or presentation of any portion of a tax return,
19 claim, or other document, that Defendants know or have reason to
20 know will be used as to a material matter arising under federal tax
21 law, and will result in the understatement of the liability for tax of
22 another person;

23 ii. Aiding, instructing, assisting, encouraging, enabling, inciting, or
24 advising (or supervising or managing others who aid, instruct,
25 assist, encourage, enable, incite, or advise) taxpayers to understate
26 their federal tax liabilities or assert unreasonable, frivolous, or
27 reckless positions, or preparing or assisting in the preparation or
28 filing of tax returns for others that Defendants know (or have

1 reason to know) will result in the understatement of any tax
2 liability under 26 U.S.C. § 6662, or is subject to penalty under 26
3 U.S.C. § 6694;

4 iii. Knowingly and improperly aiding, instructing, assisting,
5 encouraging, enabling, inciting, or advising (or supervising or
6 managing others who improperly aid, instruct, assist, encourage,
7 enable, incite, or advise) customers to evade or avoid the
8 assessment or collection of their federal tax liabilities or to claim
9 improper tax refunds;

10 iv. Knowingly engaging in any activity subject to penalty under 26
11 U.S.C. § 6695, including failing to (or supervising or managing
12 others who fail to) exercise due diligence in determining
13 taxpayers' eligibility for the Earned Income Tax Credit;

14 v. Knowingly organizing, promoting, providing, advising, or selling
15 (or supervising or managing others who organize, promote,
16 provide, advise or sell) business or tax services that facilitate or
17 promote noncompliance with federal tax laws or regulations
18 administered by the Internal Revenue Service;

19 vi. Knowingly, directly or indirectly, accepting assistance from, or
20 assisting any person who is under disbarment or suspension from
21 practice before the Internal Revenue Service if the assistance
22 relates to a matter constituting practice before the Internal
23 Revenue Service; and

24 vii. Knowingly engaging in other conduct that substantially interferes
25 with the proper administration and enforcement of the internal
26 revenue laws.
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1 **II. IT IS FURTHER ORDERED** that Defendants and their employees and
2 agents shall, in their preparation of tax returns, in accordance with
3 applicable IRS rules and regulations:

- 4 i. Prepare and file tax returns reporting Schedule C income and
5 expenses only in instances when the customer substantiates with
6 proper documentation, the reported income and expenses prior to
7 the filing of the tax return;
- 8 ii. Retain in customer files a copy of all customer records and
9 documentation for at least five years that substantiate reported
10 Schedule C income and expenses reflected in tax returns they
11 prepare for their customers;
- 12 iii. Retain in customer files all records and documentation for at least
13 five years that substantiate deductions claimed in tax returns
14 prepared by Defendants.
- 15 iv. Retain in customer files all records and documentation for at least
16 five years that verify that claimed dependents and child care
17 credits on tax returns prepared for their customers meet all
18 qualifications for dependent status;
- 19 v. Verify and document the marital status of all customers for whom
20 Defendants prepare a tax return that claims head-of-household
21 status, as well as retain in customer files all records for at least
22 five years showing that these customers meet all requirements for
23 claiming head-of-household status;
- 24 vi. Retain in customer files all records and documentation, including
25 but not limited to Form 1098-T, for at least five years that both
26 substantiate all incurred education expenses reported on customer
27 tax returns in connection with any claim for education tax credits
28

1 and confirm that the customer qualifies for the education tax
2 credit;

- 3 vii. The terms “preparation” or “prepare” in this Order do not include
4 preparing a draft tax return for training purposes or marketing
5 purposes, such as giving a potential customer a general idea as to
6 the amount of his or her federal tax refund, or to estimate the cost
7 of preparing a tax return. If a draft tax return is signed by a
8 taxpayer or by the return preparer or any other individual
9 employed by Defendants, it shall be deemed to not be for training
10 or marketing purposes.

11 **III. IT IS FURTHER ORDERED** that Defendants or any entity they own or
12 operate shall, among their procedures for hiring tax preparers, conduct
13 background checks of all such individuals, including for criminal
14 convictions, and refrain from hiring anyone convicted of a felony relating to
15 fraud, theft or similar conduct, to act as a tax return preparer. In addition,
16 all tax preparers hired by Defendants also shall verify that their tax
17 preparers meet the requisite standards lawfully prescribed by the I.R.S. to
18 be designated a registered tax return preparer and possess a current and
19 valid preparer tax identification number.

20 **IV. IT IS FURTHER ORDERED** that Defendants and any entity they own or
21 operate, as well as their employees, are permanently enjoined from offering
22 any loan or refund advance product that is not a RAL product as defined
23 herein. With respect to W-2 employee customers, a “RAL product” is a
24 loan or refund advance product that is offered by Defendants or a third
25 party only after receiving a genuine W-2 issued by the customer’s
26 employer. Non-RAL products include paystub, holiday, or Instant Cash
27 loans or advance products, which are offered to customers in connection
28 with or using information obtained from the customer’s paystub and not a

1 genuine W-2 issued by the customer's employer. They also are enjoined
2 from misleading customers into thinking they offer a loan or refund
3 advance product, if in fact they do not.

4 A. In the event that a third-party lender provides a RAL product and that
5 RAL product otherwise fully complies with all federal laws, including but
6 not limited to the Equal Credit Opportunity Act and Truth in Lending Act,
7 and fully complies with all state laws, including but not limited to all
8 consumer protection, disclosure, finance, lending and usury laws, and that
9 RAL product is offered using information from genuine W-2s and not
10 paystubs, then Defendants also may offer that RAL product if the lender
11 providing the product is not undercapitalized, is a genuine third-party
12 lender, and is not affiliated with or owned, controlled, or operated by
13 Defendants.

14 B. Moreover, Defendants may offer a RAL product only if they provide
15 accurate TILA disclosures to all program applicants and written
16 Notification of Adverse Action to all applicants who are denied a RAL,
17 whether or not TILA or ECOA is applicable to the program.

18 C. Defendants, however, must disclose all costs associated with such
19 products, must provide a comparison of the time in which a refund related
20 to such a product will be received versus when a refund will be received
21 directly from the US Treasury and, are enjoined from misrepresenting the
22 terms, loan amounts, eligibility, and fees or costs associated with such RAL
23 product to any customer, and from charging unconscionable fees in
24 connection with either the RAL product or Defendants' tax preparation
25 services.

26 **V. IT IS FURTHER ORDERED** that Defendants are permanently enjoined
27 from filing a tax return using a customer paystub in lieu of a genuine Form
28 W-2 issued by the customer's employer. Defendants are authorized and

1 required to retain a copy of all Forms W-2 used to prepare or file a tax
2 return in each applicable customer's file. Defendants also are enjoined
3 from: (1) obtaining executed forms from their customers authorizing the
4 electronic filing of a customer's tax return until Defendants have first
5 obtained all documentation required for preparation of the tax return,
6 including all Forms W-2, and have prepared the return and had the
7 customer review the return; (2) causing or permitting any document,
8 including tax forms, to bear a signature date other than the date that the
9 signatory actually signed the document; or (3) creating false or purported
10 Forms W-2 using customer paystubs or other information.

11 **VI. IT IS FURTHER ORDERED** that if either: (1) Teferi or Berhane
12 knowingly files or knowingly causes any of their employees and/or agents
13 to file tax returns during any tax year based upon information obtained
14 solely from customer paystubs and not from a Form W-2 obtained from the
15 taxpayer's employer; or (2) if Defendants' employees or agents file more
16 than a de minimus number of tax returns during any tax year based upon
17 information obtained solely from customer paystubs and not from a Form
18 W-2 obtained from the taxpayer's employer, then Defendants shall be
19 permanently enjoined from acting as federal tax return preparers,
20 supervising or managing federal tax return preparers, or assisting with, or
21 directing the preparation or filing of federal tax returns, amended returns,
22 claims for refund, or other related documents, for any person or entity other
23 than themselves, or appearing as representatives on behalf of any person or
24 organization in connection with any laws or regulations administered by the
25 Internal Revenue Service. Further, in the event the provisions of this
26 paragraph become effective, Defendants consent, without further
27 proceedings, to immediate revocation of their PTINs and disbarment from
28 practice before the Internal Revenue Service in any capacity. For this

1 purpose, the procedures contained at 31 C.F.R. §§10.82(c) - (e) shall apply,
2 without benefit of the provisions contained in §§10.82(f) or (g).

3 **VII. IT IS FURTHER ORDERED** that Defendants shall disclose to
4 each of their customers, both in writing and orally, the total amount of fees
5 to be charged *prior* to filing the customer's tax return. Defendants are also
6 permanently barred from charging fees:

- 7 i. That are not disclosed to and agreed to by the client;
- 8 ii. For services that are not performed or for items that do not exist,
9 including, for example, fees described as or substantially similar
10 to non-existent Service Bureau fees;
- 11 iii. That, in total, exceed the sum disclosed to the customer and
12 agreed to by the customer prior to the filing of each tax return; or
- 13 iv. That are unconscionable.

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15 Third party software and technology costs incurred by Defendants
16 that are disclosed and charged to customers are not considered to be Service
17 Bureau fees.

18 **VIII. IT IS FURTHER ORDERED** that for the purpose of determining or
19 securing compliance with this Order, for four years from the date of this
20 order a neutral monitor shall be selected by Defendants and shall be
21 approved by a representative designated by the United States Department of
22 Justice, to monitor Defendants' tax preparation activities. Defendants shall
23 execute all necessary consent forms required under 26 U.S.C. § 6103 for the
24 I.R.S. to communicate directly with the neutral monitor. The neutral
25 monitor shall be an outside entity or person and shall:

- 26 i. Be an enrolled agent or certified public accountant who is
27 compensated by Defendants;

- 1 ii. Commence monitoring activities on the day before Defendants
2 begin preparing or filing federal tax returns for others during each
3 tax season and cease monitoring activities no earlier than April 15
4 of each year (the “Annual Monitoring Period”). Defendants are
5 enjoined from operating a tax return preparation business without
6 a neutral monitor in place during the Annual Monitoring Period;
- 7 iii. Have access to all records, employees, and customers of
8 Defendants, including permission to observe customer interviews
9 conducted by Defendants’ tax return preparers;
- 10 iv. Randomly select, inspect and review a minimum sample of 250
11 federal tax returns prepared by Defendants or their employees
12 during the first 10 days of each Annual Monitoring Period, along
13 with the corresponding customer files to ensure substantiation of
14 information reported on each tax return (including Schedule C
15 substantiation, where applicable), to confirm that these returns
16 were not filed using customer paystubs, and to monitor
17 compliance with this Order. At least ten percent of the tax returns
18 reviewed shall be Schedule C returns;
- 19 v. Randomly select, inspect and review a minimum sample of 150
20 federal tax returns prepared on the 11th to 25th day of each
21 Annual Monitoring Period by Defendants or their employees,
22 along with the corresponding customer files to ensure
23 substantiation of information reported on each tax return
24 (including Schedule C substantiation, where applicable), to
25 confirm that these returns were not filed using customer paystubs,
26 and to monitor compliance with this Order. At least ten percent of
27 the tax returns reviewed shall be Schedule C returns;
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1 vi. Randomly select, inspect and review a minimum sample of 25
2 federal tax returns prepared by Defendants or their employees for
3 the remainder of each Annual Monitoring Period, along with the
4 corresponding customer files to ensure substantiation of
5 information reported on each tax return, to confirm that these
6 returns were not filed using customer paystubs, and to monitor
7 compliance with this Order;

8 vii. Collectively, during the Annual Monitoring Period, include in the
9 total sample of tax returns selected for review, tax returns
10 prepared at each of Defendants' different business locations; and
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12 viii. Provide a written report to the designated representative of the
13 United States, within thirty days of completion of the Annual
14 Monitoring Period, setting forth in detail the manner and form in
15 which Defendants have or have not complied with the terms of
16 this Order, including the results of the review of tax returns, the
17 identity of any customers whose tax returns fail to comply with
18 the terms of this Order and the identity of those tax return
19 preparers who prepared those non-compliant returns, as well as
20 the amount of fees or other amounts charged to each customer,
21 and any other findings.

22 **IX. IT IS FURTHER ORDERED** that Defendants produce to counsel for the
23 United States within 45 days of this injunction order a list that identifies by
24 name, address, telephone number if available, and tax period(s), all persons
25 who have engaged them to file a federal tax return or other tax document
26 since January 1, 2011.

27 **X. IT IS FURTHER ORDERED** that Defendants must send by certified mail
28 an executed copy of this Agreed Order of Permanent Injunction to all

1 former employees of Plover since January 1, 2011 who Defendants know
2 currently operate a tax return preparation business or are paid tax return
3 preparers. Defendants must mail the copies within 60 days of the date of
4 this Order to the last known address of each of these individuals. The
5 mailings shall include a cover letter in a form agreed to by counsel for the
6 United States or approved by the Court, and shall not include any other
7 documents or enclosures except those specifically mentioned herein.

8 **XI. IT IS FURTHER ORDERED** that Defendants mail or hand deliver an
9 executed copy of this Agreed Order of Permanent Injunction to all current
10 employees and all employees hired by Defendants for the next three years
11 beginning on December 31, 2012. Defendants must mail the copies or hand
12 deliver the copies to all current employees within 45 days of the date of this
13 Order. The mailings shall include a cover letter in a form agreed to by
14 counsel for the United States or approved by the Court, and shall not
15 include any other documents or enclosures except those specifically
16 mentioned herein.

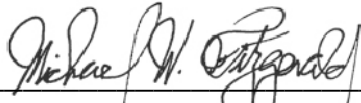
17 **XII. IT IS FURTHER ORDERED** that Defendants must, within 75
18 days of the date of this order, file with the Court a sworn certificate stating
19 that they have complied with the requirements set forth in Paragraphs IX
20 and X of this Order, and provide to government counsel a list of the names
21 and addresses of all persons who have been notified.

22 **XIII. IT IS FURTHER ORDERED** that the Court shall retain jurisdiction
23 to enforce this injunction. The United States is permitted to engage in post-
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1 judgment discovery in accordance with the Federal Rules of Civil
2 Procedure to ensure compliance with this permanent injunction.

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5 **IT IS SO ORDERED.**

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7 Dated: February 21, 2013


United States District Judge

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9 Respectfully submitted,
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1 Approved as to form and content

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4 _____
4 HENOCK TEFERI
5 Defendant

6 Dated: _____
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10 _____
10 RUTH BERHANE
11 Defendant

12 Dated: _____
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15 _____
15 PLOVER FINANCIAL SERVICES LLC
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17 Dated: _____
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