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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RENE HERNANDEZ and HELEN
HERNANDEZ, (h/w), individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

H&R BLOCK, INC. and its affiliates and
subsidiaries, H&R BLOCK SERVICES, INC.,
HRB TAX GROUP, INC., H&R BLOCK
ENTERPRISES, INC., and, H&R BLOCK
EASTERN ENTERPRISES, INC., Missouri
Corporations; and DOES 1 through 100, inclusive,

Defendants.

) **12 CV 1329 BJ "ECF CASE"**

) **CLASS ACTION COMPLAINT**

-) 1. VIOLATION OF N.Y. CLS Tax § 32
-) 2. VIOLATION OF N.Y. GEN. BUS. LAW
-) § 372 *et seq.*
-) 3. VIOLATION OF NEW YORK CITY
-) ADMINISTRATIVE CODE § 20-739 *et*
-) *seq.*

) **DEMAND FOR JURY TRIAL**

PLAINTIFFS' ORIGINAL CLASS ACTION COMPLAINT

COME NOW, Plaintiffs Rene Hernandez, and Helen Hernandez, on behalf of themselves and all others similarly situated, and file Plaintiffs' Original Class Action Complaint against the Defendants, H&R Block, Inc., and its affiliates and subsidiaries, including H&R Block Services, Inc., HRB Tax Group, Inc., H&R Block Enterprises, Inc., and H&R Block Eastern Enterprise, Inc. (hereinafter referred to as "H&R Block" or "Defendant"). Plaintiffs seek certification of their claims against Defendant as a class action. Plaintiffs allege, based on personal knowledge as to the Defendant's actions and upon information and belief as to all other matters, as follows:

I. PARTIES

1. Plaintiffs Rene Hernandez, and Helen Hernandez (husband/wife) are residents of Jacksonville, North Carolina who had their taxes prepared at an office of Defendant located in the Southern District of New York.

2. Defendant facilitated Refund Anticipation Loans for Plaintiffs during the class period. Defendant facilitated Refund Anticipation Loans for Plaintiffs during the class period in coordination with two banks, HSBC Trust Company, N.A. ("HSBC") and its own bank subsidiary, H&R Block Bank ("HRBB"). Although Defendant markets these products under different names (Classic Refund Anticipation Loans, Instant Refund Anticipation Loans, Federal Refund Anticipation Checks and State Refund Anticipation Checks), all of the products are "Refund Anticipation Loans" as defined by the New York Refund Anticipation Loan Laws, as they all include common features – the extension of a

short-term loan, secured and repaid directly from the consumer's IRS tax refunds. Therefore, throughout this complaint when the term "RAL" is generically used it will refer to all of the refund anticipation products offered by the Defendant, including both Refund Anticipation Loans ("RALs") and Refund Anticipation Checks ("RACs").

3. Defendant, H&R Block, Inc., is a Missouri corporation founded in 1955 and listed on the New York Stock Exchange. operating through various subsidiaries, including H&R Block Services, Inc., HRB Tax Group, Inc., H&R Block Enterprises, Inc., and H&R Block Eastern Enterprises, Inc., H&R Block provides tax, banking and business consulting services. H&R Block's tax and related services constitute the majority of the company's business and revenues. According to H&R Block's 2011 Annual 10-K, \$2.9 billion of the company's \$3.7 billion in revenue for fiscal year 2011 was derived from tax services.¹ According to H&R Block's website, it prepares 1 in every 7 U.S. tax returns. For the 2011 fiscal year H&R Block prepared 21.4 million tax returns in the U.S., representing 16.4% of the total number of estimated returns received by the Internal Revenue Service ("IRS"). As of April 20, 2011, H&R Block operated 6,493 company-owned stores and 4,575 franchise offices. H&R Block's workforce includes approximately 7,900 regular full-time employees, with its numbers growing to over 107,000 when tax season employees are included.

¹ 77.2% of consolidated revenues from continuing operations for fiscal year 2011, 76.8% for 2010 and 76.7% for 2009 were derived from H&R Blocks' tax services division.

4. Defendant, H&R Block's principal place of business is located at One H&R Block Way, Kansas City, Missouri 64105, and can be served through its registered agent CT Corporation System, 120 South Central Avenue, Clayton, Missouri 63105

II. JURISDICTION AND VENUE

5. This Court has jurisdiction over Defendant since at all relevant times Defendant has regularly and systematically transacted business within the State of New York as provider of tax return preparation services and other services. Defendant derives substantial revenue from New York residents.

6. This Court has subject matter jurisdiction over this class action under the Class Action Fairness Act ("CAFA") because there are more than one-hundred class members, all of the members of the class are citizens of a state (New York) different from that of Defendant, and the aggregate class members' claims is more than \$5 million. 28 U.S.C. §1332(d).

7. Venue is proper in this Court because the tax preparation service and loan marketing and facilitation, giving the rise to Plaintiffs' claims occurred in this District. 28 U.S.C. §1391(b)(2). Venue is also proper in this Court because the Defendant has numerous offices in this District. 28 U.S.C. §1391(b)(1).

III. FACTS

A. Defendant Aggressively Markets and Facilitates Refund Anticipation Loan Products at Exorbitant Triple-Digit Interest Rates to the Working Poor and Minorities

8. Refund Anticipation Loans ("RAL") are short-term loans or extensions of credit that are secured and repaid directly from the consumer's IRS tax refunds. These

loans are marketed, arranged and facilitated by for-profit tax preparers such as Defendant in coordination with banking entities that provide the loan and banking products. RALs include exorbitant finance charges that, when properly calculated in accordance with the Truth in Lending Act (“TILA”), often exceed 100% APR.

9. Although a significant profit source to Defendant and other for-profit tax preparers, and a fundamental part of their business models, these aggressively marketed bank products provide little to no value to consumers at predatory interest rates and fees, often in conjunction with exorbitant tax preparation fees for straightforward tax filings. Tax filers can usually get their federal tax refund in 8 to 15 days by direct deposit, without getting a loan or paying any extra fees to companies like Defendant. The IRS usually issues refunds by check within 21 to 28 days.

10. The Department of Treasury has determined that RAL usage is highly concentrated in poor and minority communities.² Across the U.S., just 20% of all communities account for nearly 70% of all RALs.³ Defendant and other tax preparers target these high-interest rate loans to minorities and the working poor, particularly those who receive Earned Income Tax Credit (“EITC”). The median adjusted gross income amount for RAL consumers is \$19,768.⁴ In 2008, although only 17% of tax filers received

² “Characteristics of User of Refund Anticipation Loans and Refund Anticipation Checks,” U.S. Department of Treasury, 2010, at p.1.

³ Id. at p. 17-20.

⁴ Id. at 16.

the EITC, EITC claimants comprised 64% of RAL consumers. Viewed another way, 33% of EITC claimants purchased a RAL, compared to only 3% of non-EITC claimants.⁵

11. Defendant aggressively markets RALs to its customers for whom it provides tax preparation services, as these predatory bank products are a critical part of its business model. Defendant reportedly files 1 in every 5 EITCs filed in the U.S.⁶ During the 2010 tax season and every one since 1996, HSBC served as the lender for Defendant's clients that received HSBC RALs. During fiscal year 2006, Defendant signed an agreement with HSBC allowing it to purchase a 49.999999% interest in all RALs that it facilitates. Defendant's HSBC RAL participation revenue was \$146.2 million, \$139.8 million and \$190.2 million for fiscal years 2010, 2009 and 2008 respectively.⁷

12. In December of 2010, HSBC terminated its agreement to provide Defendant's clients with HSBC RALs due to significant federal regulatory restrictions. As a result, Defendant was not able to offer HSBC RALs during the 2011 tax season. Defendant recognized an immediate decrease in its revenue, receiving only \$17 million in HSBC RAL participation proceeds. In an effort to offset the loss of HSBC RAL participation revenue, Defendant raised the fees on its HRBB Federal RACs and aggressively marketed these predatory products to the working poor and minority clients.⁸ Defendant's efforts were successful, with its HRBB RAC fee revenues increasing over

⁵ Id. at 13.

⁶ H&R Block, Inc. 10-K Annual report pursuant to section 13 and 15(d), filed on 6/23/2011, filed period 04/30/2011.

⁷ Revenue from RAL participation is calculated as the rate of participation multiplied by the RAL fees paid by the borrower to HSBC.

⁸ Largely as a result of the loss in HSBC RAL participation revenue, Defendant's Tax Services revenue decreased by 2.1% in fiscal year 2011. Defendant acknowledged in its 2011 10-K Annual Report its efforts to offset the loss in HSBC RAL participation revenue by charging higher HRBB RAC fees.

107% to more than \$181.6 million in 2011 compared to only \$87.5 million in 2010.⁹ Therefore, Defendant has a strong economic interest in steering its customers to these predatory products.

B. New York Refund Anticipation Loan Laws

13. Many states, including the state of New York, have passed laws specifically targeting RALs in an effort to eradicate long-standing, deceptive and unconscionable practices in the for-profit tax preparer industry. Regulation of RALs in the State of New York occurs through the interplay of the following laws:

- N.Y. CLS Tax § 32 which governs the facilitation of RALs by tax preparers throughout the State of New York
- N.Y. Gen. Bus. Law § 372 *et seq.*, which governs the facilitation of RALs by tax preparers throughout the state of New York, except in cities with population of one million or more (i.e. New York City).
- New York City Administrative Code § 20-739 *et seq.*, which governs the facilitation of RALs by tax preparers in New York City and parallels N.Y. Gen. Bus. Law § 372 *et seq.*

Therefore, N.Y. CLS Tax § 32 in tandem with New York City Administrative Code § 20-739 *et seq.*, (“New York City RAL law”) governs RALs in the New York City area. In all other parts of the state, N.Y. CLS Tax § 32 and N.Y. Gen. Bus. Law § 372 (“New York State RAL law”) govern. All of these laws focus on the practices of tax preparers like Defendant who market and facilitate RALs.

14. Under New York State RAL law and New York City RAL law, a RAL includes any “loan that is secured by or that the creditor arranges to be repaid directly or indirectly from the proceeds of an income tax refund or tax credits.” N.Y. CLS Gen. Bus. §

⁹ H&R Block 2011 audited consolidated financial statements.

371(d); N.Y. CLS Tax § 32(a)(11). A RAL “includes any sale, assignment, or purchase of tax refund at a discount or for a fee, whether or not the amount is required to be repaid to the buyer or assignee if the internal revenue service or the department denies or reduces the amount of the tax refund.” *Id.*

15. New York State RAL law and New York City RAL law define a “facilitator” as a person who, among other things, “processes, receives or accepts an application or agreement” for a RAL, “serves or collects upon” a RAL, or “facilitates the making of” a RAL. N.Y. CLS Gen. Bus. § 371(a); N.Y. CLS Tax § 32(a)(6).

16. Defendant is a facilitator as defined by New York State RAL law and New York City RAL law.

17. New York State RAL law and New York City RAL law prohibit facilitators such as Defendant from engaging in certain practices and require the facilitators/tax preparers to disclose, in writing and orally, certain critical information about RALs, including the finance charges and lower-cost alternatives. Most relevant to this class action are disclosure requirements of New York State RAL law and New York City RAL law, and the prohibition placed on the facilitator from charging or imposing any fees for RALs other than fees charged by the creditor or bank, imposed by New York State RAL law and New York City RAL law.

18. New York State RAL law and New York City RAL law each require facilitators to disclose conspicuously and in large type (“at least 14-point”) specific information about the interest rate, fees and timing of the RAL, as well as alternative means to receive refunds from the IRS in a timely manner without exorbitant add-on

charges. N.Y. CLS Gen. Bus. § 372(e)(2); New York City Administrative Code § 20-741.1. These written disclosures are required to be separate, conspicuous, in large type and signed by the taxpayer so that they are not lost amidst multiple pages of fine print. *Id.* New York State RAL law and New York City RAL law also require facilitators to make very similar, but not identical, oral disclosures in anticipation of providing a taxpayer with a RAL. N.Y. CLS Gen. Bus. § 372(f); New York City Administrative Code § 20-741.1.

19. Further, New York State RAL law and New York City RAL law require facilitators to provide each taxpayer with an additional flier, separate from any other tax preparation materials or the above-mentioned disclosure form, titled “Consumer Bill of Rights Regarding Tax Preparers” (“Consumer Bill of Rights”). NY CLS Gen Bus § 372(d); New York City Administrative Code § 20-740.1. The document is generated by the New York Department of Taxation and Finance and must be given to the taxpayer prior to any discussion about tax preparation services. *Id.* Among other items of information provided on the form, the taxpayer is instructed that, if he or she enters into an RAL, the tax preparer must provide, on a sheet of paper separate from any other RAL materials, “the interest rate [of the RAL], expressed as the estimated annual percentage rate (APR) based on the amount of time the loan will be outstanding.” NY Dept. of Tax’n. and Fin., Consumer Bill of Rights Regarding Tax Preparers, 2 (<http://www.nyc.gov/html/dca/downloads/pdf/consumerbillofrights.pdf>); See 20 NYCRR § 2398.2. Thus, prior to the consummation of any RAL, New York State RAL law and New York City RAL law require facilitators to provide taxpayers with not one but two written disclosures, on two separate sheets of paper, detailing an accurate calculation of the APR

and other fees associated with RALs, followed up by oral disclosures covering the same information.

20. In addition, New York State RAL law and New York City RAL law prohibit the facilitator, or any other entity other than the third-party bank or creditor, from receiving any fee related to a RAL. N.Y. CLS Tax § 32(f)(1)(A) (A facilitator shall not “charge or impose any fee, charge or other consideration in the making or facilitating of a refund anticipation loan or refund anticipation check apart from the fee charged by the creditor or bank that provided the loan or check.”).

21. New York State RAL law and New York City RAL law also prohibit the facilitator from incorporating clauses into contracts with the taxpayer that waive the right to “relief on a class-wide basis.” N.Y. CLS Tax § 32(f)(1)(D).

C. Defendant’s Illegal Conduct

22. Throughout the Class Period, Defendant offered numerous refund anticipation loan products in conjunction with HSBC and HRBB. Specifically in conjunction with HSBC from at least the 2006 through the 2010 tax years, Defendant offered “HSBC Federal RAC” and “HSBC State RAC” based on a customer’s federal and/or state tax return and HSBC RALs based on a customer’s federal tax return. During the 2011 tax season, Defendant did not offer any refund anticipation products in coordination with HSBC, but instead offered “HRBB Federal RAC” or “HRBB State RAC” based on a customer’s federal and/or state tax return in coordination with HRBB.

23. Defendant has a high percentage of low-income customers and customers who receive the EITC. In addition, as set forth above, Defendant has a high percentage of

customers who purchase the various RAL bank products. Many of Defendant's customers cannot afford to pay Defendants' fees for tax preparation services out-of-pocket. A key component to Defendant's marketing campaign is that there is no up-front cost to customers who choose one of Defendant's refund anticipation loan bank products. For non-refund anticipation loan bank product customers, Defendant requires fees for tax preparation services to be paid at the time the customer's taxes are prepared. However, if the customer chooses a refund anticipation loan bank product, Defendant provides the option of deferring payment of those fees until the tax refund has been received from the IRS or up to 20 days.¹⁰ On information and belief, this component of these bank products expands the market for Defendant's tax preparation services, increases the amount that can be charged for tax preparation services, and increases the franchise fees and royalties collected by Defendant.

1. **HSBC & HRBB RACs**

24. During the Class period, Defendant facilitated, through its franchise offices, all HSBC & HRBB RACs for its tax preparation customers, following common practices and procedures and using uniform forms, applications and disclosures as described below. Each bank product entails the establishment of a "Refund Deposit Account" ("Refund Account") at HSBC or HRBB. The Refund Account is a non-interest-bearing "account" established for the sole purpose of receiving the consumer's federal

¹⁰ As noted in Defendant's RAL application, the IRS normally makes an electronic deposit of the tax filer's refund in 12 days after electronic filing, so Defendant knows that its customers will rarely, if ever, have to pay out-of-pocket for tax preparation fees.

and/or state tax refund and dispersing those funds in a limited manner controlled by HSBC or HRBB.

25. The consumer cannot make any other deposits to this dummy account or direct any other withdrawals. When the consumer's tax return is sent to the IRS, the dummy account is identified as the destination for any refund to which the consumer may be entitled. Once the IRS is notified, the refund destination cannot be changed. If for any reason the consumer's refund is not deposited in the dummy account or if the refund is less than anticipated based upon Defendant's tax preparation services, the consumer is still held liable for the full amount of the loan.

26. When the consumer's tax refund is deposited into the account, HSBC or HRBB first disburses the funds to pay, among other things:

- (a) "Bank Fees" to itself, some of which also are received by Defendant, including a \$32.95 fee for administration of an HRBB Federal RAC, a \$29.95 fee for administration of an HSBC Federal RAC and a \$13 fee for administration of an HSBC or HRBB State RAC;
- (b) any and all debts due to Defendant to pay for tax preparation services; and
- (c) any and all other debts due to HSBC or HRBB including, for example, debts related to bank products previously sold to consumers, such as any advance loans¹¹ or prepaid debit/credit cards.

¹¹ Through HSBC Defendant offered its customers Instant Money Advance loans from November through January based on an estimated tax refund or payroll statement. Defendant also offered a similar loan up to \$1,000.00 through H&R Block Bank, as well as offered an H&R Block Emerald Prepaid MasterCard.

Any remaining funds are disbursed to the consumer either by check delivered through Defendant's office, by direct deposit to the consumer's personal bank account or loaded onto a prepaid debit card. If Defendant's customer chooses to receive the remaining funds via a check, a \$20.00 check processing fee would be added.

27. The HSBC RACs and the HRBB RACs are RALs, as defined by New York RAL laws. Each product encompasses an extension of credit by Defendant of the fee for tax preparation services, which otherwise would be due at the time the services were provided. With the HSBC RACs and the HRBB RACs, Defendant grants deferral of payment for no more than 20 days (the time period needed to receive the tax refund). Defendant provides no disclosure of the **triple-digit** interest rate or finance charge for these transactions in violation of New York RAL laws, TILA and New York's consumer protection laws. *See, e.g.,* U.S. F.D.I.C. Amended Notice of Charges for an Order to Cease and Desist, *In the Matter of Republic Bank & Trust Company, Louisville Kentucky*, dated May 3, 2011 at ¶34 ("By failing to disclose to taxpayers in the Assisted Refund transactions that the TRAF [Tax Refund Administration Fees] are finance charges for deferral of the tax preparation fees owed, the EROs [Defendant and other electronic refund operators] have violated the written disclosure requirements under TILA on a nationwide basis in each Assisted Refund transaction").

28. Defendant's audited consolidated financial statements (prepared by Deloitte & Touche LLP) confirm receipt of such bank fees. Indeed, in 2011 with the loss of revenue from not being able to offer HSBC RALs, Defendant made an effort to drive its

former HSBC RAL clients to HRBB RACs. An effort that Defendant was successful in, deriving \$181.6 million from HRBB RAC fees during tax season.

2. HSBC RALs

29. During the Class period, Defendant facilitated HSBC RALs to its tax preparation customers, following common practices and procedures and using uniform forms, applications and disclosures as described below. As with any of the RACs offered by Defendant, an HSBC RAL entails the establishment of a dummy “Refund Account” at HSBC. The consumer receives the HSBC RAL loan funds one or two days after their taxes are prepared and e-filed. When the consumer’s tax refund is deposited into the account, HSBC first disburses the funds to pay, among other things:

- (a) “Bank Fees” to itself, some of which are also received by Defendant, including: (i) \$29.95 Refund Account Fee for administration of the HSBC RAL; (ii) Finance Charges, which are incorrectly disclosed; and (iii) a \$20 check processing fee if the customer receives his/her remaining refund by check;
- (b) any and all debts due to Defendant to pay for tax preparation services;
- (c) the debt for the RAL; and
- (d) any and all other debts to HSBC including, for example, debts related to bank products sold to the consumer in previous tax years.

Any remaining funds are disbursed to the consumer either by check delivered through Defendant’s office (\$20 check processing fee is charged), by direct deposit into an H&R Block Card account or by direct deposit to the consumer’s personal bank account.

27. The HSBC RALs marketed and facilitated by Defendant are RALs, as defined by New York RAL laws. Defendant misrepresented the finance charge by not including the Refund Account Fee (and where relevant the \$13 Refund Account Fee for state tax refunds) in the calculation of the finance charge, in violation of New York RAL laws, TILA and New York's consumer protection laws. *See, e.g.*, U.S. F.D.I.C. Amended Notice of Charges for an Order to Cease and Desist, *In the Matter of Republic Bank & Trust Company, Louisville Kentucky*, dated May 3, 2011 at ¶34 (“By failing to disclose to taxpayers in the Assisted Refund transactions that the TRAF [Tax Refund Administration Fees] are finance charges for deferral of the tax preparation fees owed, the EROs [Defendant and other electronic refund operators] have violated the written disclosure requirements under TILA on a nationwide basis in each Assisted Refund transaction”).

D. FACTUAL ALLEGATIONS AS TO NAMED PLAINTIFFS

30. Rene Hernandez and Helen Hernandez file their tax returns jointly as husband and wife. Mr. and Mrs. Hernandez have been customers of Defendant since at least the 1997 tax year. Specifically, for purposes of the class definition alleged in this complaint, Defendant facilitated for Mr. and Mrs. Hernandez an HSBC RAL for the 2009 tax year on or about January 1, 2010 and an HRBB RAC for the 2010 tax year on or about January 1, 2011

31. The Defendant charged Mr. and Mrs. Hernandez tax preparation fees of \$118 for the 2009 tax year and \$172 for the 2010 tax year. Mr. and Mrs. Hernandez did not pay these fees at the time of service, but deferred payment both years to be taken out of their tax refund.

32. For the 2009 tax year, Defendant charged Mr. and Mrs. Hernandez a Refund Account fee of \$29.95 to set up a Refund Account to which the IRS deposited their tax refund. In the 2010, tax year Defendant's Refund Account fee was raised to \$32.95. After the IRS deposited Mr. and Mrs. Hernandez's tax refund into the Refund Account, Defendant then deducted all charges due to the Defendant, HSBC or HRBB, and then Defendant would load the remainder of Mr. and Mrs. Hernandez's tax refund onto their H&R Block Prepaid MasterCard.

33. Therefore, Mr. and Mrs. Hernandez paid the Defendant \$29.95 in the 2009 tax year and \$32.95 in the 2010 tax year in finance charges for loans to defer payment of their tax preparation fees.

34. Defendant did not provide Mr. and Mrs. Hernandez any disclosures regarding APR or finance charges related to the HRBB RAC in 2010 and provided inaccurate disclosure of the APR and finance charge related to the HSBC RAL in 2009, in violation of the disclosure laws specified by New York RAL laws, N.Y. Gen. Bus. Law § 372 et seq.; N.Y. CLS Tax § 32; and New York City Administrative Code § 20-739 et seq.

35. Further, Defendant received a portion of the bank fees from Mr. and Mrs. Hernandez's HSBC RAL and HRBB RAC in violation of New York State RAL law and New York City RAL law. N.Y. CLS Tax § 32(f)(1)(A).

IV. CLASS ACTION ALLEGATIONS

A. Class Definition

36. Pursuant to Federal Rule of Civil Procedure 23, Plaintiffs bring this action for herself and on behalf of the following classes:

- **New York State Class**: All natural persons who had their federal income taxes prepared in the State of New York who received a refund anticipation loan product facilitated by Defendant, which included a Refund Account fee in which tax preparation and other fees were deducted by Defendant.
- **New York State Sub-Class**: All natural persons who had their federal income taxes prepared in the State of New York, in an area with a population of less than one million, who received a refund anticipation loan product facilitated by Defendant, which included a Refund Account fee in which tax preparation and other fees were deducted by Defendant.
- **New York City Sub-Class**: All natural persons residing in New York City who received a refund anticipation loan product facilitated by Defendant, which included a Refund Account fee in which tax preparation and other fees were deducted by Defendant.

37. Specifically excluded from each Class are: (a) all federal court judges who preside over this case and their spouses; (b) all persons who elect to exclude themselves from the Class; (c) all persons who have previously executed and delivered to Defendant releases of all their claims for all of their Class claims; and (d) Defendant's employees, officers, directors, agents, and representatives and their family members.

B. Rule 23(a) Prerequisites

38. **Numerosity**. Each Class is so numerous that joinder of all members is impracticable. At this time, Plaintiffs do not know the exact size of each Class. Based on information and belief, each Class is comprised of at least thousands of members so as to render joinder of all Class Members impracticable.

39. **Commonality.** Common questions of law and fact predominate over individual issues. There is a well-defined community of interest in the questions of law and fact involved affecting members of each Class. The questions of law and fact common to each Class predominate over questions affecting only individual Class members, and include, but are not limited to, the following:

- a. Whether Defendant received a portion of the finance charge or other bank fees for RALs that it facilitated in New York during the Class Period, and if so whether the receipt of such fee violated New York State RAL law and New York City RAL law;
- b. Whether Defendant accurately disclosed to consumers for which it facilitated RALs the interest rate, and if not whether such failure violated New York State RAL law, New York City RAL law, and New York's deceptive trade practices laws;
- c. Whether Defendant included the charge for the Refund Account fee as part of the finance charge calculation when it disclosed the interest rate for RALs it facilitated in New York during the Class Period, and if not whether such failure violated New York State RAL law, New York City RAL law, and New York's deceptive trade practices laws;
- d. Whether Defendant provided any disclosure of the interest rate for HSBC RACs and HRBB RACs it facilitated to consumers in New York during the Class Period, and if not whether such failure violated New York State RAL law, New York City RAL law, and the New York's deceptive trade practices laws;
- e. Whether Defendant provided the specific disclosures required by

New York State RAL law and New York City RAL law on a sheet of paper, separate from the application, in the required font size when it facilitated RALs in New York, and if not whether such failure violated New York State RAL law, New York City RAL law, and New York's deceptive trade practices laws;

40. **Typicality.** Plaintiffs' claims are typical of the other Class Members' claims for each class. As described above, Defendant uses common practices, applications, forms and disclosures in committing the conduct that Plaintiffs allege damaged them and the Class Members. Defendant uniformly violated New York State RAL law, New York City RAL law, and New York's deceptive trade practices laws by engaging in the conduct as described above, and these violations had the same effect on each member of each Class.

41. **Adequacy.** For each class, Plaintiffs are adequate representatives of the Class because they fit within the class definition and their interests do not conflict with the interests of the members of the Class they seek to represent. Plaintiffs will prosecute this action vigorously for the benefit of the entire Class. Plaintiffs are represented by experienced and able attorneys. Class counsel have litigated numerous class actions and complex cases, and Plaintiffs' counsel intend to prosecute this action vigorously for the benefit of the entire Class. Plaintiffs and class counsel can and will fairly and adequately protect the interests of all of the members of each Class.

C. RULE 23(b) PREREQUISITES

42. Questions of law and fact common to each Class predominate over questions affecting only individual Members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy. The statutory damages sought by each member are such that individual prosecution would prove burdensome and expensive given the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for the members of each Class to effectively redress the wrongs done to them on an individual basis. Even if the members of each Class themselves could afford such individual litigation, it would be an unnecessary burden on the courts.

43. Furthermore, individualized litigation presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and to the court system presented by the legal and factual issues raised by Defendant's conduct. By contrast, the class action device will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proof in just one case.

V. CAUSES OF ACTION

A. First Cause of Action: Violation of N.Y. CLS Tax § 32 (On Behalf of the New York State Class)

44. Plaintiffs incorporate by reference each of the foregoing allegations.

45. The allegations in this cause are brought on behalf of all Plaintiffs and the members of the New York State Class.

46. Defendant is a “facilitator” as defined by N.Y. CLS Tax § 32(a)(6).

47. All of the RAL products (HSBC RAC, HSBC RAL, HRBB RAC) facilitated by Defendant are RALs as defined by N.Y. Tax Law §§ 32(a)(10)-(11).

48. Defendant violated N.Y. CLS Tax § 32(f)(1)(A) by receiving a portion of the banks fees and finance charge on each RAL it facilitated for a Class Member.

49. Defendant violated N.Y. CLS Tax §32(f)(1)(B) (prohibiting unfair or deceptive acts or practices in the facilitation of RALs) by failing to make the required written disclosures, on a piece of paper separate from the tax preparation and loan materials, in the requisite font size, detailing the APR and additional fees associated with its RALs.

50. Defendant violated N.Y. CLS Tax §32(f)(1)(B) (prohibiting unfair or deceptive acts or practices in the facilitation of RALs) by not accurately disclosing the finance charge for each RAL bank product purchased by a member of the New York State Class within the Class Period. For each HSBC RAC and HRBB RAC, Defendant failed to disclose any interest rate or finance charge. For each HSBC RAL Defendant failed to accurately disclose the interest rate, as it did not include the Refund Account fee as part of the finance charge.

51. For each violation set forth herein, Defendant is liable under N.Y. CLS Tax §32 for statutory damages of \$500. N.Y. CLS Tax § 32(f)(2).

1. **Second Cause of Action: Violation of N.Y. CLS Gen. Bus. § 372 (On Behalf of the New York State Subclass)**

52. Plaintiffs incorporate by reference each of the foregoing allegations.

53. The allegations in this cause of action are brought on behalf of Plaintiff Hernandez and members of the New York State Subclass.

54. Defendant is a “facilitator” as defined by N.Y. CLS Gen. Bus. § 371(a).

55. All of the RAL products (HSBC RAC, HSBC RAL, HRBB RAC) facilitated by Defendant are RALs as defined by N.Y. CLS Gen. Bus. §§ 371(c)-(d).

56. Defendant violated N.Y. CLS Gen. Bus. § 372(e)(2) by failing to disclose on a form separate from the bank product application in 14-point type face the interest rate, expressed as the estimated annual percentage rate (APR) based upon the amount of time that the loan would be outstanding, for each RAL it facilitated for a Class Member. For each HRBB RAC and HSBC RAC Defendant failed to disclose any interest rate or finance charge. For each HSBC RAL Defendant failed to accurately disclose the interest rate, as it did not include the Refund Account fee as part of the finance charge.

57. Defendant violated N.Y. CLS Gen. Bus. § 372(d) by failing to provide Class Members with a Consumer’s Bill of Rights prior to any discussion of tax preparation or facilitation of a RAL.

58. Defendant violated N.Y. CLS Gen. Bus. § 372(d) by failing to verbally review with Class the Consumer’s Bill of Rights prior to any discussion of tax preparation or facilitation of any of the various RALs.

59. Defendant violated N.Y. CLS Gen. Bus. § 372(f) by failing to provide the specified, requisite oral disclosures to each Class Member who received a RAL. Defendant failed to adequately orally disclose the interest rate and the fees associated with the RAL.

60. For each violation set forth herein, Defendant is liable under N.Y. CLS Gen. Bus § 372 for statutory damages of not less than \$250 nor more than \$500 for the first violation and for each succeeding violation not less than \$500 dollars nor more than \$750. N.Y. CLS Gen. Bus. § 372(g).

C. Third Cause of Action: Violation of New York City Administrative Code §20-739 *et seq.*, (One Behalf of the New York City Subclass)

61. Plaintiffs incorporate by reference each of the foregoing allegations.

62. The allegations in this cause of action are brought on behalf of the members of the New York City Subclass.

63. Defendant is a “tax preparer” as defined by New York City Administrative Code § 20-739.

64. All of the RAL products (HSBC RAC, HSBC RAL, HRBB RAC) facilitated by Defendant are RALs as defined by New York City Administrative Code § 20-739.

65. Defendant violated New York City Administrative Code § 20-741.1(2) by failing to disclose on a form separate from the bank product application in 14-point type face the interest rate, expressed as the estimated annual percentage rate (APR) based upon the amount of time that the loan would be outstanding, for each RAL it facilitated for a Class Member. For each HSBC RAC and HRBB RAC Defendant failed to disclose any interest rate or finance charge. For each HSBC RAL Defendant failed to accurately disclose the interest rate, as it did not include the Refund Account fee as part of the finance charge.

66. Defendant violated New York City Administrative Code § 20-740.1(b) by failing to provide a Consumer's Bill of Rights, on a sheet of paper separate from the bank product application and in 14-point type face, calling to the taxpayer's attention the interest rate, expressed as the estimated annual percentage rate (APR) based upon the amount of time that the loan would be outstanding, for each RAL it facilitated for a Class Member. For each HSBC RAC and HRBB RAC, Defendant failed to disclose any interest rate or finance charge. For each HSBC RAL, Defendant failed to accurately disclose the interest rate, as it did not include the Refund Account fee as part of the finance charge.

67. For each violation set forth herein Defendant is liable under New York City Administrative Code § 20-743.1 for (a) compensatory and punitive damages, (b) injunctive and declaratory relief, (c) attorneys' fees and costs, and (d) such other relief as a court may deem appropriate.

D. Fourth Cause of Action: Violation of the New York's Deceptive Trade Practices Laws (NY CLS Gen. Bus. § 349 *et seq.*) (On Behalf of New York State Class)

68. Plaintiffs incorporate by reference each of the foregoing allegations.

69. The allegations in this cause of action are brought on behalf of all Plaintiffs and members of the New York State Class.

70. Pursuant to NY CLS Gen Bus § 349, it is unlawful for any person to engage in any "deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service" in the state of New York.

71. Each of Defendant's violations of the New York State RAL law and New York City RAL set forth above is also a violation NY CLS Gen Bus § 349.

72. In addition, Defendant violated NY CLS Gen Bus § 349 by not accurately disclosing the finance charge for each RAL bank product purchased by a member of the New York State Class within the Class Period. For each HSBC RAC and HRBB RAC, Defendant failed to disclose any interest rate or finance charge. For each HSBC RAL Defendant failed to accurately disclose the interest rate, as it did not include the Refund Account fee as part of the finance charge.

73. Plaintiffs and the Class Members have a cause of action against Defendant pursuant to NY CLS Gen Bus § 349(h) to recover, for each violation, (a) actual damages or \$50, whichever is greater; (b) treble damages, at the court's discretion, not to exceed \$1,000; and (c) reasonable attorney's fees and costs.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs seek judgment in favor of themselves and the Class for the following:

A. That the Court determines that this action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure; that Plaintiffs are proper class representative; and that the best practicable notice of this action be given to members of the Class represented by Plaintiff;

B. That Judgment be entered against Defendant and in favor of Plaintiffs and the Class on the Causes of Action in this Complaint, for disgorgement, compensatory

damages and statutory damages under New York State RAL law and New York City RAL law;

C. That Defendant be permanently enjoined from its unfair, fraudulent and deceptive activity;

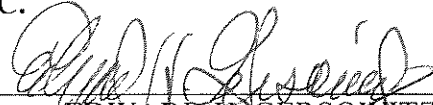
D. That judgment be entered imposing interest on damages;

E. That judgment be entered imposing litigation costs and attorneys' fees under New York State RAL law, New York City RAL law, and New York deceptive trade practices laws; and

F. For all other further relief as this Court may deem necessary and appropriate.

Dated: February 21, 2012

BY: **GERSOWITZ, LIBO & KOREK,
P.C.**



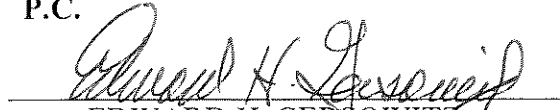
EDWARD H. GERSOWITZ

JURY TRIAL DEMANDED

Plaintiffs demand a jury trial on all triable issues.

Dated: February 21, 2012

BY: **GERSOWITZ, LIBO & KOREK,
P.C.**



EDWARD H. GERSOWITZ
Attorneys for Plaintiffs and the Class

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RENE HERNANDEZ and HELEN HERNANDEZ,
(h/w), individually and on behalf of all others
similarly situated,

Plaintiffs,

- against -

H&R BLOCK, INC., and its affiliates and subsidiaries,
H&R BLOCK SERVICES, INC., HRB TAX GROUP, INC.,
H&R BLOCK ENTERPRISES, INC., and H&R BLOCK
EASTERN ENTERPRISES, INC., Missouri Corporations;
And DOES 1 through 100, inclusive,

Defendants.

CLASS ACTION COMPLAINT and DEMAND FOR JURY TRIAL

GERSOWITZ LIBO & KOREK, P.C.
Attorneys for Plaintiffs

Office and Post Office Address-Telephone
111 BROADWAY - 12TH FLOOR
NEW YORK, N.Y. 10006
(212) 385-4410

To

Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated,

Attorney(s) for

NOTICE OF ENTRY

Sir: Please take notice that the within is a (*certified*) true
copy of a
duly entered in the office of the clerk of the within named
court on 20

Dated,

Yours, etc.,
GERSOWITZ LIBO & KOREK, P.C.
Attorneys for

Office and Post Office Address
111 BROADWAY - 12TH FLOOR
NEW YORK, N.Y. 10022

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir: Please take notice that an order
of which the within is a true copy will be presented for
settlement to the Hon.

one of the judges of the within named Court, at

on 20
at M.
Dated,

Yours, etc.,
GERSOWITZ LIBO & KOREK, P.C.
Attorneys for

Office and Post Office Address
111 BROADWAY - 12TH FLOOR
NEW YORK, N.Y. 10022

To

Attorney(s) for