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SUPERIOR COURT OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

**THE PEOPLE OF THE STATE OF CALIFORNIA,**

Plaintiff,

v.

**H&R BLOCK, INC., a foreign corporation; H&R  
BLOCK SERVICES, INC., a foreign corporation;  
H&R BLOCK ENTERPRISES, INC., a foreign  
corporation; H&R BLOCK TAX SERVICES, INC., a  
foreign corporation; BLOCK FINANCIAL  
CORPORATION, a foreign corporation; HRB  
ROYALTY, INC., a foreign corporation; and DOES 1  
through 50, inclusive,**

Defendants.

Case No.

**COMPLAINT FOR  
INJUNCTION, CIVIL  
PENALTIES AND OTHER  
RELIEF**

The People of the State of California, by Bill Lockyer, Attorney General for the State of California, are informed and believe and on such information and belief, allege as follows:

**DEFENDANTS**

1. Defendant H&R Block, Inc., is a publicly traded company that owns a number of subsidiary companies involved in tax preparation services throughout the country. H&R Block, Inc., sets corporate policy for its subsidiaries, including their financial arrangements, their advertising campaigns, their training materials, and the scripts to be used by the employees and

1 operators at the various offices. It is a Missouri corporation with its principal place of business  
2 in Kansas City, Missouri, and does business in California, including in the City and County of  
3 San Francisco.

4           2. Defendant H&R Block Services, Inc., is a subsidiary of H&R Block, Inc. H&R  
5 Block Services, Inc., has been and remains party, on behalf of itself and its subsidiaries, to  
6 agreements with lending institutions regarding the operation of H&R Block, Inc., and its  
7 subsidiaries, particularly with respect to the provision of “refund anticipation loans” and related  
8 products. It is a Missouri corporation with its principal place of business in Kansas City,  
9 Missouri, and does business in California, including in the City and County of San Francisco.

10           3. Defendant H&R Block Enterprises, Inc., is a subsidiary of H&R Block, Inc.  
11 H&R Block Enterprises, Inc., oversees the operations of the H&R Block company-owned offices  
12 in California. It is a Missouri corporation with its principal place of business in Kansas City,  
13 Missouri, and does business in California, including in the City and County of San Francisco.

14           4. Defendant H&R Block Tax Services, Inc., is a subsidiary of H&R Block, Inc.  
15 H&R Block Tax Services, Inc., oversees the operations of the H&R Block franchise offices in  
16 California. It is a Missouri corporation with its principal place of business in Kansas City,  
17 Missouri, and does business in California, including in the City and County of San Francisco.

18           5. Defendant Block Financial Corporation is a subsidiary of H&R Block, Inc. Block  
19 Financial Corporation has been and remains party to agreements with lending institutions,  
20 particularly with respect to the purchase of a “participation” interest in “refund anticipation  
21 loans” made to customers of H&R Block, Inc., and its subsidiaries. Block Financial Corporation  
22 is a Delaware corporation with its principal place of business in Kansas City, Missouri, and does  
23 business in California, including in the City and County of San Francisco.

24           6. Defendant HRB Royalty, Inc., is a subsidiary of H&R Block, Inc. HRB Royalty,  
25 Inc., has been and remains party to agreements with lending institutions regarding the operation  
26 of H&R Block, Inc., and its subsidiaries, particularly with respect to the provision of “refund  
27 anticipation loans” and related products. HRB Royalty, Inc., is a Delaware corporation with its  
28

1 principal place of business in Kansas City, Missouri and does business in California, including  
2 in the City and County of San Francisco.

3 7. The above-named defendants are engaged, through their officers, agents,  
4 representatives and employees, in the business of tax preparation, the marketing and facilitation  
5 of “refund anticipation loans” and related items, and the provision of tax and related advice.

6 8. The true names and capacities, whether individual, corporate, or otherwise, of  
7 defendants named as Does 1 through 50 are unknown to Plaintiff who therefore sues these  
8 defendants by these fictitious names. Plaintiff will amend this complaint to show the true names  
9 of these defendants when their names and capacities have been ascertained.

10 9. All the defendants described in paragraphs 1 through 8 may collectively be  
11 referred to as “Defendants,” “H&R Block,” “Block” or “the company” in this complaint.

12 10. At all relevant times, Defendants have transacted business in the City and  
13 County of San Francisco and elsewhere in California. The violations of law herein alleged have  
14 been carried out in the City and County of San Francisco and elsewhere in the State of  
15 California.

16 11. At all relevant times, each of Doe defendants 1 through 50 has acted as an agent,  
17 representative, or employee of the other defendants, and has acted within the course and scope  
18 of that agency, representation or employment; and has participated in, has conspired with, and/or  
19 has aided and abetted others, including the other defendants in committing the violations alleged  
20 in this complaint.

21 12. Whenever reference in this complaint is made to any act of Defendant(s), that  
22 allegation shall be deemed to mean the act of each defendant acting individually and jointly.

23 13. Whenever reference in this complaint is made to any act or transaction of any  
24 corporation, partnership, business or other organization, that allegation shall be deemed to mean  
25 that the corporation, partnership, business or other organization did or authorized the acts alleged  
26 in this complaint through its principals, officers, directors, employees, members, agents and  
27 representatives while they were acting within the actual or ostensible scope of their authority.

28

1           14. Defendants have engaged in a conspiracy, common enterprise, and common  
2 course of conduct the purpose of which was to commit acts and practices of unfair competition  
3 and make untrue or misleading statements as alleged in this complaint.

4           15. Defendants each knew or realized that others, including the other Defendants,  
5 were engaging in or planned to engage in the violations of law alleged in this Complaint.  
6 Knowing or realizing that others, including the other Defendants, were engaging in such  
7 unlawful conduct, each Defendant nevertheless facilitated and continued to facilitate the  
8 commission of those unlawful acts. Each Defendant intended to encourage and facilitate the  
9 commission of the unlawful acts, and did encourage, facilitate, aid, promote or instigate the  
10 commission of unlawful acts, and thereby, aided and abetted others, including the other  
11 Defendants, in unlawful conduct. The unlawful acts alleged in this Complaint were those acts  
12 Defendants intended to and did facilitate or were the natural and reasonable consequences of the  
13 acts Defendants intended to and did facilitate.

#### 14                                   **DEFENDANTS' BUSINESS PRACTICES**

15           16. H&R Block holds itself out as a trusted expert in the fields of tax advice, tax  
16 preparation and related matters. The company's public statements emphasize that its "tax  
17 professionals" are experts in preparing their clients' taxes and in offering them tax advice.  
18 Defendants provide tax advice to their tax preparation customers, including suggestions to lower  
19 their tax obligation, such as by the use of IRAs or mortgages (which are offered by other Block  
20 affiliates). Customers rely on Block for its touted expert tax advice and tax preparation  
21 including when they have Block prepare their tax returns, explain their options for receiving  
22 their refunds, and send their returns to the Internal Revenue Service (IRS) via Block's e-filing  
23 service.

24           17. H&R Block promotes its tax advice and tax preparation services through a  
25 marketing campaign that touts its ability to get money to taxpayers quickly at tax time. Some  
26 of Block's marketing promotes the company's claimed ability to process tax returns so that  
27 taxpayers receive their refunds faster from the IRS. A significant amount of H&R Block's  
28 marketing, however, is not touting the company's fast service, but rather is promoting loans.

1                   **A. H&R Block Aggressively Markets “Refund Anticipation Loans”**

2                   18. The loans offered to H&R Block’s customers (refund anticipation loans, which  
3 the company refers to as “RALs”) are secured by the taxpayer’s anticipated tax refund and based  
4 on the anticipated amount of the refund. Block is barred by the Internal Revenue Service from  
5 directly making such loans itself. Consequently, the loans are technically provided by a bank  
6 with which H&R Block contracts via Defendants Block Financial Corp., H&R Block, Inc., H&R  
7 Block Services, Inc., H&R Block Enterprises, Inc., H&R Block Tax Services, Inc., and other  
8 Block affiliates. It is primarily H&R Block, however, not the bank, that advertises and promotes  
9 the loans. It is also H&R Block, through its “tax professionals,” that in the course of providing  
10 its tax advice and preparation service (after most of the “tax interview” is over and after  
11 determination that a client is entitled to a refund) offers the loans to its clients, provides its  
12 clients the multi-page loan applications, fills out the applications, and obtains the signed loan  
13 applications. Block also delivers the loan applications to the lending bank, and subsequently  
14 distributes the loan proceeds to its taxpayer clients. All loan fees and any tax preparation fees  
15 that the client has not already paid are deducted from the loan amount before the remainder of  
16 the loan proceeds are made available, generally at the Block office in the form of a paper check  
17 printed by Block that the client must pick up.

18                   19. H&R Block receives substantial revenue from the loans, the extent of which is  
19 not disclosed with any specificity to the Block client, including up to 49.99% of the interest paid  
20 on these loans. Block also receives through “license fees” a substantial portion of the associated  
21 fees its taxpayer clients are required to pay.

22                   20. Since 2001, Block customers in California have entered into more than 1.5  
23 million RALs, generating tens of millions of dollars in income for Block.

24                   21. The loan application which H&R Block personnel have the client sign  
25 authorizes the lender to set up a temporary “account” in the client’s name for the sole purpose  
26 of receiving the taxpayer’s refund directly from the IRS – the client may not deposit to or  
27 withdraw any amount from the collection account. When the client’s tax return is sent to the  
28 IRS, Block designates the collection account as the destination to which the refund should be

1 directed. Once the IRS is notified, the destination for the tax refund cannot be changed. When  
2 the refund arrives from the IRS, the lender repays itself out of the refund and forwards to H&R  
3 Block the amount of any tax preparation or other fees owed H&R Block.

4 22. H&R Block offers both “standard” RALs and “instant” RALs (IRALs). The  
5 company represents that a customer will receive a standard RAL within one to two days. The  
6 company represents that “instant” RAL proceeds are generally available the same day H&R  
7 Block prepares the taxpayer’s tax return. Unlike a standard RAL, eligibility for which is  
8 determined in significant part through checking the IRS “Debt Indicator” and requires 24 hours  
9 or more to process, eligibility for an H&R Block instant RAL – which it has promoted as  
10 “Instant Money” – is based primarily on the applicant’s credit score and is often determined  
11 while the applicant is in the H&R Block office where the tax return is prepared.

12 23. When a client’s tax return is filed electronically, as H&R Block does for the vast  
13 majority of its clients, the IRS provides the refund within approximately 8-15 days by direct  
14 deposit to a taxpayer’s own bank account or in about 21-28 days if sent by U.S. mail.

15 24. Because H&R Block clients with bank accounts may receive their RAL  
16 proceeds no more than a week before they would have received their refund from the IRS, RALs  
17 are very short-term, very expensive loans. Since the lender is repaid by the receipt of the  
18 borrower’s tax refund from the IRS in an average of about 10 days, Block’s RAL clients  
19 typically pay interest, depending on the size of the loan, at an Annual Percentage Rate (APR)  
20 of from 40% to well over 100% APR. If all administrative and application fees required to be  
21 paid to receive the loan were included, the rate could be in excess of 500%.

#### 22 **B. H&R Block’s RAL Program Targets the Working Poor**

23 25. The Earned Income Tax Credit (EITC) is a tax credit paid by the federal  
24 government to low-income taxpayers. Although EITC recipients make up less than twenty  
25 percent of all taxpayers, they constitute some seventy percent of all customers for H&R Block’s  
26 RALs and related products. Because the EITC is a tax credit rather than a deduction, receipt of  
27 the EITC, which averages several thousand dollars, often sharply increases or provides the  
28 entirety of a taxpayer’s refund.

1           26. Persons eligible for the credit can elect to have much of their EITC distributed  
2 in their paychecks throughout the year rather than having to wait for a lump sum refund at tax  
3 time (a program known as the “Advance EITC”). Similarly, even those who are not eligible for  
4 an EITC may keep more of their income during the year, rather than having to wait for it after  
5 filing their year-end tax returns, simply by adjusting their W-4 withholding amounts. H&R  
6 Block has not effectively provided information about adjusted withholding or the Advance EITC  
7 to those who – because of the size of their refunds and as recipients of RALs – are eligible for  
8 them.

9           27. The consequences of entering into a RAL may be severe. Submitting the  
10 application documents transfers clients’ entitlement to their tax refund to the lender and  
11 Defendants. If for any reason a client’s refund is not deposited into the temporary “account” or  
12 is less than expected because other debts have been deducted from the refund amount, the  
13 consumer is still held liable for the full amount of the RAL.

14           28. If an H&R Block client’s application for a RAL is denied for any reason, the  
15 client receives no money until the IRS sends the client’s refund to the temporary “account.”  
16 Nevertheless, certain RAL-related fees are still charged. In other words, such clients receive no  
17 loan, and obtain the remaining portion of their refund (less additional fees) no faster than they  
18 would have had they simply elected to receive their refund by direct deposit from the IRS.

19           **C. Defendants Offer Deferral of Tax Preparation Fees Through Purportedly**  
20           **Rapid “Refund Anticipation Checks”**

21           29. Generally, the fees for H&R Block’s tax preparation and related services are due  
22 at the time a client’s taxes are prepared. Defendants offer their clients the option of deferring  
23 payment of those fees until after their tax refund has been received from the IRS – but only if  
24 the clients agree to pay a fee to get a RAL or another refund-based product that Defendants call  
25 a “refund anticipation check” or “RAC.” No form H&R Block provides its clients discloses the  
26 cost of the deferral of tax preparation fees as an Annual Percentage Rate or Finance Charge, or  
27 contains any other disclosures required by Truth-in-Lending laws for deferral of amounts owed.  
28

1           30. In offering a RAC to its clients, H&R Block – as it does with a RAL – obtains  
2 its clients’ signatures on a multi-page application form which transfers the clients’ rights to  
3 receive their tax refunds to H&R Block’s chosen bank. The bank sets up a temporary collection  
4 account to secure the deferred fees due Block as well as the fees charged to get a RAC (called  
5 a “RAC fee” or “account fee”), and the IRS is directed to send the client’s tax refund directly  
6 to the bank. Unlike a RAL, where customers get the money while in the Block office or a day  
7 or two later, with a RAC customers do not receive any money until after the IRS has delivered  
8 their refund to the collection account at the bank. When the tax refund arrives, the bank deducts  
9 both the fees charged for allowing the deferral through the “account,” and all tax preparation  
10 fees and other charges owed to H&R Block, before forwarding whatever remains for the client.  
11 H&R Block clients receive this remaining amount of their refund, either in the form of a paper  
12 check they must pick up at the H&R Block office (if, for example, they do not have a bank  
13 account of their own), or by direct deposit into the clients’ own bank account, approximately 8-  
14 15 days after Block electronically files their returns – or in precisely the same amount of time  
15 that the clients would have received their refunds (without cost) straight from the IRS by direct  
16 deposit.

17           **D. Defendants’ RALs and RACs Bind Clients to Automatic Debt Collection**

18           31. Defendants participate in a mutual debt-collection scheme through a debt-pool  
19 participation agreement with their partner lenders, other commercial tax preparers, and the  
20 partner lenders of those tax preparers. RAL-related charges can become delinquent debts if, for  
21 any reason, the IRS does not send all or part of the anticipated refund securing the RAL. The  
22 applications which Defendants have their clients sign (for a RAL or RAC) purport also to bind  
23 the clients to the automatic collection of any debt from a prior year’s RAL- or RAC-type  
24 products that any debt-pool participant believes the client may owe. Only through a RAL or a  
25 RAC – and the accompanying “agreement” to have alleged past debts to Defendants and other  
26 entities collected – can clients defer paying their tax preparation fees at the time that their taxes  
27 are prepared, which may be a financial necessity.  
28



1           32. The RAL or RAC forms do not specify that the partner bank *is* a debt collector,  
2 but do state that the partner bank *may* be acting as a debt collector. Neither the application  
3 forms Defendants provide for a RAL or RAC nor any other document or information they  
4 provide before the client is committed to purchasing the RAL or RAC, however, give notice to  
5 the client of any specific debt or any specific creditor to whom a debt is owed.

6           33. Defendants know that an application for a RAL will be denied if it is made by  
7 an H&R Block client who is considered by H&R Block, or H&R Block's partner lender, or by  
8 *another* participating tax preparer or RAL lender, to owe a RAL-related debt from a previous  
9 year. Defendants, nevertheless, continue to offer such loans to their clients. Defendants also  
10 know that once the RAL or RAC application is signed and the tax return sent, the refund will  
11 inexorably be sent to the partner bank/debt collector, not the client. Consequently, Defendants  
12 also know their client will not receive written notice of the amount of the alleged debt, or of the  
13 identity of the creditor, or of their right to dispute the validity of a purported specific debt, until  
14 the after the client has already lost control over the anticipated refund. Moreover, although the  
15 client is entitled by law to 30 days from notice to contest the validity of the specified debt, the  
16 debt collector bank has control over the refund from the date the client signs and submits the  
17 loan application, and has generally transferred the purported debt owed to the purported creditor  
18 even before the thirty-day period ends.

19           34. The RAL application documents provide that client who signs up for a RAL,  
20 and is denied the loan, will automatically be switched to a RAC instead. Therefore, in any case  
21 where an H&R Block client who owes an alleged prior debt to any debt pool participant applies  
22 for a RAL, the client will within a day or so be denied a RAL (money within 1-2 days), given  
23 a RAC (money in 8-15 days, no faster than direct deposit from the IRS), and assessed a fee for  
24 the RAC. If the amount of the alleged debt and the current year's fees is greater than the amount  
25 of the client's tax refund, then the client receives nothing from the refund sent by the IRS.

26           35. Therefore, Block clients who are claimed to owe debt from a prior year are led  
27 to expect a loan of the amount the IRS is to refund, but instead find themselves in a collection  
28

1 proceeding. The loan documents describe the “consideration” the alleged debtors receive from  
2 this arrangement as “the ease and convenience” of paying off that debt.

3 36. H&R Block has benefitted and continues to benefit directly from this program  
4 through collection of debts that Block alleges clients owe the company from previous years for  
5 tax preparation and related fees, and through recovery of clients’ RAL fees and outstanding  
6 balances for loans in which Block has purchased an interest in prior years.

7 **E. Defendants Have Made Misleading and Deceptive Statements to Consumers**

8 37. To market and sell their tax preparation services and advice, as well as RALs  
9 and other products, Defendants have used a variety of media and in-store statements that offer  
10 to get money back fast for customers.

11 38. Defendants have portrayed RALs as a “refund” or “Instant Money” rather than  
12 as a loan. They have minimized or omitted words and phrases that would have indicated to  
13 clients and potential clients that a RAL is a loan rather than a faster way of getting a tax refund.  
14 They have run advertisements that misidentify loans as refunds, including (as an example) one  
15 that stated, with respect to a loan, “I got a check for my refund that day.”

16 39. Defendants have made misleading statements to lure customers, including  
17 advertisements that refer to loans as “your money” or getting clients “their money” (e.g.,  
18 “There’s no faster way to get your money”) when in fact the advertisement is referring not to a  
19 refund, but to a loan (that is, the lender’s money) that must be repaid with interest and fees.

20 40. Defendants have used advertisements for loans concurrently with confusingly  
21 similar advertisements for refund processing, including (as an example) simultaneous  
22 advertisements that announced “There’s no faster way to get your money” (referring to a 24-  
23 hour loan product) and “There’s no way to get your refund any faster” (referring to an 8-to-28-  
24 day direct payment from the IRS). Defendants have even touted loans and refund processing  
25 in the *same* advertisement.

26 41. Defendants have attempted to steer their clients to costly RALs or RACs by  
27 misstating or omitting to state, in communications with their clients and potential clients, the  
28

1 amount of time it takes to receive a refund directly from the IRS, as compared with the time to  
2 receive money through a RAL or RAC.

3 42. Defendants have advertised that clients who receive a RAL or RAC are  
4 receiving “cash, cold, green, in your hand, out the door.” In fact, these clients receive a check  
5 which, if they do not have a bank account of their own, will have to be cashed at considerable  
6 expense (and, in the case of on-site check-cashing, at considerable profit to H&R Block).

7 43. Defendants have touted the maximum “Instant Money” loan amount (seeking  
8 thereby to attract tax preparation clients on the basis of the availability of large amounts of such  
9 “instant money”). Defendants have failed to disclose or to disclose adequately, however, (1) that  
10 no client receives the maximum amount advertised in hand because the loan includes fees that  
11 are deducted before the client receives the proceeds, (2) that almost no one receives an amount  
12 anywhere near that high because clients cannot receive more than the amount of their tax refund  
13 less fees, (3) that only a small percentage of consumers even qualify for the “Instant Money”  
14 loan in the full amount of their tax refund (and even those must subtract fees), and (4) that a  
15 substantial percentage of those who apply for the Instant Money loan are denied entirely.

16 44. In advertisements and other statements regarding RACs, Defendants have failed  
17 to disclose or to disclose adequately the RAC (1) is an expensive product with substantial fees  
18 that may be avoided by paying for one’s tax preparation services up front and (2) does not arrive  
19 any faster than would a refund directly deposited from the IRS into the client’s own bank  
20 account.

21 45. The debt collection program included in RALs and RACs has not been disclosed  
22 or adequately disclosed in Defendants’ promotion of those products.

23 **F. Defendants Have Shared Taxpayer Information, Without Consent, For**  
24 **Purposes Not Related To Tax Preparation**

25 46. Federal and state laws strictly limit tax preparers’ use of information derived  
26 from individuals’ tax returns. Defendants have not obtained their clients’ consent to share such  
27 information in the manner required by law.  
28

1           47. Defendants have disclosed their clients' tax return information to their partner  
2 RAL-lending banks, for purposes of providing RALs and RACs, without first obtaining the  
3 clients' separate written consent.

4           48. Defendants have used and disclosed their clients' tax return information for  
5 marketing RALs and other items, including home mortgages, IRAs, and other financial products,  
6 without first obtaining a separate written consent for each of those uses and disclosures.

7           49. Defendants have used and disclosed their clients' tax return information for  
8 purposes of collecting debts or permitting others to collect debts, without first obtaining a  
9 separate written consent for each of those uses and disclosures.

10           **G. Defendants Have Profited From Undisclosed Check Cashing Fees**  
11           **and an Improper Lottery**

12           50. Many of H&R Block's clients obtain their RAL or RAC proceeds in the form  
13 of a paper check that they must pick up at an H&R Block office. Block has directed its clients  
14 to institutions that charge consumers fees to cash these checks that exceed the maximum amount  
15 allowed to cash a check issued by the IRS. Block has also established check-cashing  
16 arrangements with various institutions, some of which have paid Block 20% to 50% of the gross  
17 check-cashing fees for checks issued to Block's clients. Block has failed to disclose or to  
18 adequately disclose to consumers that a portion of the check cashing fee the institution charges  
19 them is kicked back to Defendants.

20           51. In 2004, H&R Block ran a promotion through which each client would receive  
21 a scratch card which might entitle the client to double the amount of his or her tax refund. Under  
22 California law, this promotion was a lottery and therefore required clear and conspicuous  
23 disclosure that no purchase of tax preparation services was necessary in order to receive a game  
24 card and participate. H&R Block's advertisements and other statements about the "Double Your  
25 Refund" promotion did not clearly or adequately convey that no purchase was necessary.

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1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17500**  
3 **(MISLEADING OR DECEPTIVE STATEMENTS)**

4 52. The People incorporate by reference paragraphs 1 through 51 of this  
5 Complaint as though they were set forth fully in this cause of action.

6 53. In violation of Business and Professions Code section 17500, Defendants,  
7 and each of them, with the intent to induce California consumers to purchase the products or  
8 services Defendants offer, have made, disseminated or caused to be made or disseminated,  
9 and continue to make, disseminate or cause to be disseminated, before the public in the city  
10 and county of San Francisco, and elsewhere in the State of California, untrue or misleading  
11 statements, which they knew or reasonably should have known were untrue or misleading at  
12 the time the statements were made.

13 54. These untrue, misleading or deceptive statements include, but are not limited  
14 to, the following:

- 15 a. Defendants have portrayed their RAL product as the client's tax refund or as  
16 "Instant Money" rather than as a loan. They have minimized or omitted  
17 words and phrases that would have indicated that a RAL is a loan. They have  
18 run advertisements that misidentify loans as refunds. They have promulgated  
19 advertisements that refer to loans as "your money" or getting clients "their  
20 money." These statements are untrue or misleading because a RAL is not the  
21 taxpayer's refund or the taxpayer's money but, instead, a high-cost, short-term  
22 loan.
- 23 b. Defendants have run advertisements related to "rapid" refund processing  
24 concurrently with confusingly similar advertisements related to quickly  
25 available or "instant" loans, and have even advertised refund processing and  
26 loans in the same advertisement. These statements are untrue or misleading  
27 because they imply that the money being offered is a tax refund, not a very  
28 short-term, high-cost loan.

- 1 c. Defendants have stated, directly or by implication, that their (high-cost) RALs  
2 and RACs are a faster way to receive money at tax time than waiting to  
3 receive a refund directly from the IRS. These statements are untrue or  
4 misleading because taxpayers can receive a direct deposit refund from the IRS  
5 on a return filed electronically as fast as they can receive a direct-deposited  
6 RAC or a RAC check, and the difference between the time to receive a costly  
7 RAL or RAC and the time needed for delivery of an IRS check by mail is less  
8 than that represented.
- 9 d. Defendants have misleadingly represented that clients who receive a RAL or  
10 RAC are receiving “cash” when, in fact, such clients receive a check which  
11 must be cashed, often at considerable expense.
- 12 e. Defendants have misleadingly made statements touting the amount available  
13 in an “Instant Money” loan. These statements are untrue or misleading  
14 because few Instant Money loans are made at or near the maximum amounts  
15 stated, and a substantial proportion of applicants are rejected entirely for an  
16 Instant Money loan.
- 17 f. In advertisements and other statements Defendants have misleadingly  
18 described RALs and RACs as ways of receiving money faster at tax time or  
19 avoiding up-front payment of tax preparation fees. These statements are  
20 untrue or misleading because they fail to disclose that, by applying for these  
21 products, Defendants’ clients also purportedly authorize automatic collection  
22 of unspecified debts in unspecified amounts from prior years which may be  
23 claimed to be owed to any of a number of RAL-lenders who are participants  
24 in a debt-pooling arrangement.

25 //

26 //

27 //

1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE**  
3 **SECTION 17200 (UNFAIR COMPETITION)**

4 55. The People incorporate by reference paragraphs 1 through 51 and 53 through  
5 54 of this Complaint as though they were set forth fully in this cause of action.

6 56. Defendants, and each of them, have engaged in and remain engaged in unfair  
7 competition, as defined in California Business and Professions Code section 17200. These  
8 acts of unfair competition include, but are not limited to, the following:

9 a. Defendants have violated Business and Professions Code section 17500 as  
10 alleged in the First Cause of Action.

11 b. Defendants have participated with, aided and abetted, acted as agents of, or  
12 conspired with persons acting as debt collectors in the following violations of  
13 the Fair Debt Collection Practices Act (governing third-party debt-collectors):

14 (1) Failing to give alleged debtors information, including the amount of the  
15 purported debt and the creditor to whom it is owed as well as the debtors'  
16 30-day right to dispute the debt, within 5 days of the initial contact,  
17 without overshadowing or contradicting this "validation" notice, as  
18 required by 15 U.S.C. section 1692g;

19 (2) Engaging in debt-collection activities that are misleading or deceptive, in  
20 violation of 15 U.S.C. section 1692e;

21 (3) Engaging in debt-collection activities that are unfair or unconscionable,  
22 in violation of 15 U.S.C. section 1692f.

23 c. Defendants have participated with, aided and abetted, acted as agents of, or  
24 conspired with persons acting as debt collectors in the following violations of  
25 the California Rosenthal Fair Debt Collection Practices Act (governing both  
26 creditors and third-party debt-collectors):

27 (1) Engaging in debt-collection activities that are misleading or deceptive, in  
28 violation of Civil Code section 1788.17;

1 (2) Engaging in debt-collection activities that are unfair or unconscionable,  
2 in violation of Civil Code section 1788.17;

3 (3) Engaging in the practice of falsely representing the true nature of the  
4 business or services being rendered by a debt collector, in violation of  
5 Civil Code section 1788.13(i).

6 d. In connection with RALs and related products, Defendants have engaged in  
7 the following violations of the Consumer Legal Remedies Act:

8 (1) Advertising goods or services with intent not to sell them as advertised,  
9 in violation of Civil Code section 1770(a)(9);

10 (2) Representing that a transaction confers or involves rights, remedies, or  
11 obligations which it does not have or involve, or which are prohibited by  
12 law, in violation of Civil Code section 1770(a)(14);

13 (3) Inserting an unconscionable provision in a contract, in violation of Civil  
14 Code section 1770(a)(19).

15 e. Defendants have used or disclosed information from their clients' tax returns  
16 for purposes other than preparing the return, without first obtaining a separate  
17 written consent for each such use or disclosure, in the following ways:

18 (1) Disclosing their clients' tax return information to their partner RAL-  
19 lending banks, for purposes of providing RALs and RACs, without first  
20 obtaining the clients' separate written consent, in violation of 26 U.S.C.  
21 section 7216 and 26 C.F.R. sections 301.7216-1 and 301.7216-3;

22 (2) Using and disclosing their clients' tax return information for marketing  
23 RALs and other items, including home mortgages, IRAs, and other  
24 financial products, without first obtaining a separate written consent for  
25 each of these uses and disclosures, in violation of 26 U.S.C. section 7216  
26 and 26 C.F.R. sections 301.7216-1 and 301.7216-3;

27 (3) Using and disclosing their clients' tax return information for purposes of  
28 collecting debts, without first obtaining a separate written consent for



1 each of these uses and disclosures, in violation of 26 U.S.C. section 7216  
2 and 26 C.F.R. sections 301.7216-1 and 301.7216-3.

3 f. Defendants have disclosed information obtained in the business of preparing  
4 federal or state income tax returns without obtaining the taxpayer's consent in  
5 a separate written document that states to whom the disclosure will be made  
6 and how the information will be used, in the following ways:

7 (1) Disclosing their clients' tax return information to their partner RAL-  
8 lending banks, for purposes of selling RALs and RACs, without first  
9 obtaining the clients' consent in a separate document, in violation of  
10 Business and Professions Code sections 17530.5 and 22553;

11 (2) Disclosing their clients' tax return information to their partner banks and  
12 other RAL lenders for purposes of collecting debts or allowing others to  
13 collect debts, without first obtaining the clients' consent in a separate  
14 document, in violation of Business and Professions Code sections  
15 17530.5 and 22553.

16 g. In offering RACs to their clients, Defendants have regularly extended or  
17 offered to extend credit (in the form of deferral) on which a charge is or may  
18 be imposed. Defendants have therefore acted as creditors within the meaning  
19 of the Truth-in-Lending law and have violated that law by

20 failing to timely make the disclosures required by the Truth-in-Lending  
21 Act and Regulation Z on RAC-related documents, including the  
22 disclosures required by 15 U.S.C. sections 1631 and 1632; and 12 C.F.R.  
23 sections 226.17 and 226.18.

24 h. Defendants hold themselves out to their clients and to the public as "trusted"  
25 experts on tax preparation and tax advice. They have sought to gain and have  
26 gained the confidence of their clients, and have purported to act or advise  
27 their clients with the clients' interests in mind. Despite this confidential  
28

1 relationship, however, Defendants have acted in their own financial interest  
2 rather than their clients' in the following ways:

- 3 (1) They have served simultaneously as the agent of their clients and of their  
4 partner lending banks, aggressively marketing and steering their clients  
5 to purchase RALs and RACs that profit the bank and Defendants  
6 whether or not these products are in the clients' financial best interest;
- 7 (2) They have failed to disclose clearly and accurately to their clients the  
8 expense of each refund option and the amount of time it takes to receive  
9 money under each option;
- 10 (3) They have failed to disclose to their clients the extent of their own  
11 financial interests in RALs and RACs, and in the recovery of prior years'  
12 RAL debt;
- 13 (4) They have failed affirmatively to raise with their RAL and RAC clients  
14 the option of adjusting their withholding of taxes so that they receive  
15 more of their income each month during the year rather than having to  
16 wait until the end of the year to receive it in a refund or high-cost RAL or  
17 RAC;
- 18 (5) They have failed affirmatively to raise with their RAL and RAC clients  
19 who receive the EITC the option of saving RAL- and RAC-related fees  
20 and getting more money for ongoing living expenses by adjusting their  
21 withholding or receiving part of their EITC in their paychecks every  
22 month during the year as part of the "Advance EITC" program, rather  
23 than having to wait until the end of the year to receive it in a refund or  
24 high-cost RAL or RAC;
- 25 (6) They have held out the promise of "Instant Money" with a high loan  
26 amount despite the fact that few of their clients qualify for a loan  
27 anywhere near the maximum; and  
28

1 (7) They have, in “bait-and-switch fashion,” held out the promise of a RAL  
2 even to those clients whom Defendants or other debt-collection pool  
3 participants believe owe delinquent debt, and who will as a result have a  
4 RAL application denied and instead find themselves placed into a RAC  
5 and in the midst of a debt collection proceeding.  
6

7 WHEREFORE, plaintiff prays for judgment as follows:

- 8 1. Pursuant to Business and Professions Codes sections 17535 and 17203, that  
9 Defendants, their successors, agents, representatives, employees, and any and  
10 all other persons who act in concert or participation with Defendants be  
11 permanently restrained and enjoined from:
  - 12 a. Doing any of the acts set forth in this complaint or any other act in  
13 violation of Business and Professions Code section 17200 *et seq.*;
  - 14 b. Making or disseminating any of the untrue or misleading statements  
15 described in this complaint or any other statement in violation of  
16 Business and Professions Code section 17500 *et seq.*;
- 17 2. Pursuant to Business and Professions Code section 17536, that Defendants be  
18 assessed a civil penalty of \$2500.00 for each violation of Business and  
19 Professions Code section 17500 as proven at trial, but in an amount not less  
20 than \$10 million;
- 21 3. Pursuant to Business and Professions Code section 17206, that defendants be  
22 assessed a civil penalty of \$2500.00 for each violation of Business and  
23 Professions Code section 17200 as proven at trial, but in an amount of not less  
24 than \$10 million;
- 25 4. Pursuant to Business and Professions Code sections 17203 and 17535, that  
26 Defendants be ordered to make full restitution of any money or other property  
27 that may have been acquired by Defendants’ violations of Business and  
28 Professions Code sections 17200 and 17500, as proven at trial;

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- 5. That plaintiff recover its costs of suit;
- 6. The Court order other and further relief as the nature of the case may require and the court may deem appropriate and just.

Dated: February \_\_, 2006

Respectfully submitted,  
  
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SETH E. MERMIN  
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Attorneys for the People of the State of California

**THIS COMPLAINT IS SUBJECT TO C.C.P. § 446(a)  
GOVERNING VERIFICATION OF PLEADINGS**