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CFPB and Navajo Nation Take Action to Stop an Illegal Tax-Refund Scheme

Defendants Would Pay a Total of $438,000 in Redress and another $438,000 in Civil Penalties

WASHINGTON, D.C. — Today, the Consumer Financial Protection Bureau (CFPB) announced that, together with the Navajo Nation, it is taking action against companies and individuals who operated an illegal tax-refund scheme. The scheme was based on tax-preparation franchises steering low-income consumers, including many citizens of the Navajo Nation, toward high-cost tax-refund-anticipation loans. A proposed order, if approved by the court, would result in roughly $438,000 in total consumer redress and require the defendants to pay $438,000 in civil penalties for their unfair, deceptive, and abusive practices.

"This scheme exploited vulnerable consumers by grossly understating loan rates and by deceiving them about the status of their tax refunds," said CFPB Director Richard Cordray. "Today's joint action with the Navajo Nation to police illegal and abusive practices is a milestone for the Bureau. Through our coordination and cooperation, we are putting an end to this sorry chapter."

"Today's action with the Consumer Bureau is the first time the Navajo Nation has sued a border town tax lending service," said Navajo Nation Assistant Attorney General Paul Spruhan. "This action puts lenders on notice that the Navajo Nation is prepared to enforce federal laws against predatory lenders to protect its citizens."

The complaint names Jeffrey Scott Thomas, who through his company, J Thomas Development of NM, Inc., owned four H&R Block tax-preparation franchises in New Mexico. The Bureau and the Navajo Nation did not find that H&R Block participated in this scheme, and H&R Block terminated its relationship with those franchises, which then closed in September 2014. Before they closed, the tax franchises catered largely to low-income citizens of the Navajo Nation who qualified for and relied upon the Earned Income Tax Credit, a federal anti-poverty program.

Thomas set up S/W Tax Loans, Inc. ("Southwest") to offer his tax-preparation clients refund-anticipation loans, which were typically very expensive with triple-digit annual percentage rates (APR). Thomas decided that his franchises would not offer a line of credit to their tax customers. Instead, he established Southwest to sell his tax clients refund-anticipation loans with APRs above 240 percent. Thomas installed his friend Dennis Gonzales as the owner and president of Southwest.

This scheme violated the law in a number of ways:

- **Illegally steered vulnerable consumers to high-cost products:** Thomas and his franchises illegally steered their tax-preparation clients to Southwest for refund-anticipation loans without disclosing the significant financial interest he and his employees had in these loans. Thomas, as the financer, earned interest and fees on these loans, and he paid his tax preparers bonuses based on the number of refund-anticipation loans their clients took out. The consumers targeted were low-income with immediate cash needs. By failing to disclose their financial interests in the loan products to which they were steering their customers, Thomas and his franchises were taking advantage of consumers and engaging in abusive practices.
- **Illegally and grossly understated the loans' APRs:** Southwest's refund-anticipation-loan agreements told consumers that the IRS normally makes an electronic deposit in an average of about 12 days. Yet Southwest's 2013 loan agreements used an APR based on an estimate that the loan would be for 45 days. The inflated loan-term estimate resulted in the APRs being significantly understated, misleading consumers into believing the loans were far less costly than they actually were. Southwest has already refunded roughly $184,000 to the almost 10,000 consumers impacted by these unlawful APR disclosures.
- **Unfairly failed to disclose the availability of consumers' tax refunds:** The loan agreements authorized Southwest to do a number of things, including to receive consumers' state and federal tax refunds, and use their tax refunds to pay off the loan and fees for the tax-preparation services. Southwest did not disclose to more than 1,500 consumers that their tax refunds had been received from the IRS and were already being processed by the company. Instead, when these consumers inquired about the status of their refund, Southwest persuaded the consumers to take out a second or third refund-anticipation loan. As a result, many consumers were led to pay a finance charge for an unnecessary high-interest loan. Those consumers incurred over $254,000 in unnecessary interest and fees as a result of this unfair, deceptive, and abusive practice.

Enforcement Action

Under the Dodd-Frank Act, the CFPB has the authority to take action against institutions violating federal consumer financial laws, including by engaging in unfair, deceptive, or abusive acts or practices. The proposed order, if approved by the court, would:

- **Ban Thomas and Gonzales from this market:** Thomas and Gonzales would be banned for five years from offering financial products associated with tax refunds and from investing, financing, or working for any entity that offers such products.
- **Provide full refunds of interest and fees:** The defendants would pay $254,267 in redress. This is enough to give full refunds of interest and fees to consumers who took out a second or third refund-anticipation loan because Southwest did not tell them their tax refund would soon be available. This is on top of the roughly $184,000 in refunds that Southwest has already provided consumers harmed by Southwest's deceptive APR disclosures.

- **Require the defendants to pay $438,000 in civil penalties:** For their conduct, the defendants would be required to pay $438,000 to the CFPB's Civil Penalty Fund.

The CFPB's complaint is available at:
http://files.consumerfinance.gov/f/201504_cfpb_complaint-sw-tax-loans.pdf

The proposed order is available at:
http://files.consumerfinance.gov/f/201504_cfpb_stipulation-sw-tax-loans.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.