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**ELECTRONICALLY  
FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CIVIL COMPLEX CENTER  
**Aug 04 2009**  
ALAN CARLSON, Clerk of the Court  
by R. Vavra

**SPENCER LAW FIRM**  
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**Attorneys for Plaintiffs**

**ORANGE COUNTY SUPERIOR COURT, CENTRAL JUSTICE CENTER**  
**STATE OF CALIFORNIA**  
**751 West Santa Ana Blvd., Santa Ana, CA 92701**

WILLIAM AGUILAR, on behalf of ) Case No. 30-2009-00291088  
himself and all persons similarly situated, )  
)  
Plaintiff, )  
)  
v. )

ASSOCIATED TAX RELIEF, ) **CLASS ACTION**  
BICH NGUYEN, ) **JUDGE THIERRY PATRICK COLAW**  
YOUNG BIN CHUNG, ) **DEPT. CX104**  
LINDA WILSON, )  
and DOES 1 through 100 inclusive, )

) **COMPLAINT FOR**  
) **1. Violation of Unfair Competition Law**  
) **(Business & Professions Code § 17200 et.**  
) **al.)**  
)  
Defendants. )

Plaintiff alleges as follows:

THIS CASE IS SUBJECT TO  
MANDATORY ELECTRONIC FILING  
PURSUANT TO RULE 308 OF THE LOCAL RULES  
OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

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**PARTIES**

1. Plaintiff WILLIAM AGUILAR, an individual, brings this action on behalf of himself, and on behalf of a class of similarly situated persons pursuant to Code of Civil Procedure § 382. Plaintiff is a resident of the State of Texas and a competent adult.
2. Plaintiff is informed and believes, and thereupon alleges, that defendant ASSOCIATED TAX RELIEF (ATF) is now, and at all times mentioned in this Complaint was, a corporation based in Los Angeles, California and doing business in the County of Orange, State of California, and throughout the State of California and United States.
3. Plaintiff is informed and believes, and thereupon alleges, that defendant BICH NGUYEN is now, and at all times mentioned in this Complaint was, a person residing at address unknown, and doing business in the County of Orange, State of California, and throughout the State of California and United States.
4. Plaintiff is informed and believes, and thereupon alleges, that defendant YOUNG BIN CHUNG is now, and at all times mentioned in this Complaint was, a person residing in Buena Park, California, and doing business in the County of Orange, State of California, and throughout the State of California and United States.
5. Plaintiff is informed and believes, and thereupon alleges, that defendant LINDA WILSON is now, and at all times mentioned in this Complaint was, a person residing at address unknown, and doing business in the County of Orange, State of California, and throughout the State of California and United States.
6. Plaintiff does not know the true names or capacities of the defendants sued herein as DOES 1 through 100 inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and thereon alleges, that each of these fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and that plaintiff's damages as herein alleged were proximately caused by those defendants. Each

1 reference in this complaint to “defendant” or “defendants” or to a specifically named  
2 defendant refers also to all defendants sued under fictitious names.

3 7. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned each  
4 of the defendants, including all defendants sued under fictitious names, and each of the  
5 persons who are not parties to this action but are identified by name or otherwise throughout  
6 this complaint, was the alter ego of each of the remaining defendants, was the successor in  
7 interest or predecessor in interest, and was the agent and employee of each of the remaining  
8 defendants and in doing the things herein alleged was acting within the course and scope of  
9 this agency and employment.

10 **CLASS ALLEGATIONS**

11 8. Plaintiff is a member of a class of persons, the members of which are similarly situated to  
12 each other member of that class. The class is defined as follows:

13 All persons who, on or after August 4, 2005, paid money to  
14 defendants for tax debt settlement services, cancelled their services  
15 and then were not provided a refund.

16 9. Plaintiff is informed and believes, and thereupon alleges, that the class plaintiff represents  
17 includes thousands of persons. The class is so numerous that it is impracticable to bring all  
18 members of the class before the court. The identity of the members of the class is easily  
19 ascertainable from defendants’ own business records, or those of their agents, which would  
20 reflect the identity of the consumers who were paid money to defendants, cancelled the  
21 services and were denied a refund.

22 10. The plaintiff and class members’ claims against defendants involve questions of law or fact  
23 common to the class that are substantially similar and predominate over questions affecting  
24 individual class members in that all class members paid money to defendants and then  
25 cancelled services but were denied a refund.

26 11. The claims of plaintiff are typical of the claims of the members of the class.

27 12. Plaintiff can fairly and adequately represent the interests of the class.

28 **FIRST CAUSE OF ACTION FOR UNFAIR COMPETITION AGAINST ALL**

1                    **DEFENDANTS (BROUGHT AS INDIVIDUAL ACTION AND CLASS ACTION)**

2                    13. Plaintiff incorporates in this cause of action the allegations contained in paragraphs 1 through  
3                    12, inclusive.

4                    14. Commencing prior to August 4, 2005, but continuing on that date and continuing thereafter,  
5                    defendants have engaged in, are engaged in, and propose to engage in unfair competition as  
6                    that term is defined in Business and Professions Code § 17200, which includes any  
7                    “unlawful, unfair or fraudulent business act or practice,” “unfair, deceptive, untrue or  
8                    misleading advertising,” and any act prohibited by Chapter 1 (commencing with § 17500) of  
9                    Part 3 of Division 7 of the Business and Professions Code.

10                   15. At all relevant times, defendant ATR was a national firm based in Los Angeles, California  
11                   that provided tax debt negotiation services to California residents and residents of other  
12                   states.

13                   16. At all relevant times, defendant NGUYEN was the Director of Operations for ATR,  
14                   defendant CHUNG was a licensed attorney of law, and defendant WILSON was an  
15                   accountant.

16                   17. Plaintiff is informed and believes, and thereupon alleges, that NGUYEN, CHUNG and  
17                   WILSON were co-owners of ATR.

18                   18. On May 4, 2009, plaintiff saw an advertisement in the San Antonio Texas Yellow Pages for a  
19                   tax debt settlement service called Alliance Tax Defenders. He called the phone number and a  
20                   man who said his name was Matt Phillips answered and identified the company as  
21                   Associated Tax Relief. During the conversation, the man touted the expertise and success  
22                   rate of ATR and convinced plaintiff to hire it. It was specifically represented to him that he  
23                   was hiring a licensed attorney at law.

24                   19. Phillips faxed plaintiff a one page credit card authorization form to plaintiff. A true and  
25                   correct copy of the form is attached hereto as Exhibit 1 (with credit card number redacted)  
26                   and incorporated thereby.

27                   20. Plaintiff read and signed the authorization form, which resulted in an immediate charge of  
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1 \$4,000 on his credit card. He understood it to mean the total fee for ATR's services was  
2 \$12,000 payable in monthly installments but did not believe the fee was non-refundable until  
3 it had been fully earned. At the same time or the next day he completed and faxed other  
4 forms giving defendants NGUYEN, CHUNG and WILSON "power of attorney" to negotiate  
5 his IRS debt. The fact CHUNG was listed as an attorney at law helped persuade plaintiff to  
6 complete and return the forms.

7 21. After receiving plaintiff's \$4,000 payment, ATR mailed a packet of documents to plaintiff,  
8 who received them on or about May 12, 2009. The packet included an "Engagement Letter"  
9 and questionnaires and financial statements for plaintiff to fill out and return. The responses  
10 to the questionnaire and statements would have provided the financial and personal  
11 information that would have allowed ATR to negotiate his IRS debt.

12 22. The Engagement Letter stated that ATR earned 50% of its total fee merely by filing the  
13 power of attorney with the IRS, another 20% for ascertaining wage and income and pulling  
14 tax transcripts, another 15% for reviewing personal financial information, another 10% for  
15 developing negotiation strategy and the final 5% for preparing a final submission to the IRS.

16 23. After reviewing this document, plaintiff decided not to use the services of ATR.  
17 Accordingly, he did not return either the Engagement Letter or the questionnaires and  
18 financial statements.

19 24. Instead, plaintiff called ATR to try to cancel the service but could only get a receptionist who  
20 had no authority to do anything.

21 25. On May 18, 2009, plaintiff faxed a letter to ATR indicating he was cancelling its services,  
22 revoking the powers of attorney and demanding a refund of all money already paid.

23 26. Even though ATR received the aforementioned cancellation letter on May 18, 2009, it  
24 ignored the letter until June 3, 2009, at which time it wrote a letter back to plaintiff. The  
25 response letter stated ATR was terminating work as of June 3<sup>rd</sup> and claimed that plaintiff was  
26 not entitled to any refund because \$10,800 "worth" of work had already been done. This was  
27 equivalent to 90 percent of the "tasks" referenced in the Engagement Letter (which was never  
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- 1       agreed to).
- 2   27. In the June 3, 2009, letter ATR falsely claimed that it had completed the tasks of a) filing the
- 3       power of attorney forms and completing an in depth interview and making financial
- 4       projections; b) pulling tax returns and wage and income transcripts and assisting in
- 5       completion and review of confidential information sent; and c) obtaining the collection status
- 6       of the client's account with the IRS.
- 7   28. However, no confidential financial information had been provided by plaintiff to ATR and it
- 8       is highly unlikely ATR had time between May 5, 2009 and May 18, 2009 to do much more
- 9       than order the IRS transcripts.
- 10   29. Moreover, even if ATR had determined plaintiff was entitled to a refund, it would not have
- 11       provided one to him unless he executed a General Release, a true and accurate copy of which
- 12       is attached hereto as Exhibit 2 and incorporated thereby. The Release would have absolved
- 13       ATR and its officers, agents and employees from all liability for all claims arising from the
- 14       beginning of time to the date of the instrument.
- 15   30. The conduct of defendants as set forth above with respect to plaintiff and the class members
- 16       was an "unlawful" business act or practice within the meaning of Business and Professions
- 17       Code § 17200 because it violated Civil Code § 1670.5 (unconscionable contract provisions)
- 18       and Civil Code § 1770 (a) (19) inserting an unconscionable provision in a contract. To the
- 19       extent, the credit card authorization and/or the Engagement Letter can be read to create a
- 20       non-refundable fee of \$12,000, such provision was procedurally and substantively
- 21       unconscionable given the limited work done by ATR. Similarly, the practice of refusing to
- 22       provide a refund unless a General Release was executed is unconscionable since even when
- 23       ATR's own "retention" schedule called for a refund, ATR still refused to provide one.
- 24   31. The conduct of defendants as set forth above with respect to plaintiff and the class members
- 25       was a "fraudulent" business act or practice and deceptive or misleading advertisement within
- 26       the meaning of Business and Professions Code § 17200 because plaintiff and the class
- 27       members were likely to be deceived into believing that they would be able to obtain a refund
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1 of the amount of money paid for unused services. The credit card authorization signed by  
2 plaintiff did not clearly characterize the \$12,000 fee as “non-refundable” even if little or no  
3 work was done.

4 32. The conduct of defendants as set forth above with respect to plaintiff and the class members  
5 was an “unfair” business act or practice within the meaning of Business and Professions  
6 Code § 17200. The fairness of business conduct is determined by weighing the practice’s  
7 impact on consumers and members of the general public against the business justification for  
8 the conduct. Here, there was no business justification for charging or attempting to charge a  
9 \$12,000 fee for little or no work. Instead, such a practice was unconscionable. Defendants’  
10 list of tasks and “retention percentages” in the Engagement Letter is also unconscionable as  
11 is defendants’ practice of ignoring cancellation requests and lying about what tasks were  
12 supposedly performed prior to the receipt of a cancellation notice. Finally, defendants’  
13 practice of requiring execution of a General Release before any refund will be provided is  
14 unconscionable. On the other hand, defendants’ practices were harmful to consumers and  
15 caused substantial financial loss.

16 33. In engaging in conduct that constitutes unfair competition, each defendant has acquired  
17 money or property from members of the class. Specifically, defendants have acquired money  
18 paid by clients for tax debt relief services who subsequently cancelled the services. All  
19 money paid by said clients and interest thereon should be restored to the class members.

20 34. Pursuant to Business and Professions Code § 17203 and § 17204, plaintiff is empowered to  
21 act as Private Attorneys General to enjoin such conduct in the future and to compel each  
22 defendant to restore to the members of the general public and specifically the class members  
23 any money or property that it may have acquired as a result of any act which constitutes  
24 unfair competition.

25 35. Plaintiff meets the standing requirements under Proposition 64 in that plaintiff has brought  
26 this action as a class action pursuant to Code of Civil Procedure § 382, plaintiff has suffered  
27 injury in fact (the violation of the UCL and other laws) and has lost money (\$4,000) as a  
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1 result of defendants' acts of unfair competition.

2 36. It is impossible for plaintiff to determine the exact amount of money due to the class  
3 members without a detailed review of defendants' financial books and records. Accordingly,  
4 plaintiff seeks, among other things, an accounting and/or the appointment of a receiver.

5 37. The aforementioned business practices of defendants are likely to continue and therefore will  
6 continue to violate the law unless this court enjoins it and requires defendants to cease the  
7 unlawful practices and to adopt policies and procedures to assure violations will not be  
8 committed in the future.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, plaintiff prays for judgment on all causes of action against defendant as  
11 follows:

- 12 1. For an order certifying this matter as a class action;
- 13 2. For a declaration of the rights and liabilities of the parties including a declaration that the  
14 defendants' practice of refusing refunds is an unlawful, deceptive or unfair business practice  
15 in violation of the UCL.
- 16 3. For preliminary and permanent injunctive relief pursuant to Business and Professions Code §  
17 17203 restraining and enjoining defendants from continuing the acts of unfair and unlawful  
18 competition and deceptive practices set forth above, requiring defendant to take any acts  
19 needed to prevent further violations, and requiring defendant to take affirmative measures to  
20 redress past wrongdoings;
- 21 4. For an order requiring defendants to provide an accounting of all moneys which they may  
22 have received as a result of the acts and practices found to constitute unfair competition  
23 under Business and Professions Code § 17200;
- 24 5. For an order that defendant identify, locate and make restitution to affected members of the  
25 class, and all additional orders necessary to accomplish this purpose, pursuant to Business  
26 and Professions Code § 17203;
- 27 6. For distribution of any moneys recovered on behalf of members of the class, via fluid  
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recovery or cy pres recovery where necessary to prevent defendant from retaining the benefits of their wrongful conduct as provided in California v. Levi Strauss & Co. (1986) 41 Cal.3d 460 and People v. Thomas Shelton Powers, M.D. Inc. (1992) 2 Cal.App.4th 330;

- 7. For interest on the sum of money to be restored on the first cause of action;
- 8. For reasonable attorney's fees pursuant to the Private Attorney General doctrine provision in Code of Civil Procedure § 1021.5, pursuant to the “common fund” doctrine, and pursuant to the “substantial benefit” doctrine.
- 9. For costs of suit incurred herein; and
- 10. For such other and further relief as the court may deem proper.

DATED: August 4, 2009

Respectfully submitted,

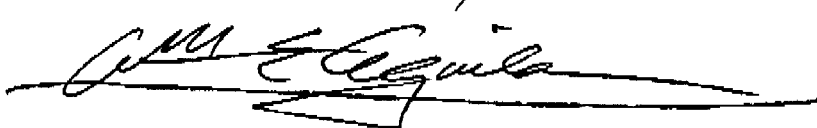
By \_\_\_\_\_ /s/ \_\_\_\_\_

JEFFREY WILENS  
Attorney for Plaintiff

### Credit Card Authorization AUTHORIZATION

I, William E. Aguilar, do hereby authorize Associated Tax Relief on or after 05/04//09 to draw on my Mastercard , a non-refundable fee earned on receipt retainer earned upon execution by me of the Internal Revenue Service power of attorney in the amount of \$4,000 as for services.

I William E. Aguilar, do hereby agree to pay to Associated tax relief \$4,000 per month from 06/04/09 thru 07/04/09. This will add to total fees of \$12,000

Card #	Expiration date	CVV #
██████████	██████████	██████████
Print Name of Account Holder	Date	Signature of Account Holder
William E. Aguilar	5/4/09	

X

**GENERAL RELEASE**

**BE IT KNOWN that Aguillar, William and Michelle(hereinafter referred to as "Releaser") for and in consideration of the sum of zero dollars (\$0.00) and for other valuable consideration from or on behalf of ASSOCIATED TAX RELIEF and its officers, agents and employees (hereinafter referred to as "Releasees"), the receipt of which is hereby acknowledged, Releaser does hereby release, acquit, and forever discharge the said Releasees of and from all manner of actions, causes of action, debts, contracts, agreements, promises, and claims of any kind or nature which said Releaser ever had, now has, against Releasees by reason of any matter from the beginning of time to the date of this instrument.**

This General Release is dated \_\_\_\_\_, 2009,

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name