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15 ***NO FEE – CAL. GOVT. CODE § 6103***

16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF LOS ANGELES**

19 THE PEOPLE OF THE STATE OF
20 CALIFORNIA,

21 Plaintiff,

22 v.

23 INTUIT INC., a Delaware Corporation; and
24 DOES 1-50, inclusive,

25 Defendants.

Case No.: 19STCV15644

**COMPLAINT FOR INJUNCTIVE
RELIEF, RESTITUTION, AND CIVIL
PENALTIES FOR VIOLATIONS OF THE
UNFAIR COMPETITION LAW (BUS. &
PROF. CODE §§ 17200 *ET SEQ.*)**

26
27 **INTRODUCTION**

28
1. Plaintiff, the People of the State of California (the “People”), by and through Los Angeles City Attorney Michael N. Feuer, brings this action under the California Unfair Competition Law, Business and Professions Code §§ 17200 *et seq.*, against Defendants Intuit Inc. and Does 1 through 50, inclusive (collectively “Intuit” or “Defendant”), maker of the market-leading “TurboTax” electronic tax preparation and filing software. Intuit has for years defrauded the lowest earning 70 percent of American taxpayers—who are entitled under a private industry agreement with the IRS to file their taxes online for free using commercial

1 products—by actively undermining public access to the IRS’s “Free File” program, while
2 simultaneously employing deceptive and misleading advertising and design schemes intended to
3 induce taxpayers into unnecessarily purchasing expensive TurboTax products. The People seek
4 injunctive relief to stop Intuit’s deceptive business practices, restitution for all Californians who
5 at any time during the four years prior to the filing of this Complaint paid Intuit for TurboTax
6 products when they were in fact eligible to file for free under the IRS’s “Free File” program,
7 and civil penalties to deter similar conduct in the future.

8 2. Since 2002, Intuit and a consortium of electronic tax filing companies have
9 promised to provide a free version of their commercial products to low-income Americans, in
10 exchange for the IRS’s commitment to “not compete with the Consortium in providing free,
11 online tax return preparation and filing services to taxpayers.”¹ Under the IRS’s “Free File”
12 program, the lowest earning 70 percent of taxpayers based on Adjusted Gross Income (“AGI”)
13 (currently anyone with an AGI of \$66,000 or less) are eligible to prepare and file their federal
14 tax returns, no matter how complicated, through any of several commercial providers at no cost.

15 3. But only a tiny fraction of eligible taxpayers actually benefit from the IRS and
16 private industry’s “Free File” agreement. While *more than 100 million taxpayers* were eligible
17 to file for free through the Free File program in fiscal year 2018, fewer than 2.5 million—*less*
18 *than 2.5 percent* of eligible taxpayers—actually did so.

19 4. This abysmal participation rate is attributable, at least in part, to Intuit’s
20 deliberate efforts to hide the availability of its high-quality Free File product (called TurboTax
21 “*Freedom* Edition”), while at the same time aggressively marketing as “Free” an inferior,
22 watered-down version of their software that is useless to all but those with the simplest of tax
23 returns (similarly—and confusingly—called TurboTax “*Free* Edition”). Worse still, after luring
24 low-income consumers to begin preparing their returns with the limited-functionality “Free
25 Edition” software, and even after those consumers input information revealing themselves to be
26 eligible for TurboTax’s full-featured Free File product, Intuit then manipulates them into paying
27

28 ¹ Internal Revenue Service, “Free Online Electronic Tax Filing Agreement” (Oct. 30, 2002),
sec. II, 67 Fed. Reg. 67,247, 67,249 (Nov. 4, 2002) (“2002 Free File Agreement”).

1 for product upgrades and upsells—marketing tactics that are specifically prohibited from being
2 used on Free Filers under the terms of the IRS agreement.

3 5. As discussed in greater detail below, Intuit’s unfair and deceptive business
4 practices have real world implications. To cite just one example, upon information and belief,
5 Intuit deceived a California resident into unnecessarily spending \$169—more than 1% of her
6 \$14,500 annual salary—on a TurboTax product, when she was clearly eligible for free tax
7 preparation and filing. It is doubtless that thousands, if not millions, of consumers have been
8 similarly harmed.

9 **PARTIES**

10 6. Plaintiff People is the sovereign power of the State of California designated by
11 the Unfair Competition Law, Business and Professions Code §§ 17200 *et seq.* (the “UCL”), to
12 be the complaining party in civil law enforcement actions brought under that statute. *See* Bus.
13 & Prof. Code § 17204. The People have an interest in ensuring that the individuals and entities
14 doing business in this state do not deceive consumers, particularly those who are economically
15 disadvantaged and underserved.

16 7. Defendant Intuit Inc. is a Delaware Corporation with its principal place of
17 business in Mountain View, California. Intuit is the maker of “TurboTax,” a series of widely
18 used electronic tax preparation and filing software products and services, and is a member of the
19 “Free File Alliance,” a nonprofit coalition of 12 tax software companies under an agreement
20 with the IRS to provide free electronic tax services to eligible American taxpayers. In fiscal
21 year 2018, Intuit reported revenue of nearly \$6 billion, up 15 percent from fiscal year 2017, of
22 which approximately \$2.5 billion resulted from its consumer-facing business.²

23 8. The true names and capacities of the defendants sued herein as Does 1 through
24 50, inclusive, are unknown to the People. The People therefore sue these defendants by such
25 fictitious names. When the true names and capacities of these defendants have been
26 ascertained, the People will seek leave of this Court to amend this Complaint to insert in lieu of
27 such fictitious names the true names and capacities of the fictitiously named defendants. The
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² Intuit Inc., Annual Report (Form 10-K), at 32 (Aug. 31, 2018).

1 People are informed and believe, and thereon allege, that these defendants participated in, and in
2 some part are responsible for, the unfair and fraudulent acts alleged herein. Does 1 through 50
3 include unknown individuals who conspired with Intuit concerning the unfair and fraudulent
4 acts alleged herein. Does 1 through 50 also include agents of Intuit acting within the course and
5 scope of their duties. Each reference in this Complaint to Intuit or Defendant is also a reference
6 to all defendants sued as Does.

7 9. The People allege that, in addition to acting on its own behalf, all of the acts and
8 omissions described in this Complaint by Defendant were duly performed by, and attributable
9 to, all defendants, each acting as agent, employee, alter ego, joint enterprise and/or under the
10 direction and control of the others, and such acts and omissions were within the scope of such
11 agency, employment, alter ego, joint enterprise, direction, and/or control. Any reference in this
12 Complaint to any acts of Defendant shall be deemed to be the acts of each defendant acting
13 individually, jointly, or severally. At all relevant times, each defendant had knowledge of and
14 agreed to both the objectives and course of action, and took the acts described in this Complaint
15 pursuant to such agreements, resulting in the unfair and fraudulent acts described herein.

16 **JURISDICTION AND VENUE**

17 10. This Court has subject matter jurisdiction over this action pursuant to Article VI,
18 section 10 of the California Constitution.

19 11. This Court has personal jurisdiction over Defendant because Intuit's principal
20 place of business is in California, and Intuit purposefully avails itself of California markets.

21 12. Venue is proper in this Court pursuant to Code of Civil Procedure § 393 because
22 violations of law that occurred in the City and County of Los Angeles are part of the cause upon
23 which the People seek recovery of restitution and penalties imposed by statute.

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1 **GENERAL ALLEGATIONS**

2 **I. The IRS’s Free File Program**

3 **A. To Fight for Its Survival and Stave Off Public Sector Competition,**
4 **Intuit Promised to Provide Free Tax Filing Services to Low-Income**
5 **Americans.**

6 13. Intuit has long been the market leader in the online tax preparation software
7 industry, today with reportedly an approximately 60 percent market share. According to Intuit’s
8 website, “[m]ore federal returns are prepared with TurboTax than any other tax preparation
9 provider, totaling over 36 million federal tax returns from last year alone.”³

10 14. In the early 2000s, already facing competitive pressures from various state
11 governments beginning to offer their own free online tax services to state taxpayers, Intuit was
12 highly motivated to prevent the federal government from doing the same. As Intuit explained in
13 its Form 10-K SEC filing for fiscal year 2004 describing “risks that could affect future results,”
14 “[a]gencies of the U.S. government have made several attempts during the two most recent
15 presidential administrations to offer taxpayers a form of free tax preparation software and filing
16 service.”⁴

17 15. Ultimately, however, the federal government did not develop its own free online
18 federal tax filing service. Instead, on October 30, 2002, the IRS entered into the “Free Online
19 Electronic Tax Filing Agreement” (“Free File Agreement”) with a consortium of electronic tax
20 preparation companies, including Intuit, which had organized into a non-profit called the “Free
21 File Alliance, LLC” for purposes of entering into the agreement.⁵

22 16. Under the terms of the Free File Agreement, which was established pursuant to
23 public rulemaking and published in the Federal Register on November 4, 2002 (67 Fed. Reg.
24 67,247), Free File Alliance members agreed to offer free online tax return preparation and filing
25 services to at least 60 percent of taxpayers in the aggregate—though individual Alliance
26 members remained free to impose their own eligibility criteria, such as based on age, income, or

27
28 ³ <https://turbotax.intuit.com/personal-taxes/online/e-file-taxes/> (last accessed May 6, 2019).

⁴ Intuit Inc., Annual Report (Form 10-K), at 38 (Sept. 24, 2004).

⁵ The Free File Alliance, LLC subsequently changed its name to Free File, Inc.

1 state residency. In exchange, the IRS pledged to “not compete with the [Free File Alliance] in
2 providing free, online tax return preparation and filing services to taxpayers.”⁶

3 17. In 2005, the IRS and the Free File Alliance renewed the Free File Agreement for
4 another four years, with some modifications. Most significantly, the 2005 Agreement expanded
5 the scope of guaranteed coverage to the lowest earning 70 percent of taxpayers based on AGI
6 and underscored that, “to serve the greater good and to ensure the long-term stability of the
7 Alliance, the scope of this program is focused on covering the taxpayers least able to afford e-
8 filing their returns on their own.”⁷

9 18. The IRS and the Free File Alliance also entered into a Memorandum of
10 Understanding (“MOU”) implementing the Free File Agreement. The MOU again emphasized
11 the Free File program’s objective of providing services to “the taxpayers least able to afford
12 e-filing their returns on their own” and reiterated that, “[i]n recognition of this commitment, the
13 federal government has pledged to not enter the tax preparation software and e-filing services
14 marketplace.”⁸

15 19. Since 2005, the Free File Agreement and implementing MOU have been
16 continuously renewed, with some amendments. The Seventh MOU was effective March 6,
17 2015 for a five-year term but was superseded by the operative Eighth MOU on October 31,
18 2018. The Eighth MOU currently remains in effect and expires October 31, 2021.⁹

19 20. Although the Free File program was envisioned to offer free online tax filing
20 services to the lowest-earning 70 percent of Americans, the program has fallen far short of its
21 objectives. The IRS reported last year that in its entire 16-year existence, only 51.1 million
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23 ⁶ 2002 Free File Agreement, sec. II.

24 ⁷ Internal Revenue Service, “Free Online Electronic Tax Filing Agreement” (Oct. 30, 2005)
25 (“2005 Free File Agreement”), sec. I.C.

26 ⁸ Internal Revenue Service, “First Memorandum of Understanding on Service Standards and
27 Disputes, Between the Internal Revenue Service and Free File Alliance, LLC,” art. II; *see also*
28 Internal Revenue Service, “Seventh Memorandum of Understanding on Service Standards and
Disputes, Between the Internal Revenue Service and Free File, Incorporated” (“Seventh MOU”),
art. 2; Internal Revenue Service, “Eighth Memorandum of Understanding on Service Standards
and Disputes, Between the Internal Revenue Service and Free File, Incorporated” (“Eighth
MOU”), art. 2.

⁹ Throughout this Complaint, the terms “Free File Agreement” and “MOU” refer,
respectively, to the operative versions of the Free File Agreement and MOU in effect at the
relevant time, while “Free File program” is used to refer to the program as a whole.

1 federal tax returns have actually been filed using Free File products, representing only 3 percent
2 of all people eligible to use Free File.¹⁰ In fiscal year 2018, more than 100 million taxpayers
3 were eligible to file for free with Free File products, but only about 2.5 million—*less than 2.5*
4 *percent* of eligible taxpayers—actually did so.¹¹

5 21. Intuit has been a participant in the Free File program throughout its existence and
6 has a strong commercial interest in keeping the program grossly underutilized and in making the
7 program—in its current anemic form—permanent.

8 22. In its respective Form 10-K annual reports for the 2014, 2015, and 2016 fiscal
9 years, for example, Intuit expressly acknowledged that “*the Free File Alliance has kept the*
10 *federal government from being a direct competitor to Intuit’s tax offerings,*” while
11 acknowledging that “governmental encroachment at both the federal and state levels may
12 present a continued competitive threat to our business for the foreseeable future.”¹²

13 23. In more recent Form 10-K annual reports for fiscal years 2017 and 2018, Intuit
14 similarly disclosed that it faces intense “competitive challenges from government entities that
15 offer publicly funded electronic tax preparation and filing services with no fees to individual
16 taxpayers.”¹³ In describing the company’s strategic risk factors, Intuit explained in those SEC
17 reports, and reiterated again in its most recent Form 10-Q for the quarterly period ending
18 January 31, 2019: “Our consumer tax business also faces significant competition from the
19 public sector.... If the Free File Program were to be terminated and the IRS were to enter the
20 software development and return preparation space, *the federal government would become a*
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22 ¹⁰ See Internal Revenue Service, “Tax Time Guide: Try Money-Saving IRS Free File” (Mar.
23 1, 2018), *available at* [https://www.irs.gov/newsroom/tax-time-guide-try-money-saving-irs-free-](https://www.irs.gov/newsroom/tax-time-guide-try-money-saving-irs-free-file)
24 [file](https://www.irs.gov/newsroom/tax-time-guide-try-money-saving-irs-free-file); Office of Sen. Elizabeth Warren, “Tax Maze: How the Tax Prep Industry Blocks
25 Government from Making Tax Day Easier” (Apr. 4, 2016), at 1, *available at*
26 https://www.warren.senate.gov/files/documents/Tax_Maze_Report.pdf.

27 ¹¹ Internal Revenue Service, “National Taxpayer Advocate delivers annual report to
28 Congress: Addresses impact of shutdown; urges more funding for IT modernization” (Feb. 12,
2019), *available at* [https://www.irs.gov/newsroom/national-taxpayer-advocate-delivers-annual-](https://www.irs.gov/newsroom/national-taxpayer-advocate-delivers-annual-report-to-congress-addresses-impact-of-shutdown-urges-more-funding-for-it-modernization)
[report-to-congress-addresses-impact-of-shutdown-urges-more-funding-for-it-modernization](https://www.irs.gov/newsroom/national-taxpayer-advocate-delivers-annual-report-to-congress-addresses-impact-of-shutdown-urges-more-funding-for-it-modernization).

¹² Intuit Inc., Annual Report (Form 10-K), at 14 (Sept. 1, 2016) (emphasis added); Intuit Inc.,
Annual Report (Form 10-K), at 14 (Sept. 1, 2015); Intuit Inc., Annual Report (Form 10-K), at 16
(Sept. 12, 2014).

¹³ Intuit Inc., Annual Report (Form 10-K), at 9 (Aug. 31, 2018); Intuit Inc., Annual Report
(Form 10-K), at 9 (Sept. 1, 2017).

1 *publicly funded direct competitor of the U.S. tax services industry and of Intuit.* Government
2 funded services that curtail or eliminate the role of taxpayers in preparing their own taxes could
3 potentially have *material and adverse revenue implications.*”¹⁴

4 24. In an effort to enshrine the Free File program in federal law, Intuit has expended
5 considerable resources lobbying Congress. In 2017 and 2018, Intuit reportedly spent nearly \$5
6 million on Congressional lobbying activities; the bill it lobbied for most frequently was H.R.
7 3641, the “Free File Permanence Act of 2017,” which would, true to its name, make the Free
8 File program permanent by mandating that the Secretary of the Treasury “shall continue to
9 operate the IRS Free File Program.”¹⁵ That key provision reappears in Section 1102 of H.R.
10 1957, the “Taxpayer First Act of 2019,” which recently passed the U.S. House of
11 Representatives.¹⁶

12 **B. The Purpose of the Free File Program Is to Maximize Low-Income**
13 **Taxpayer Access to Free Online Tax Services.**

14 25. The Free File program is intended to implement the IRS’s stated public policy of
15 “extending the benefits of online federal tax preparation and electronic filing to economically
16 disadvantaged and underserved populations at no cost to either the individual user or to the
17 public treasury.”¹⁷ Article 2 of the MOU unambiguously states that Free File members “shall
18 ... [m]ake tax return preparation and filing easier and reduce the burden on individual
19 taxpayers, *particularly the economically disadvantaged and underserved populations,*” and
20 shall also “[p]rovide greater service and *access to the [Free File] Services to taxpayers.*”¹⁸

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23 ¹⁴ Intuit Inc., Annual Report (Form 10-K), at 13 (Aug. 31, 2018) (emphases added); Intuit
24 Inc., Quarterly Report (Form 10-Q), at 42 (Feb. 22, 2019) (emphases added); *see also* Intuit Inc.,
Annual Report (Form 10-K), at 13 (Sept. 1, 2017).

25 ¹⁵ Free File Permanence Act of 2017, H.R. 3641, 115th Cong. § 3(a) (2017); *see*
26 OpenSecrets.org, Center for Responsive Politics, “Intuit Inc. Profile for 2018 Election Cycle,”
<https://www.opensecrets.org/orgs/summary.php?id=D000026667> (last accessed May 5, 2019);
OpenSecrets.org, Center for Responsive Politics, “Clients lobbying on H.R.3641: Free File
27 Permanence Act of 2017,” <https://www.opensecrets.org/lobby/billsum.php?id=hr3641-115> (last
accessed May 5, 2019).

28 ¹⁶ Taxpayer First Act of 2019, H.R. 1957, 116th Cong. § 1102 (2019).

¹⁷ Eighth MOU, art. 2; *see* Seventh MOU, art. 2.

¹⁸ Eighth MOU, arts. 2.1, 2.3 (emphases added); Seventh MOU, arts. 2.1, 2.3 (emphases
added).

1 26. This public policy of improving low-income taxpayer access to high-quality
2 commercial products at no cost—and of protecting such vulnerable populations from being
3 misled into unnecessarily paying for such services—is also reflected in several other provisions
4 of the Seventh and Eighth MOUs, the Free File Agreement, and the IRS’s responses to public
5 comments published in the Federal Register.

6 27. First, the Free File Agreement provides that “[t]he Parties will coordinate with
7 each other their respective marketing of these Free Services to provide uniformity and *maximize*
8 *public awareness*.”¹⁹

9 28. Second, in assuaging public concerns that the Free File program would not
10 “sufficiently protect the interest of taxpayers, specifically low-income taxpayers,” the IRS wrote
11 in the Federal Register: “The Agreement . . . provides that taxpayers will not have to go through
12 additional steps or barriers to access the Free Service, beyond those steps required or imposed to
13 access the comparable paid service.”²⁰ The IRS further wrote: “It is also expected that Free File
14 Alliance products will be equivalent to those offered for sale on the commercial market and thus
15 are expected to have all of the features and operability of those commercial products.”²¹

16 29. Third, to further protect Free File-eligible taxpayers from being misled into
17 paying for a product, the MOU imposes specific limitations on Free File Alliance members’
18 sales activities. For example, the Eighth MOU explicitly prohibits “Other Sales and Selling
19 Activity: No marketing, soliciting, sales or selling activity, or electronic links to such activity,
20 are permitted in the Free File Program,” except for state tax returns or where the user proves to
21 be ineligible for the Free File product.²²

22 30. The Eighth MOU similarly provides that “Members shall not include a ‘value-
23 added’ button (i.e., an icon, link or any functionality that provides a taxpayer with access to a
24 Member’s commercial products or services) on the Member’s Free File Landing Page.”²³

26 ¹⁹ 2002 Free File Agreement, sec. VI.A (emphasis added).

27 ²⁰ IRS’ Intent to Enter Into an Agreement With Free File Alliance, LLC (i.e., Free File
Alliance), 67 Fed. Reg. 67,247, 67,248 (Nov. 4, 2002).

28 ²¹ *Id.*

²² Eighth MOU, art. 4.32.5; *see* Seventh MOU, art. 4.33.

²³ Eighth MOU, art. 4.32.6.

1 While the Seventh MOU did allow “value-added” buttons to be listed on the bottom of a Free
2 File Landing Page, it also expressly provided that “[t]he Member shall have a prominent link
3 permitting taxpayers on a Member’s Paid Service Offering Page to easily and clearly return to
4 the Member Free File Landing Page.”²⁴

5 31. Both the Seventh and Eighth MOUs also clearly state, “Members shall not post a
6 billing screen requesting or collecting bank/financial information (e.g., debit/credit card
7 information) from customers who qualify for a free return where no state tax return products
8 have been purchased.”²⁵

9 32. Finally, the Eighth MOU sets forth specific rules to ensure that consumers who
10 do not qualify for a particular member’s Free File product (because, for example, the member
11 imposes a lower income eligibility threshold, as Intuit does) are first redirected to other
12 members’ Free File products, for which they might be eligible, before being offered a member’s
13 paid products.²⁶

14 **II. Intuit’s Business Acts and Practices**

15 **A. Intuit’s Online TurboTax Products**

16 33. As part of the IRS Free File program, Intuit offers a free online tax preparation
17 and filing product called TurboTax “Freedom Edition.” Anyone who (i) has an AGI of \$34,000
18 or less, (ii) is eligible for the Earned Income Tax Credit, or (iii) is on active military duty and
19 has an AGI of \$66,000 or less, is eligible to use TurboTax “Freedom Edition.”

20 34. TurboTax “Freedom Edition” is a robust software offering that enables users to
21 complete and e-file their federal tax returns for free, no matter how complicated. In addition to
22 the basic Form 1040, TurboTax “Freedom Edition” supports *125 additional federal tax forms*,
23 including but not limited to Schedules 1 through 6, 1099-MISC, and 1040 Schedules A, B, C,
24 D, E, EIC, F, H, and J.

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27 _____
28 ²⁴ Seventh MOU, art. 4.33.7.

²⁵ Eighth MOU, art. 4.19.4; Seventh MOU, art. 4.20.4.

²⁶ Eighth MOU, art. 4.19.2.

1 35. But TurboTax “Freedom Edition” is not the only free online tax product Intuit
2 offers. Intuit also offers a *different* free online tax product that bears a similar name: TurboTax
3 “Free Edition.”

4 36. Notwithstanding the similarity of their names, TurboTax “Free Edition” is a very
5 different product from TurboTax “Freedom Edition” and has nothing to do with the IRS Free
6 File program. There are no income eligibility restrictions to use TurboTax “Free Edition,” but
7 the product itself is a very basic software offering that supports only the simplest of tax returns,
8 i.e., “simple tax returns that can be filed on Form 1040 without any attached schedules.”

9 37. The only taxpayers who can complete and file their returns using TurboTax
10 “Free Edition” are those who have *only* the following situations: (i) have W-2 income; (ii) have
11 limited interest and dividend income reported on a 1099-INT or 1099-DIV; (iii) claim the
12 standard deduction; (iv) claim the Earned Income Tax Credit (EIC); and/or (v) claim child tax
13 credits.

14 38. Any taxpayer who needs to file any additional forms or schedules as part of their
15 tax return, such as itemized deductions (Schedule A), 1099-MISC income (Schedule C), or
16 credits, deductions, and income reported on Schedules 1 through 6, cannot complete their return
17 using TurboTax “Free Edition.” This includes a large number of low-income taxpayers,
18 including the growing number of persons working in the “gig economy” and classified (whether
19 rightly or wrongly) by their employer as an “independent contractor” and paid with Form 1099-
20 MISC. It also includes, for example, anyone paying off student loans or who has a health
21 savings account.

22 39. If such taxpayers meet any one of the three income eligibility thresholds for
23 TurboTax “Freedom Edition,” however, they can successfully complete their tax return for free
24 using TurboTax “Freedom Edition.” Thus, a large number of taxpayers who are unable to
25 complete their tax returns for free using TurboTax “Free Edition,” due to its highly limited
26 functionality, nonetheless *can* complete their tax returns for free using TurboTax “Freedom
27 Edition,” which supports virtually all federal tax forms.

28 ///

1 40. In addition to these two “free” online TurboTax products, Intuit also offers three
2 paid TurboTax online products: “Deluxe,” starting at \$59.99 for federal returns (additional for
3 state); “Premier,” starting at \$79.99; and “Self-Employed,” starting at \$119.99 (collectively,
4 TurboTax “Paid Products”). Intuit also offers a variety of add-on products and services.

5 **B. Intuit Deliberately Makes It Difficult for Consumers to Find
6 TurboTax “Freedom Edition,” Its Free File Product.**

7 41. Although Intuit offers a Free File product, i.e., TurboTax “Freedom Edition,”
8 few consumers ever learn about it.

9 42. This is by design. TurboTax “Freedom Edition” is not conspicuously listed
10 anywhere on TurboTax’s main website, <https://turbotax.intuit.com> (“Main Website”), through
11 which Intuit offers its four other TurboTax online products, and indeed cannot be accessed
12 directly from the TurboTax Main Website, despite being a TurboTax online product.

13 43. Instead, Intuit only offers TurboTax “Freedom Edition” through an entirely
14 separate and distinct website, <https://turbotax.intuit.com/taxfreedom> (“TurboTax Free File
15 Website”)—and Intuit makes it impossible to navigate directly to the TurboTax Free File
16 Website from the TurboTax Main Website. Given that the top result for a Google search of the
17 terms “turbotax” or “turbotax free” leads to the TurboTax Main Website, it is likely that most
18 consumers never become aware of Intuit’s Free File product at all.

19 44. Worse still, during the 2018 tax season (January through April 15, 2019), Intuit
20 deliberately hid its TurboTax Free File Website from consumers by adding a line of code to the
21 website that prevented it from appearing in any online search results. As of April 26, 2019,
22 even a search for the terms “turbotax free file” and “turbotax freedom edition” did not yield
23 search results containing the TurboTax Free File Website.

24 45. Intuit achieved this level of obscurity by adding the following instruction code
25 on the TurboTax Free File Website: `<meta name=“robots” content=“noindex, nofollow”>`. A
26 “robots meta tag” allows a website to control how Google and other search engines make
27 content available to users through search results. A robots meta tag of “noindex” instructs
28 search engines, “[d]o not show this page in search results and do not show a ‘Cached’ link in
search results,” while a robots meta tag of “nofollow” instructs, “[d]o not follow the links on

1 this page.”²⁷ According to Google Support, “[i]f you wish to explicitly block a page from being
2 indexed, you should ... use the noindex robots meta tag,” which effectively “guarantee[s] that a
3 page will not appear in results.”²⁸

4 46. After the nonprofit investigative newsroom ProPublica exposed Intuit’s
5 deceptive practices in an article published April 26, 2019, Intuit changed the code on its
6 TurboTax Free File Website so that it is no longer hidden from Google and other search
7 engines.²⁹

8 47. Upon information and belief, Intuit also took deliberate steps to steer
9 consumers—including those specifically searching for the IRS Free File program—towards the
10 TurboTax Main Website (with its inferior “Free Edition” and costly Paid Products), *not* the
11 TurboTax Free File Website. Upon information and belief, Intuit advertised its Main Website
12 by purchasing Google Search Ads (which display at the top of Google search results when
13 triggered by the advertiser’s pre-selected keywords), and chose keywords likely to be used by
14 consumers specifically seeking IRS Free File options.³⁰

15 48. For example, according to a report published April 22, 2019 by ProPublica,
16 when journalists searched Google for “irs free file taxes,” the top paid ad displayed above
17 search results was for the TurboTax Main Website, advertising “TurboTax Free | Free IRS Fed
18 Filing Online.”³¹

19
20 ²⁷ Google Search, “Robots meta tag and X-Robots-Tag HTTP header specifications,
https://developers.google.com/search/reference/robots_meta_tag (last accessed May 5, 2019).

21 ²⁸ Google Search Console Help, “About robots.txt Robots FAQs,”
<https://support.google.com/webmasters/answer/7424835?hl=en> (last accessed May 5, 2019).

22 ²⁹ Justin Elliott, *TurboTax Deliberately Hid Its Free File Page From Search Engines*,
ProPublica (Apr. 26, 2019), available at [https://www.propublica.org/article/turbotax-](https://www.propublica.org/article/turbotax-deliberately-hides-its-free-file-page-from-search-engines)
23 [deliberately-hides-its-free-file-page-from-search-engines](https://www.propublica.org/article/turbotax-deliberately-hides-its-free-file-page-from-search-engines).

24 ³⁰ Google Ads explains, “[k]eywords are phrases that you choose to determine when and
25 where your ad can appear. They’re matched to terms that people search for or web content that
26 they view.” Google, “Keywords,” [https://support.google.com/google-](https://support.google.com/google-ads/topic/3119130?hl=en&ref_topic=3119122,3181080,3126923)
27 [ads/topic/3119130?hl=en&ref_topic=3119122,3181080,3126923](https://support.google.com/google-ads/topic/3119130?hl=en&ref_topic=3119122,3181080,3126923), (last accessed May 5, 2019).
According to Google Ads, “[t]o get your ads to appear when people search for your product or
28 service, the keywords you choose need to match the words or phrases that people search for. ...
When a customer searches for a term that matches your keyword, your ad can enter an auction to
determine if it will show.” Google, “About keywords,” [https://support.google.com/google-](https://support.google.com/google-ads/answer/1704371?hl=en&ref_topic=3119131)
[ads/answer/1704371?hl=en&ref_topic=3119131](https://support.google.com/google-ads/answer/1704371?hl=en&ref_topic=3119131) (last accessed May 5, 2019).

³¹ Justin Elliott and Lucas Waldron, *Here’s How TurboTax Just Tricked You Into Paying to
File Your Taxes*, ProPublica (Apr. 22, 2019), available at
<https://www.propublica.org/article/turbotax-just-tricked-you-into-paying-to-file-your-taxes>.

1 **C. Intuit Confuses Consumers by Aggressively Advertising “FREE”**
2 **Tax Services and TurboTax “Free Edition,” While Suppressing**
3 **Access to Its Actual Free File Product, TurboTax “Freedom**
4 **Edition.”**

5 49. While suppressing the accessibility of its Free File product and entirely omitting
6 any mention of TurboTax “Freedom Edition” from its Main Website’s list of product offerings,
7 Intuit prominently and ubiquitously advertises “Free” tax services and TurboTax “Free
8 Edition,” thereby misleading reasonable consumers into believing TurboTax “Free Edition” is
9 the *only* free online tax preparation product Intuit offers and/or believing TurboTax “Free
10 Edition” *is* Intuit’s Free File product. Intuit further misleads reasonable consumers into
11 believing that if they are unable to complete their tax returns using TurboTax “Free Edition,”
12 due to its highly limited functionality, their only recourse is to upgrade to one of Intuit’s Paid
13 Products that supports the tax forms they need—even if they are eligible to file for free under
14 the Free File program.

15 50. The TurboTax Main Website is the top search result for a Google search for
16 “turbotax.” The homepage of the TurboTax Main Website prominently advertises in large, bold
17 font: “FREE Guaranteed. \$0 Fed. \$0 State. \$0 To File.”

18 51. At the top of the Main Website homepage is a link to “Products & Pricing.”
19 Hovering over that link elicits a drop-down menu, at the top of which is the subcategory
20 “Online products.”

21 52. Clicking on “Online products” takes the consumer to a new page,
22 <https://turbotax.intuit.com/personal-taxes/online/> (“Online Products Page”). The Online
23 Products Page lists four TurboTax products: (1) “Free Edition” (\$0 Fed. \$0 State. \$0 File.); (2)
24 “Deluxe” (\$59.99*); (3) “Premier” (\$79.99*); and (4) “Self-Employed” (\$119.99*).

25 53. The Online Products Page does not list or anywhere mention TurboTax
26 “Freedom Edition” or the Free File program, even though TurboTax “Freedom Edition” is an
27 online TurboTax product.

28 54. The Online Products Page states at the top: “Tell us about you – we’ll
recommend the right tax solution.” Below that text are various circumstances that the consumer

1 can select, if applicable. Based on what circumstances the consumer selects, Intuit recommends
2 one of the four listed TurboTax products.

3 55. For example, if the consumer selects “I want to maximize deductions and
4 credits,” “I own a home,” “I donated to charity,” or “I’m paying off student loans,” Intuit
5 recommends TurboTax “Deluxe,” which costs \$59.99 and up.

6 56. If the consumer selects “I sold stock or own rental property,” Intuit recommends
7 TurboTax “Premier,” which costs \$79.99 and up.

8 57. If the consumer selects “I’m self-employed/freelancer” or “I own a small
9 business,” Intuit recommends TurboTax “Self-employed,” which costs \$119.99 and up.

10 58. Intuit recommends these Paid Products to consumers regardless of whether they
11 are eligible to file for free using TurboTax “Freedom Edition.”

12 59. The Main TurboTax Website homepage also contains a link to a “Help” menu
13 containing a link to “Frequently Asked Questions.” The FAQ Page contains the question, “How
14 do I know which product is right for me?” The answer reads, “We have a product for your
15 unique tax situation. You can select the right product for you from our Products and Pricing
16 page, or we’ll help with a product recommendation. Plus, if you hit a point where another
17 product might be better for you, we’ll give you the opportunity to change. The information
18 you’ve already entered will transfer automatically.” The answer contains links to the Online
19 Products Page described above, which, again, does not contain any mention of TurboTax
20 “Freedom Edition” or the Free File program, even though TurboTax “Freedom Edition” is “the
21 right product” for many consumers.

22 60. Furthermore, if consumers begin filling out their tax information in either “Free
23 Edition” or one of the Paid Products, and then realize (somehow on their own) that TurboTax
24 “Freedom Edition” is “better for [them],” it is not true that “[t]he information [they’ve] already
25 entered will transfer automatically” to the “Freedom Edition” product. To the contrary, in order
26 to switch from TurboTax “Free Edition” or one of the Paid Products accessed from the Main
27 Website to TurboTax “Freedom Edition,” consumers must *clear all information* they already
28 entered, sign out of their account, go to the TurboTax Free File Website (which cannot be

1 directly navigated to from the Main Website), sign in to their account on that site, and then *re-*
2 *enter* all their personal and tax information anew—yet another barrier Intuit erects to discourage
3 reasonable consumers from using its Free File product. In fact, if consumers do *not* first clear
4 all information entered on the Main Website under their account before logging back in via the
5 TurboTax Free Filing Website, any previously incurred charges will still appear in their
6 account.

7 **D. Intuit Uses Further Deceptive Marketing and Design Tactics to Steer**
8 **Free File-Eligible Consumers Into Unnecessarily Purchasing Paid**
9 **Products.**

10 61. While failing to clearly disclose the existence of TurboTax “Freedom Edition”
11 anywhere on its Main Website and making it difficult for consumers to find it, Intuit employs
12 additional deceptive marketing and design tactics that steer consumers—including those who
13 are eligible to prepare and file their returns for free under the IRS’s Free File program—into
14 upgrading from TurboTax “Free Edition” to one of Intuit’s Paid Products.

15 62. For example, the top result for a Google search for “turbotax free” is the
16 webpage <https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>, advertising “100%
17 Free Tax Filing, \$0 Fed, \$0 State | TurboTax Free – Intuit.” Clicking on that link leads to a
18 webpage again prominently advertising in large, bold font: “FREE guaranteed. \$0 Fed. \$0
19 State. \$0 To File.” The only free product advertised on that page is TurboTax “Free Edition,”
20 with a “File for \$0” button. The page nowhere mentions TurboTax “Freedom Edition” or the
21 Free File program.

22 63. If a Free File-eligible consumer clicks the “File for \$0” button, she is prompted
23 to create an account and then is asked a series of questions on successive webpages about her
24 personal information and tax situation, including, for example, whether she paid student loan
25 interest (reported on Form 1098-E, not supported by “Free Edition”) or was self-employed
26 (reported on Form 1099-MISC, not supported by “Free Edition”). Rather than immediately
27 alerting the consumer that she cannot complete her tax returns using “Free Edition,” the
28 program continues to lead the consumer through the process of inputting personal information.

///

1 64. The consumer is next prompted to input her income by income category. If a
2 Free File-eligible consumer indicates that she needs to report income on a Form 1099-MISC
3 (for example, because her employer classifies her as an independent contractor), the program
4 falsely informs her, “[t]o accurately report this income, you’ll need to upgrade,” and then offers
5 her the option of upgrading to TurboTax “Deluxe” for \$59.99 or TurboTax “Self-Employed” for
6 \$119.99. At no point does the program inform the consumer that, rather than pay for an
7 upgrade, she may still be able “[t]o accurately report this income” for free using TurboTax
8 “Freedom Edition” if she meets one of the three income eligibility thresholds.

9 65. If the consumer upgrades to a Paid Product, she is then prompted to enter the
10 income from her 1099-MISC. Even after the consumer enters an amount indicating that she is
11 eligible to file for free using TurboTax “Freedom Edition” (e.g. \$21,000), at no point does the
12 program inform the consumer of this free TurboTax Free File product.

13 66. Meanwhile, after luring consumers—including Free File-eligible consumers—to
14 begin filling out a return by clicking on a “File for \$0” button, the TurboTax program makes
15 multiple attempts throughout the process to upsell additional products or upgrades to the
16 consumer. For example, at one point in the process, the program “recommend[s]” that the
17 consumer upgrade to a service called “PLUS” for \$19.99. At another point, the program
18 prompts the consumer to upgrade to a “turbotaxlive” product offering live CPA assistance, such
19 as “turbotaxlive Deluxe” for \$119.99. Before finalizing the return, the program prompts the
20 consumer to add “MAX” audit and identity theft coverage for \$49.99.

21 67. A former Intuit marketing employee recalled a May 2017 meeting in which one
22 employee suggested modifying the TurboTax software so that any customer who entered
23 information indicating their eligibility for TurboTax Free File would be shown a pop-up
24 window (similar to those currently used to upsell additional products and upgrades) directing
25 them to TurboTax “Freedom Edition.” According to the former employee, the suggestion was
26 met with laughter and quickly dismissed.³²

28 ³² Justin Elliot and Paul Kiel, *TurboTax and H&R Block Saw Free Tax Filing as a Threat – and Guttered It*, ProPublica (May 2, 2019), available at <https://www.propublica.org/article/intuit->

1 68. Another former midlevel Intuit employee, as reported by ProPublica, confirmed
2 that steering customers away from Intuit’s Free File product is a “purposeful strategy.”³³ For
3 consumers finding TurboTax through a search engine or an online ad, “the landing page would
4 direct you through a product flow that the company wanted to ensure would not make you
5 aware of Free File.”³⁴ According to the former employee, “[t]he entire strategy is to make sure
6 people read the word ‘free’ and click our site and never use” TurboTax’s Free File product.³⁵
7 The former employee further confirmed that Intuit’s strategy is to lure customers in with their
8 guarantee of a “free” filing, even though the “vast majority of people who click that will not pay
9 \$0.”³⁶

10 **E. Intuit’s Unfair and Fraudulent Business Acts and Practices Deceived**
11 **Free File-Eligible Consumers Into Purchasing Intuit’s Paid Products**
12 **and Incurring Unnecessary Fees.**

13 69. Upon information and belief, Intuit’s unfair and fraudulent business acts and
14 practices described above caused reasonable consumers eligible for a Free File product to
15 unnecessarily purchase TurboTax Paid Products.

16 70. In response to reporting by ProPublica, at least 40 people reached out to the news
17 organization claiming they sought out TurboTax’s free option but ended up paying fees as a
18 result of Intuit’s business practices.³⁷ The stories published by ProPublica illustrate that Intuit’s
19 practices both in fact deceive consumers and detrimentally impact them:

20 a. A Los Angeles resident who works as a freelancer for \$15 per hour and
21 who has a substantial monthly rent payment was deceived by Intuit into paying \$154 for a
22 TurboTax Paid Product. He described Intuit’s conduct as “the worst kind of injustice for
23 someone in [his] position.”³⁸

24 [turbotax-h-r-block-gutted-free-tax-filing-internal-
memo?utm_source=pardot&utm_medium=email&utm_campaign=dailynewsletter](https://www.propublica.org/article/turbotax-h-r-block-gutted-free-tax-filing-internal-memo?utm_source=pardot&utm_medium=email&utm_campaign=dailynewsletter).

25 ³³ *Id.*

26 ³⁴ *Id.*

27 ³⁵ *Id.*

28 ³⁶ *Id.*

³⁷ Ariana Tobin, Justin Elliott, and Meg Marco, *Here Are Your Stories of Being Tricked Into Paying by TurboTax. You Often Need the Money.*, ProPublica (Apr. 26, 2019), available at <https://www.propublica.org/article/here-are-your-stories-of-being-tricked-into-paying-by-turbotax-you-often-need-the-money>.

³⁸ *Id.*

1 b. Intuit deceived another California resident into unnecessarily spending
2 \$169—more than 1% of her \$14,500 annual salary—on a TurboTax Paid Product.³⁹

3 c. Intuit’s victims include an unemployed woman recovering from
4 chemotherapy and her husband who works part-time and suffers from Parkinson’s disease, both
5 of whom care for two disabled children and recently took out short-term loans to help pay their
6 rent. Intuit’s business practices caused the family, which earns \$32,877 annually, to incur \$200
7 in fees—money that could have gone toward rent or paying down their loans.⁴⁰

8 d. Intuit similarly took advantage of a husband (on disability) and his wife
9 who respectively earn \$19,000 and \$4,400 annually—deceiving them into paying \$99.98 for a
10 TurboTax Paid Product merely because the couple sold a piece of property the prior year (at a
11 loss). That fee represented a full week’s worth of groceries for the family.⁴¹

12 e. Intuit deceived another user who earned only \$5,000 annually into paying
13 \$103.95—which constituted nearly his entire refund—for a TurboTax Paid Product because he
14 worked as an independent contractor.⁴²

15 f. One 72-year-old TurboTax user who makes \$27,000 working part-time at
16 a dermatologist’s office was deceived into paying \$20 for a TurboTax Paid Product. She stated,
17 “I’m tightly budgeted. It’s not a lot, but it’s \$20.”⁴³

18 g. An active service member was deceived by Intuit into paying \$96 for a
19 TurboTax Paid Product even though he was eligible for a Free File product.⁴⁴

20 h. A graduate student who earned less than \$10,000 in annual income spent
21 \$100 for a TurboTax Paid Product as a result of Intuit’s unfair and fraudulent practices.⁴⁵

22 ///

23 ///

24 ///

25
26 ³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

1 i. One TurboTax user helped prepare taxes for his 87-year-old sister, a
2 retiree whose annual income totaled \$11,009, and was deceived into paying \$124.98 for a
3 TurboTax Paid Product.⁴⁶

4 j. Another TurboTax user similarly prepared taxes on behalf of his mother-
5 in-law, who “made an adjusted gross income of around \$18,000 from Social Security and a
6 modest General Motors pension” and thus plainly qualified for a Free File product. But the
7 user, who began preparing his mother-in-law’s taxes using TurboTax “Free Edition,” was
8 misled into purchasing a TurboTax Paid Product costing \$120, which constituted a substantial
9 portion of the mother-in-law’s refund. That cost was triggered by just **\$22** of income for legal
10 services associated with the mother-in-law’s pension.⁴⁷

11 k. A young reporter who was eligible for a Free File product was misled
12 into paying \$105 for a TurboTax Paid Product notwithstanding her purposeful efforts to find
13 TurboTax’s Free File product. She “kept trying to find [her] way back to the Free File page, but
14 it seemed like [she] was locked in.” TurboTax deceived the reporter into believing that she was
15 required to purchase a TurboTax Paid Product because her taxes required a student loan interest
16 form.⁴⁸

17 71. ProPublica estimates that U.S. taxpayers eligible for a Free File product spend
18 approximately **\$1 billion** per year in unnecessary filing fees.⁴⁹ As the foregoing real-life
19 experiences demonstrate, Intuit’s unfair and fraudulent business practices, as described herein,
20 have no doubt contributed substantially to these taxpayer losses.

21 72. Although Intuit has reportedly refunded some of the consumers eligible for Free
22 File who unnecessarily purchased TurboTax Paid Products—namely, some of the consumers
23 who complained as a result of recent news reports—Intuit has taken no steps toward making
24

25 ⁴⁶ *Id.*

26 ⁴⁷ Justin Elliott, *If You Paid TurboTax but Make Under \$34,000, You Could Get a Refund. Here’s How.*, ProPublica (Apr. 23, 2019), available at <https://www.propublica.org/article/how-to-get-turbotax-refund>.

27 ⁴⁸ *Id.*

28 ⁴⁹ Tik Root, *Why Are Millions Paying Online Tax Preparation Fees When They Don’t Need To?*, ProPublica (June 18, 2018), available at <https://www.propublica.org/article/free-file-online-tax-preparation-fees-intuit-turbotax-h-r-block>.

1 whole all of the thousands (if not millions) of consumers it has harmed over the years. In fact,
2 ProPublica reports more recently that Intuit has evidently now “set up a special team” to handle
3 calls from defrauded Free File-eligible consumers and is “no longer giving money back when
4 people mention [ProPublica’s] stories.”⁵⁰ Intuit’s actions and the resulting harm underscore the
5 need for injunctive relief to ensure Intuit halts these unfair and deceptive business practices and
6 does not return to those practices in the future, full restitution for all of Intuit’s victims, and
7 substantial civil penalties to punish Intuit and deter Intuit and others from engaging in such
8 actions in the future.

9 **FIRST CAUSE OF ACTION**

10 **VIOLATION OF UNFAIR COMPETITION LAW**

11 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

12 73. The People incorporate by reference the allegations in all preceding paragraphs
13 as though fully set forth herein.

14 74. California’s Unfair Competition Law, Bus. & Prof. Code §§ 17200-17210,
15 prohibits any person from engaging in “any unlawful, unfair, or fraudulent business act or
16 practice,” or any “unfair, deceptive, untrue or misleading advertising,” *id.* § 17200.

17 75. Intuit is a “person” subject to the UCL, pursuant to Business and Professions
18 Code § 17201.

19 76. Through the actions alleged herein, Intuit has engaged, and continues to engage,
20 in unfair and fraudulent business practices in violation of the UCL.

21 77. Specifically, Intuit has engaged in unfair business acts and practices by taking
22 actions to reduce public awareness of and access to TurboTax “Freedom Edition” and the Free
23 File program. Such actions violate the terms and spirit of the IRS Free File Agreement and
24 MOU and undermine the public policy goals of the Free File program, to the detriment of low-
25 income taxpayers, the intended third-party beneficiaries thereof. Intuit’s unfair business acts
26 and practices include but are not limited to:

27 _____
28 ⁵⁰ Justin Elliott, *Updated: If You Paid TurboTax but Make Under \$34,000, You Could Get a Refund. Here’s How.*, ProPublica (update, May 2, 2019), available at <https://www.propublica.org/article/how-to-get-turbotax-refund>.

- a. adding code to its TurboTax Free File Website that prevents it from appearing in online search results, rendering the site non-discoverable by consumers searching on Google or other search engines;
- b. upon information and belief, associating its Google Search Ads for its Paid Products with keywords likely to be used by consumers searching for the IRS Free File program;
- c. making it impossible to navigate directly from the TurboTax Main Website to the TurboTax Free File Website;
- d. deliberately choosing not to inform TurboTax customers of Intuit’s Free File product, TurboTax “Freedom Edition,” even after they share information with Intuit indicating their eligibility for it; and
- e. deterring consumers who have already begun using TurboTax “Free Edition” or one of the Paid Products from switching to Intuit’s Free File product, even after realizing (somehow on their own) that they are eligible, by making the switching process unduly burdensome (i.e., requiring consumers to clear all tax information already entered and re-enter it anew on a different website), especially in comparison to the seamless process of upgrading to a Paid Product (in which Intuit transfers all tax information automatically).

78. Intuit has also engaged in unfair, fraudulent, and deceptive business acts and practices by making misrepresentations likely to deceive reasonable consumers. Such actions violate the terms and spirit of the IRS Free File Agreement and MOU and undermine the public policy goals of the Free File program, to the detriment of low-income taxpayers, the intended third-party beneficiaries thereof. Intuit’s unfair, fraudulent, and deceptive business acts and practices include but are not limited to:

- a. intentionally obscuring and failing to disclose the differences between TurboTax “Free Edition” and Intuit’s Free File product, TurboTax

1 “Freedom Edition,” knowing that reasonable consumers are likely to
2 confuse these two products with nearly identical names;

3 b. misrepresenting to consumers that TurboTax “Free Edition,” “Deluxe,”
4 “Premier,” and “Self-Employed” are the only TurboTax online products,
5 when in fact TurboTax “Freedom Edition” is a fifth product offering;

6 c. misrepresenting to Free File-eligible consumers that Intuit will
7 “recommend the right tax solution” for them;

8 d. misrepresenting to Free File-eligible consumers that a particular Paid
9 Product is the best product for them;

10 e. misrepresenting to Free File-eligible consumers that they “can select the
11 right product for [them] on our Products and Pricing page”;

12 f. misrepresenting to Free File-eligible consumers that if they begin
13 entering their tax return information into a given TurboTax product but
14 then realize TurboTax “Freedom Edition” is a better product for them,
15 “[t]he information you’ve already entered will transfer automatically”;
16 and

17 g. misrepresenting to Free File-eligible consumers who enter tax
18 information unsupported by TurboTax “Free Edition” that they will
19 “need to upgrade” to complete and file their return.

20 79. Additionally, Intuit has engaged in unfair, fraudulent, and deceptive business
21 acts and practices by employing deceptive and manipulative marketing and product design
22 schemes likely to deceive reasonable consumers. Such actions violate the terms and spirit of the
23 IRS Free File Agreement and MOU and undermine the public policy goals of the Free File
24 program, to the detriment of low-income taxpayers, the intended third-party beneficiaries
25 thereof. Intuit’s unfair, fraudulent, and deceptive business acts and practices include but are not
26 limited to:

- a. adding code to its TurboTax Free File Website that prevents it from appearing in online search results, rendering the site non-discoverable by consumers searching for it on Google or other search engines;
- b. upon information and belief, associating its Google Search Ads for its Paid Products with keywords likely to be used by consumers searching for the IRS Free File program;
- c. advertising “FREE Guaranteed” tax filing services when in fact only a small percentage of consumers are able to complete their tax returns for free on the TurboTax Main Website;
- d. heavily marketing TurboTax “Free Edition,” an inferior product with highly limited functionality, in a manner that makes it likely to be confused with TurboTax “Freedom Edition,” a robust product that supports virtually all tax situations; and
- e. requiring consumers to invest substantial time and effort inputting their tax return information through the TurboTax “Free Edition” software before alerting them that they cannot complete their returns using “Free Edition,” and then manipulating them into paying for various product upgrades and upsells.

PRAYER FOR RELIEF

WHEREFORE, the People respectfully pray for judgment and relief as follows:

1. Preliminary and permanent injunctive relief enjoining Intuit, together with its successors and assigns and all persons acting in concert with them or on their behalf, from engaging in any of the unfair and fraudulent business acts and practices described herein, pursuant to Business and Professions Code § 17203;

2. Restitution of all moneys paid to Intuit for electronic tax preparation and filing services at any time during the period starting four years before the filing of this Complaint, up to and including the date of judgment in this action, by persons in the State of California who

1 were eligible at the time of payment to file for free under any IRS Free File program, pursuant
2 to Business and Professions Code § 17203, including prejudgment interest;

3 3. Civil penalties of up to \$2,500 assessed against Intuit for each violation of the
4 UCL, according to proof, pursuant to Business and Professions Code § 17206(a);

5 4. Additional civil penalties of up to \$2,500 assessed against Intuit for each
6 violation of the UCL perpetrated against a senior citizen or disabled person, according to proof,
7 pursuant to Business and Professions Code § 17206.1(a);

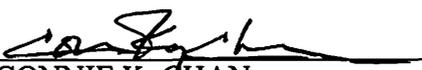
8 5. That the People recover the costs of this action; and

9 6. That the People be granted such other and further relief as the Court deems just
10 and proper.

11 Dated: May 6, 2019

Respectfully submitted,

12
13 MICHAEL N. FEUER, City Attorney
14 JAMES P. CLARK, Chief Deputy City Attorney
15 MICHAEL J. BOSTROM, Assistant City Attorney
16 CONNIE K. CHAN, Deputy City Attorney
17 ADAM R. TEITELBAUM, Deputy City Attorney
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By: 
CONNIE K. CHAN
Attorneys for Plaintiff,
THE PEOPLE OF THE STATE OF CALIFORNIA