

**STATE OF OHIO
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION SECTION**

IN THE MATTER OF:)	DOCKET NO. 446995
)	
FEKADU ENTERPRISE, CO.)	
)	
AND)	
)	
PROTAX, LLC)	
)	

ASSURANCE OF VOLUNTARY COMPLIANCE

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December This Assurance of Voluntary Compliance (“Assurance”) is entered into this *12th* day of November, 2013 between Fekadu Enterprise, Co., formerly doing business as Get Money Tax Service (“Enterprise”) and Protax LLC, formerly doing business as Instant Tax Service and currently doing business as Get Money Tax Service (“Protax”) (collectively “Respondents”) and the Attorney General of the State of Ohio (“Attorney General”). For purposes of this Assurance, “Respondents” means Fekadu Enterprise, Co. and Protax, LLC, doing business under the name, Get Money Tax Service, Instant Tax Service, or under any other business name, their agents, representatives, salespersons, employees, instructors, independent contractors, successors and assigns, and all persons acting in concert or participation with Respondents, directly or indirectly, through any corporate device, partnership or association within the State of Ohio.

WHEREAS, the Attorney General, having reasonable cause to believe that Respondents may have engaged in acts and practices which violate the Consumer Sales Practices Act, R.C. 1345.01 et seq., and the Substantive Rules, Ohio Administrative Code 109:4-3 et seq., has conducted an investigation pursuant to the authority granted him by R.C. 1345.06; and

WHEREAS, the Attorney General may, pursuant to R.C. 1345.06(F), enter into and accept an Assurance of Voluntary Compliance; and

WHEREAS, this Assurance of Voluntary Compliance is an assurance in writing by Respondents of their intent to comply with the provisions of the Consumers Sales Practices Act and the Substantive Rules; and

WHEREAS, Respondents desire to comply with all aspects of the Consumer Sales Practices Act, Respondents hereby voluntarily enter into this Assurance with the Attorney General.

NOW THEREFORE, in consideration of the mutual promises and conditions set forth herein, the parties hereto AGREE as follows:

- (1) The "Effective Date" shall mean the date indicated on the first page of this Assurance.
- (2) By accepting this written Assurance, the Attorney General agrees to terminate the current investigation of Respondents' business practices and actions occurring on or before the Effective Date of this Assurance.
- (3) By giving this written Assurance, Respondents agree to comply with all the terms of this Assurance and to conduct its business in compliance with all applicable Federal and Ohio laws, including without limitation, the Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq. and the Substantive Rules, Ohio Administrative Code, 109:4-3 et seq.

BACKGROUND AND STATEMENT OF FACTS

- (4) Fekadu Enterprise, Co. is an Ohio for-profit corporation doing business in the State of Ohio, including Cuyahoga County, with its principal place of business located at 5455 N. Marginal Road, #220 Cleveland Ohio 44114.

- (5) Fekadu Enterprise, Co. has done business under the name Get Money Tax Service, which is registered with the Ohio Secretary of State.
- (6) Protax, LLC is an Ohio for-profit corporation doing business in the State of Ohio, including Cuyahoga County, with its principal place of business located at 5455 N. Marginal Road, #220 Cleveland Ohio 44114.
- (7) Protax, LLC formerly operated as a franchisee of ITS Financial LLC, dba Instant Tax Service.
- (8) Senayt Fekadu is the sole owner of Fekadu Enterprise Co. and Protax LLC.
- (9) Protax, LLC operated as an ITS Financial LLC dba Instant Tax Service franchisee between 2006 and 2010.
- (10) Protax, LLC is no longer operating as an ITS Financial LLC dba Instant Tax Service franchisee.
- (11) Protax, LLC has been operating as Get Money Tax Service since the beginning of 2013.
- (12) Fekadu Enterprise, Co. has done business as Get Money Tax Service since December 2011.
- (13) Fekadu Enterprise, Co. is a “supplier,” as defined in R.C. 1345.01(C) and has been, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting, offering, and selling tax preparation services and lending money, including in the form of holiday advances to individuals in Cuyahoga County and other counties in the State of Ohio for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
- (14) Protax, LLC is a “supplier,” as defined in R.C. 1345.01(C), as Protax is, and has been, at all times relevant herein, engaged in the business of effecting consumer transactions by

soliciting, offering, and selling tax preparation services, and lending money, including in the form of holiday advances to individuals in Cuyahoga County and other counties in the State of Ohio for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

- (15) Respondents advertise their tax preparation services via signage, radio ads, internet, direct solicitations, and word of mouth advertising.
- (16) Respondents advertised that consumers are eligible for loan products, including but not limited to holiday advances of up to \$1000.
- (17) Consumers allege that Respondents did not actually provide consumers with loan products, including but not limited to holiday advances in amounts as high as \$1000.
- (18) Consumers allege that the criteria to qualify for loan products, including but not limited to holiday advances were not disclosed to consumers.
- (19) Respondents charge consumers fees up to and in excess of \$500 for their tax preparation services.
- (20) In some instances, Respondents charged consumers fees of up to \$30 for their loan products, including but not limited to holiday advances.
- (21) Respondents charge consumers additional fees up to \$100, in addition to the fees for the tax preparation services and the loan products, including but not limited to holiday advances.
- (22) Consumers allege that these fees are not disclosed prior to the fees being subtracted from the consumers' refund check.
- (23) Consumers allege that Respondents made false and misleading statements to consumers which contradict written representations.

- (24) In some instances consumers have alleged that Respondents filed their tax returns without consumers providing a copy of their W-2 form.
- (25) In some instances consumers have alleged that Respondents filed their tax returns without the consumers' authorization.

COMPLIANCE PROVISIONS

In connection with the soliciting, offering, and selling tax preparation and advanced tax refund services:

- (26) Respondents shall comply with the CSPA, R.C. 1345.01 et seq., and the Substantive Rules enacted thereunder;
- (27) Respondents shall refrain from committing an unfair or deceptive act or practice in connection with a consumer transaction, in violation of the CSPA, R.C. 1345.02(A);
- (28) Respondents shall refrain from advertising tax preparation and advanced tax refund services and failing to clearly and conspicuously disclose, in close proximity to the words stating the offer, all material exclusions, reservations, limitations, modifications, or conditions of such offers, in violation of the CSPA, R.C. 1345.02(A), and the Exclusions and Limitations in Advertisements Rule, Ohio Admin. Code 109:4-3-02(A);
- (29) Respondents shall refrain from misleading customers as to whether Respondents (either directly or through a third-party) offer a loan, refund advance product, or other financial product, if in fact they do not, in violation of the CSPA, R.C. 1345.02(B)(4);
- (30) Respondents shall refrain from misrepresenting the terms, amounts, eligibility and fees or costs associated with any refund loan to any customer, in violation of the CSPA, R.C. 1345.02(B)(1);

- (31) Respondents shall refrain from using paystubs or documents or information other than a genuine Form W-2 issued by the customer's employer or payroll processing service, in violation of the CSPA, R.C. 1345.02(A), when preparing and filing any tax return;
- (32) Respondents shall show to consumers or provide consumers with the potential tax preparation fees prior to entering any personal information of the consumer into Respondents' system. Respondents shall maintain at each storefront location, in an area accessed by and visible to all customers and potential customers, a sign or list that clearly and conspicuously displays and identifies all fees associated with their services. The fees posted shall be consistent with the fees contained in the Fee Disclosure Form provided to and signed by consumers.
- (33) Respondents shall, prior to filing a consumer's tax return, disclose to the consumer both orally and in writing, all fees to be charged. The Fee Disclosure Form shall clearly and conspicuously itemize all fees to be charged and shall clearly and conspicuously state the total fee amount.
- (34) Respondents shall have each customer sign and date a Fee Disclosure Form at or before the time the tax return is filed. Respondents shall not charge any fees other than those set forth on the Fee Disclosure Form. The Fee Disclosure Form must be kept in Respondents' files.
- (35) Respondents shall refrain from charging fees for: (a) services that are not performed or for items that do not exist (including, for example, fees described as or substantially similar to Service Bureau, Protax, or additional fees to Get Money Tax Service beyond the Tax Preparation fee); and (b) that, in total, exceed the sum disclosed to the customer and agreed to by the customer prior to the filing of each tax return.

- (36) Respondents shall refrain from filing tax returns without prior customer authorization, in violation of the CSPA, R.C. 1345.02(A). Respondents shall have each customer sign and date an authorization for each tax return filed. The authorization must be kept in the Respondents' files.
- (37) Respondents shall refrain from committing unconscionable acts or practices in connection with a consumer transaction, in violation of the CSPA, R.C. 1345.03(A);
- (38) Respondents shall refrain from offering any loan, advance, or other financial product to their customers (either directly or through a third-party) that violates any lending, tax, or consumer protection laws.
- (39) Respondents shall refrain from offering any refund loan or advance product that is a Non-RAL product as defined herein. Non-RAL products include paystub, holiday or Instant Cash loans or advance products, which are offered to customers in connection with or using information obtained from the customer's paystub and not a genuine W-2 issued by the customer's employer.
- (40) Respondents may offer a Refund Anticipation Loan ("RAL") product (as defined in IRS Pub. 1345) only through a genuine third party lender. The RAL product may only be offered using information from genuine W-2s and not paystubs, and must comply with all federal laws, including but not limited to the Equal Credit Opportunity Act ("ECOA"), and the Truth in Lending Act ("TILA"). Specifically, Respondent shall provide accurate TILA disclosures to all program applicants and written Notification of Adverse Action to all applicants who are denied a RAL, whether or not TILA or ECOA is applicable to the program. The RAL program must also fully comply with all applicable state laws,

including but not limited to all licensing, registration, disclosure, finance, lending, usury, and consumer protection laws.

- (A) Respondents may offer a refund loan or advance product only through a genuine third party lender who is not affiliated with or owned, controlled, or operated by Respondents. Respondents shall have no ownership interest in the third-party lender, no interest in the profits or fees of the third-party lender, no exclusivity agreement with the third-party lender, and shall have no authority over the lending, business, or management decisions of the third-party lender. Further, Respondents' transmission to a third-party lender of fees charged by or owed to the third-party lender will not constitute affiliation, ownership, control or operation by Respondents.
- (B) Respondents shall require in their contract with any third party lender that the lender must be sufficiently capitalized to meet the reasonably foreseeable capital requirements of the RAL program.
- (C) In order to ensure that the RAL product does not create an environment that allows or promotes unauthorized tax return filings, undisclosed fees, or paystub return filings, Respondents are required to have the customer's W-2 in hand at the time the RAL application is taken;
- (D) Respondents shall require in their contract with any third party lender that the lender comply with all lending laws, including a requirement that the approval/denial criteria do not violate the Equal Credit Opportunity Act. The RAL application shall include a clear and conspicuous disclosure to customers notifying them of primary criteria that affect the RAL decision.

Respondents are enjoined from processing applications for loan or refund advance products from customers who will be automatically denied.

- (E) Respondents will insure that all customers who apply for a RAL and whose tax return Respondents prepare and file will sign and date a form that clearly indicates that the customer is granting the Respondents permission to file their return.
 - (F) Respondents shall disclose to the consumer, both orally and in writing, via a fee statement, all RAL fees to be charged. The fee statement for the RALs shall clearly and conspicuously itemize all fees to be charged and the fees charged shall comply with Ohio laws. Prior to the submission of the RAL application, the fee statement must be signed and dated by the consumer.
- (41) Respondents shall, at the time of filing a consumer's tax return, provide to the consumer copies of all documents pertaining to the return, including but not limited to, the signed form 8879, signed Fee Disclosure Form, signed 1040 form, and any related schedules. Respondent shall also provide consumer with any documents related to their application for a RAL loan or any other product.
- (42) Respondents shall maintain in their possession and control for a period of five (5) years all business records relating to Respondent's solicitation or effectuation of business in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable, twenty-four (24) hour notice, to inspect and/or copy any and all of said records, however stored, and copies of such records be provided at Respondents' expense to the Ohio Attorney General upon request of the Ohio Attorney General or his representatives.

- (43) Respondents shall ensure that all employees and other individuals acting upon Respondents' behalf are trained to act in compliance with the Assurance and that all current and future training materials are modified to comply with this Assurance.

GENERAL PROVISIONS

- (44) This Assurance shall be governed by the laws of the State of Ohio.
- (45) This Assurance does not constitute an approval by the Attorney General of any of Respondents' business practices and Respondents shall not represent directly or indirectly, or in any way whatsoever, that the Attorney General has sanctioned, condoned or approved any part or aspect of Respondents' business practices.
- (46) This Assurance sets forth the entire agreement between the Attorney General and Respondents (the "Parties") and supersedes all prior agreements or understandings, whether written or oral, between the Parties and/or their respective counsel with respect to the subject matter hereof. This Assurance may be amended by written agreement between the Parties, subject to any further requirements under state law.
- (47) The Parties acknowledge that no other promises, representations or agreements of any nature have been made or entered into by the Parties. The Parties further acknowledge that this Assurance constitutes a single and entire agreement that is not severable or divisible, except that if any provision herein is found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect.
- (48) Respondents shall continue to negotiate in good faith, and resolve, through the office of the Attorney General, any consumer complaints filed with the Ohio Attorney General's Office, concerning Respondents' conduct occurring prior to or after the Effective Date of

this Assurance, which are brought by consumers that are discovered after entering into this Assurance.

- (49) Senayt Fekadu agrees that she will not have any ownership interest or involvement or participation in any tax preparation business or entity providing any form of tax preparation services other than Enterprise and Protax without providing the Attorney General with 90 days' notice of her intent. Further, Senayt Fekadu agrees that any such business or entity will be subject to the terms of this Assurance.
- (50) This Assurance is a public record and shall be maintained in the Public Inspection File.

PAYMENT TO THE STATE

- (51) As part of the consideration for the termination of the Attorney General's investigation of Respondents under the Consumer Sales Practices Act, Enterprise and Protax shall pay, jointly and severally, Forty-Five Thousand Dollars (\$45,000.00) to the Office of the Ohio Attorney General's Consumer Protection Enforcement Fund for fees and investigative costs. Thirty Thousand Dollars (\$30,000.00) of said penalty is suspended upon compliance with this Assurance. If Respondents fail to comply with all provisions in this Assurance, the remainder of the Forty-five Thousand Dollars (\$45,000.00) in civil penalties shall be due and payable upon demand. Seven Thousand Five Hundred Dollars (\$7,500.00) of the payment shall be due upon execution of this Assurance. Respondents agree to make a second payment of Three Thousand, Seven Hundred and Fifty Dollars (\$3,750.00) on or before February 28, 2014 and a final payment of Three Thousand, Seven Hundred and Fifty Dollars (\$3,750.00) on or before April 15, 2014. Payments shall be made by delivering a certified check or money order, payable to the "Ohio Attorney General's Office," to:

**Teresa Goodridge
Compliance Officer
Consumer Protection Section
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215**

PENALTIES FOR FAILURE TO COMPLY

- (52) The Attorney General may assert any claim that Respondents have violated this Assurance in a separate civil action to enforce this Assurance, or to seek any other relief afforded by law, including attorney fees, investigative costs, and a civil penalty for each separate and appropriate violation the Attorney General asserts the Respondent has committed. In any such action or proceeding, relevant evidence of conduct that occurred before the Effective Date shall be admissible on any material issue, including alleged willfulness, intent, knowledge, contempt or breach, to the extent permitted by law. By this paragraph, Respondents do not waive any evidentiary objection or any other objection it may have as permitted by law to the admissibility of any such evidence.
- (53) Evidence of a violation of an Assurance of Voluntary Compliance is prima-facie evidence of an act or practice in violation of the CSPA, R.C. 1345.01 et seq., if presented after the violation in an action brought under the CSPA, R.C. 1345.01 et seq.
- (54) This Assurance shall in no way exempt Respondents from any other obligations imposed by law, and nothing contained herein shall relieve Respondents of any legal responsibility for any acts or practices engaged in by Respondents other than those acts specifically resolved by this Assurance.
- (55) Nothing in this Assurance shall in any way preclude any investigative or enforcement action against Respondents under any legal authority granted to the Attorney General:

(A) With respect to the transactions or occurrences which are the subject of this enforcement action, if the terms of this Assurance are not fully obeyed; or

(B) With respect to transactions or occurrences which are not the subject of this action.

WHEREFORE, the Parties hereto affix their signatures in recognition and acceptance of the terms contained herein on this 12th ^{December} day of November 2013. ^{SE}

SIGNATURES

Accepted:

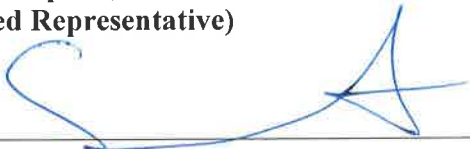
**MICHAEL DEWINE
OHIO ATTORNEY GENERAL**

BY: 
TERESA A. HEFFERNAN (0080732)
Senior Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215
(614) 644-9636
(866) 521-9921 (facsimile)

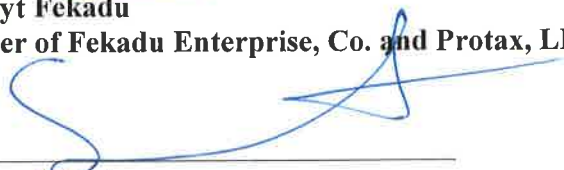
12/12/2013
Date

Accepted:

**Fekadu Enterprise, Co. and Protax LLC
(Authorized Representative)**

BY: 
Senayt Fekadu
Owner of Fekadu Enterprise, Co. and Protax, LLC

12/11/13
Date

BY: 
Senayt Fekadu
Individually

12/11/13
Date

COUNSEL FOR RESPONDENTS AND SENAYT FEKADU

BY:



ROBERT J. DUBYAK (0059869)
3401 Enterprise Pkwy., Suite 205
Cleveland, Ohio 44122
(216) 364-0500
(216) 364-0505 (facsimile)

12/11/13

Date