

**IN THE CIRCUIT COURT OF ST. LOUIS CITY
STATE OF MISSOURI**

STATE OF MISSOURI, ex rel.)
Attorney General Andrew Bailey,)
)
 Plaintiff,)
)
 vs.)
)
H&R Block Inc.,)
a Missouri Corporation,)
)
TaxSlayer LLC,)
a Georgia Limited Liability)
Company,)
)
and)
)
TaxAct Inc.,)
an Iowa Corporation,)
)
 Defendants.)

**PETITION FOR INJUNCTION, PENALTIES, RESTITUTION,
AND OTHER EQUITABLE RELIEF**

INTRODUCTION

Missourians, like all Americans, are required by law to share sensitive personal information with the government when they pay their taxes. Because many Missouri consumers use private tax preparation companies to calculate and submit their taxes, they have no choice but to share their sensitive personal information with those companies. Missouri consumers should be able to do so with confidence that their personal information is protected, and

not being distributed or sold without their permission. Sadly, that is not the case here. H&R Block Inc., TaxSlayer LLC, and TaxAct Inc. (collectively “Defendants”) broke the faith of Missouri consumers by unlawfully and surreptitiously providing their personal information to Meta, Google, and perhaps other tech companies. Defendants did it without their customers’ consent, and they did it in violation of Missouri laws. Now, the State of Missouri, through Attorney General Andrew Bailey (“Plaintiff”), brings this lawsuit under the Missouri Merchandising Practices Act (“MMPA”), § 407.020, *et seq.*, RSMo., against the Defendants to hold them accountable and to protect Missouri consumers.

PARTIES

1. Andrew Bailey is the Attorney General of the State of Missouri and brings this action in his official capacity pursuant to Chapter 407, RSMo.

2. Defendant H&R Block Inc. (“H&R Block”) is a Missouri corporation with its principal place of business located at 1 H and R Block Way, Kansas City, MO 64105. H&R Block’s Registered Agent is CT Corporation, located at 120 South Central Ave, Clayton, MO 63105. H&R Block advertises and provides, among other things, online tax preparation services to persons in the State of Missouri and throughout the United States. H&R Block provides these online tax preparation services to tens of millions of consumers each year.

3. Defendant TaxSlayer LLC (“TaxSlayer”) is a Georgia limited liability company with its principal place of business located at 945 Broad Street Augusta, GA 30901. TaxSlayer advertises and provides online tax preparation services to persons in the State of Missouri and throughout the United States. TaxSlayer provides information, forms, schedules, and tax preparation assistance to persons in the State of Missouri. TaxSlayer also works with the Missouri Department of Revenue and has tax experts working to conform to the latest Missouri tax laws. TaxSlayer provides these tax preparation services to several million consumers each year.

4. Defendant TaxAct Inc. (“TaxAct”) is an Iowa corporation with its principal place of business located at 3390 Asbury Rd., Dubuque, IA, 52002. TaxAct advertises and provides online tax preparation services to persons in the State of Missouri and throughout the United States. TaxAct provides a host of resources focused on Missouri, including information, forms, schedules, and tax preparation assistance to countless persons in the State of Missouri. TaxAct provides these online tax preparation services to several million consumers each year.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to Article V, § 14 of the Missouri Constitution.

6. This Court has both general and specific personal jurisdiction over Defendant H&R Block under §506.500 RSMo, because H&R Block is a Missouri Corporation that conducts regular and substantial business within the State of Missouri by offering, advertising, and providing online tax preparation services to Missouri residents. In providing such online tax preparation services, H&R Block maintains numerous offices throughout Missouri, including the City of St. Louis, and it regularly contracts with the residents of the State of Missouri. Further, H&R Block has committed tortious actions in the State of Missouri through its violations of the Missouri Merchandising Practices Act as alleged herein.

7. This Court has specific personal jurisdiction over Defendant TaxSlayer and Defendant TaxAct under §506.500 RSMo, because TaxSlayer and TaxAct conduct regular and substantial business within the State of Missouri by offering, advertising, and providing online tax preparation services to Missouri residents. In providing such online tax preparation services, TaxSlayer and TaxAct regularly contract with the residents of the State of Missouri. Further, TaxSlayer and TaxAct have committed tortious actions in the State of Missouri through their violations of the Missouri Merchandising Practices Act as alleged herein. Defendant TaxSlayer and TaxAct have purposefully availed themselves of the privilege of conducting activities in the State of Missouri by offering, advertising, and providing

Missouri and Federal income tax return preparation services to Missouri residents. Further the claims in this case arise from and relate to TaxSlayer's and TaxAct's conducting of business, contracting, and committing tortious acts in the State of Missouri.

8. This Court has authority over this action pursuant to § 407.100 RSMo., which allows the Attorney General to seek injunctive relief, penalties, restitution, and other equitable relief in circuit court against persons who violate § 407.020 RSMo.

9. Venue is proper in this Court pursuant to § 407.100.7 RSMo., which provides that “[a]ny action under this section may be brought in the county in . . . which the violation alleged to have been committed occurred...” On information and belief, each of the Defendants committed violations of the MMPA in this Circuit through their unlawful actions in connection with the advertisement and sale of tax preparation services to residents of the City of St. Louis.

ALLEGATIONS OF FACT COMMON TO ALL COUNTS

A. Pixel Technologies' Ability to Automatically Share Sensitive Personal, Financial, and Tax-Related Information

10. This action relates to Defendants' use of computer code—known as pixels—to send sensitive personal, financial, and tax return information to

Meta, Google, and potentially many more entities all in contravention of Defendants' representations to consumers and applicable law.

11. The Meta and Google pixels are snippets of code that are placed within the overall code of a website or webpage. Once placed on the website, the pixel downloads more code from Meta and Google, which then gathers valuable information about website visitors and their activity. This information allows advertisers to understand their users' behaviors and shopping patterns, measure the performance of ad campaigns, and build an audience-base for future ad targeting.

12. Facebook introduced the Meta Pixel in 2015. The Meta Pixel is a piece of computer code implanted on a website that records users' activity on sites all around the internet and transmits logs of that activity back to Meta.

13. Meta gives the Meta Pixel to companies free of charge and instructs them how to use it. In its directions for setting up the Meta Pixel, Meta notes that advertisers should “[s]imply place the pixel base code ...on all pages of your website.” Meta further recommends that companies “add [the Pixel’s] base code between the opening and closing <head> tags on every page where you will be tracking website visitor actions.” Doing so “reduces the chances of browsers or third-party code blocking the [P]ixel’s execution” and “executes the code sooner, increasing the chance that your visitors are tracked before they leave your page.”

14. Important to this process is the “c_user cookie.” This cookie is a means of identification for users of Meta’s platforms. Each Meta user account has a unique c_user cookie. Meta uses the c_user cookie to record and organize user activities and communications. When a user logs into a Meta account, such as Facebook, for the first time or from a new device, the c_user cookie is delivered to that user’s computer or device, and will be returned by the users’ web browser each time they interact with Meta in the future. Once a consumer dossier is created under the c_user heading, Meta adds information as it is collected by the Meta Pixel and Meta’s other tracking tools.

15. Once a company sets up the Meta Pixel on its site, and a consumer visits that site, the information collection and sharing begins. When a consumer visits a third party domain with the Meta Pixel enabled, Meta collects a host of information such as the sub-pages they visit, the buttons they click, the options they select (*e.g.*, from a multiple-choice form), and often the things they type. When a consumer takes an action on a Meta Pixel-enabled webpage, Meta’s source code commands the user’s computer to direct a log of that action to Meta. This happens contemporaneously. In other words, Meta receives real-time logs of a user’s actions even while that user is interacting with the target website.

16. Through this process Meta collects information and attributes it to individual users, effectively creating an ever expanding digital dossier that is recorded and used by Meta to power its advertising algorithms.

17. Though the system described above relies on the subjects' pre-existing Meta-platform accounts (e.g., Facebook or Instagram profiles), information from Meta Pixel is gathered regardless of whether the person using the tax filing service has an account on Facebook or other platforms operated by its owner, Meta. When a data-collection subject does not have an account on Meta's platforms, the Meta Pixel logs their activities and sends the data to Meta anyway. The dossiers Meta compiles on these persons are known as "shadow profiles."

18. Through this data collection process, Meta is able to provide its advertising partners with insights into their user's activities, allowing them the ability to track visitors' actions and define custom audiences to better target ads to potential customers.

19. But, Meta also retains that data and can use it for *its own* purposes and for the advertising purposes of *other parties*.

20. For example, Meta uses the Pixel data it collects for machine learning for Meta's own general purposes, allowing it to optimize its marketing algorithms and provide more effective advertising to other advertisers.

21. Likewise, Meta can use the Pixel data to expand its digital dossier of users, allowing it to offer more accurate advertising services—in part through its Lookalike Audience feature—to other advertisers that are not the original supplier of the Pixel data.

22. Specifically, Meta’s Lookalike Audience feature is touted by Meta as a way for advertisers to “reach new people who are likely to be interested in [their] business because they share similar characteristics to [the business]’ existing customers.”¹ When a business uses the Lookalike Audience feature, “their ad is delivered to that audience of people who are similar to (or ‘look like’) [their] existing customers.”² Further, advertisers, can fine tune this by “us[ing] a percent range to choose how closely [they] want [their] new audience to match [their] source audience.”³

23. For example, if a business has a list of emails of customers, and they want to reach other people who are like those people, Lookalike Audiences could expand the list to other people who have things in common with those existing customers.

24. On information and belief, Meta could only offer such Lookalike Audience features if their system had an expansive informational record of all of their users like a dossier organized around a c_user cookie.

¹ <https://www.facebook.com/business/help/164749007013531>.

² *Id.*

³ *Id.*

25. Google also offers its own pixel (but does not refer to it as such) as part of its larger Google Analytics product. Just like the Meta Pixel, Google directs the customer to add the snippet of code immediately after the <head> on each page of their website. Likewise, Google Analytics is capable of receiving similar sensitive consumer data.

26. Though Google represents that its Google Analytics cannot by default be used by Google for purposes other than servicing their Google Analytics customers' needs with respect to monitoring their own site usage, customers can opt to allow Google to use such data for Google's own purposes.

B. Defendants Used Meta, Google, and Potentially Multiple Other Pixel Technologies to Share Consumers' Sensitive Information.

27. TaxAct implemented the Meta Pixel sometime during 2018 and implemented Google Analytics at least as early as 2014.

28. On information and belief, TaxAct has employed and continues to employ additional types of pixels on their website that operate in a fashion similar to the Meta Pixel and Google Analytics.

29. Through its implementation of the Meta Pixel and other Meta tools, TaxAct shared with Meta the sensitive personal, financial, and tax-related information of consumers including, but not limited to:

- a. full names;
- b. email addresses;

- c. state, city, and zip code;
- d. phone numbers;
- e. gender;
- f. date of birth;
- g. names of dependents;
- h. year of the return;
- i. filing status;
- j. adjusted gross income;
- k. whether they had certain assets;
- l. whether they had investment income;
- m. whether they made charitable contributions;
- n. whether they had mortgage interests;
- o. whether they had standard deductions;
- p. whether they had Schedule Cs;
- q. whether they had student loan interest;
- r. the amount of their refund;
- s. what buttons were clicked; and
- t. names of text-entry forms that the taxpayer navigated to.

30. Disclosure of data elements such as what buttons were clicked or the names of text-entry forms can and, on information and belief, did disclose a wide-array of sensitive personal, financial, and tax-related information of

consumers, such as whether taxpayers were eligible for certain deductions or exemptions.

31. Similarly, through its implementation of the Google Analytics, TaxAct shared with Google substantially similar data regarding consumers as that described with respect to the Meta Pixel.

32. On information and belief, TaxAct has employed additional types of pixels on their website that shared with third parties data that is similar to that disclosed through the Meta Pixel and Google Analytics.

33. H&R Block first implemented the Meta Pixel several years ago.

34. On information and belief, H&R Block has employed and continues to employ additional types of pixels, including Google Analytics, on their website that operate in a fashion similar to the Meta Pixel.

35. Through its implementation of the Meta Pixel and other Meta tools, H&R Block shared with Meta the sensitive personal, financial, and tax-related information of consumers. For example, H&R Block's Meta Pixel was configured to allow Meta to access the page titles and headers, thereby sharing with Meta information about the consumers including, but not limited to:

- a. names;
- b. health savings account contributions;
- c. college tuition grants, scholarships, and educational expenses;
- d. whether the consumer visited pages related to dependents;

- e. whether the consumer visited pages related to certain types of income (such as rental income or capital gains); and
- f. whether the consumer visited pages related to certain tax credits or deductions.

36. TaxSlayer implemented the Meta Pixel in or around February 2018 and implemented the Google Analytics at least as early as March 2011.

37. On information and belief, TaxSlayer has employed and continues to employ additional types of pixels on their website that operate in a fashion similar to the Meta Pixel and Google Analytics.

38. Through its implementation of the Meta Pixel and other Meta tools, TaxSlayer shared with Meta the sensitive personal, financial, and tax-related information of consumers including, but not limited to:

- a. consumers' names
- b. phone numbers;
- c. names of dependents;
- d. which pages/forms the consumer used;

39. Disclosure of data elements such as what pages/forms were used can and, on information and belief, did disclose a wide-array of sensitive personal, financial, and tax-related information of consumers, including but not limited to whether the consumer used pages related to certain types of

income (such as rental income or capital gains, alimony payments, or certain tax credits or deductions).

40. On information and belief, through its implementation of the Google Analytics, TaxSlayer likewise shared with Google similar data regarding consumers as that described with respect to the Meta Pixel.

41. On information and belief, TaxSlayer has employed additional types of pixels on their website that shared with third parties data that is similar to that disclosed through the Meta Pixel and Google Analytics.

C. Defendants' Use of the Pixel Technologies Were in Contravention of their Privacy Policies and Applicable Law

a. TaxAct

42. During the relevant time-frame, TaxAct's publicly-facing privacy policies lulled consumers into a false sense of data privacy while simultaneously deceiving consumers and omitting material information related to how TaxAct would use and disclose consumers' information.

43. As an example of TaxAct's unlawful representations, this Petition cites to TaxAct's Privacy Policy on its website as of April 14, 2022 according to the Wayback Machine.⁴ On information and belief, during the relevant time-frame, each of TaxAct's then current privacy policies made similar

⁴ <https://web.archive.org/web/20220414225316/https://www.taxact.com/privacy-policy>

misrepresentations, deception, and omissions, suppression, and concealment of material facts.

44. In its Privacy Policy, TaxAct assured consumers that “[w]e at TaxAct, Inc. (‘TaxAct’) respect your privacy and the confidentiality of your personal information” and purported to set forth “what information TaxAct collects, how we use and disclose that information, [and] the measures we take to keep it safe” But, TaxAct did not respect users’ privacy and confidentiality and the Privacy Policy did not faithfully disclose what information TaxAct collected or how it was used and disclosed.

45. For example, in the section describing what information TaxAct collects, TaxAct ensured consumers that “[o]ur primary goals in collecting information are to provide and improve our websites, Services, features and content, to administer your use of our site, and to enable our customers to enjoy and easily navigate our website and Services.”

46. This representation is likely to lead consumers to believe that the information collected in using TaxAct’s site is used specifically for carrying out TaxAct’s online tax return preparation services and improving user experience, and not for purposes such as development of a comprehensive data dossier by third parties to power their targeted online advertising algorithms.

47. Other representations in the Privacy Policy regarding data that was automatically collected both downplay and obscure the true scope of TaxAct's data collection and sharing practices.

48. For example, in discussing information that was automatically collected through use of the TaxAct website, TaxAct lists relatively benign information such as "information about the computer or mobile device you use to access our Services, including the hardware model, operating system version, mobile network information, information indicating the device's physical location, and other information to allow us to identify the computer or device you use."

49. This representation obscures the full scope of TaxAct's employment of automatic data collection and sharing. In doing so it omits, suppresses, and/or conceals the material fact that TaxAct would employ pixel technology to automatically collect and send to third parties the sensitive information described earlier, such as adjusted gross income, the amounts of their tax refunds, or whether they made charitable donations.

50. Nor does TaxAct's Privacy Policy adequately disclose that such sensitive information would be automatically collected and disclosed to third parties for marketing purposes.

51. In listing the types of third party tools utilized by TaxAct to automatically collect consumer data, TaxAct identifies Google Analytics—

though conspicuously fails to mention Meta Pixel. Importantly though, TaxAct represented these automatic data collection tools as “collect[ing] information about the performance of our site and how visitors navigate around and interact with our web pages, which allows us to evaluate and further improve or optimize our web pages.”

52. TaxAct’s representation omits, suppresses, and/or conceals the material fact that such automatically collected data would be disclosed to third parties for marketing purposes and deceives consumers into believing that it would instead be used specifically for improving the user experience on the TaxAct website.

53. TaxAct also affirmatively misrepresented to consumers how it would share consumer information with third parties generally. In the Privacy Policy, TaxAct represented that “unless (i) it is allowed by applicable law (including, where applicable, Section 301-7216 of the Internal Revenue Service’s code); **and** (ii) we have consent, we do not . . . [s]hare consumer personal information we collect with third parties for use in their own business.” TaxAct’s representations were false as to both accounts.

54. First, TaxAct shared consumers’ personal information with Meta, and as alleged previously, Meta retains Meta Pixel data and can use it for its own purposes and for the advertising purposes of other parties. On information and belief, TaxAct never obtained consent from its users for such disclosures.

55. Second, such disclosures were not allowed by applicable law. The Internal Revenue Code provides that unless “specifically authorized” by 28 U.S.C. §7216 or 26 CFR 301.7216-2, “a tax return preparer may not disclose or use a taxpayer’s tax return information prior to obtaining a written consent from the taxpayer” 26 CFR § 301.7216-3(a). Further, such consent must be “knowing and voluntary.” *Id.*

56. TaxAct is a “tax return preparer.” A “tax return preparer” includes “[a]ny person who is engaged in the business of preparing or assisting in preparing tax returns” or “develops software that is used to prepare or file a tax return.” 26 CFR § 301.7216-1(b)(2)(A)-(B).

57. The information TaxAct disclosed to Meta and to Google through Meta Pixel and Google Analytics is “tax return information.” The term “tax return information” is broadly defined to include “any information . . . which is furnished in any form or manner for, or in connection with, the preparation of a tax return of the taxpayer” as well as any “information the tax return preparer derives or generates from tax return information in connection with the preparation of a taxpayer’s return.” 26 CFR § 301.7216-1(b)(3).

58. TaxAct’s disclosures of consumers’ tax return information were not “specifically authorized” by 28 U.S.C. §7216 or 26 CFR 301.7216-2.

59. Further, on information and belief, TaxAct did not obtain “knowing and voluntary” consent of consumers to disclose their tax return information.

b. H&R Block

60. During the relevant time-frame, H&R Block’s publicly-facing privacy policies lulled consumers into a false sense of data privacy while simultaneously deceiving consumers and omitting material information related to how H&R Block would use and disclose consumers’ information.

61. As an example of H&R Block’s unlawful representations, this Petition cites to H&R Block’s Digital Online Privacy Policy on its website as of April 5, 2022, according to the Wayback Machine.⁵ On information and belief, during the relevant time-frame, each of H&R Block’s then current privacy policies made similar misrepresentations, deceptions, omissions, suppression, and/or concealment of material facts.

62. For example, in discussing what information H&R Block may share with service providers for purposes of marketing on third party websites, such as Meta, H&R Block stated that they may “share your personal information, and a record of any transactions you conduct on our websites . . .

⁵ <https://web.archive.org/web/20220405124614/https://www.hrblock.com/universal/digital-online-mobile-privacy-principles/>

with a third-party advertising partner and its service providers to deliver advertising . . . when you visit certain other websites.”

63. However, H&R Block’s statement omits material information related to the scope and sensitivity of the type of information that would be collected for such purposes by the Meta Pixel. Specifically, H&R Block did not disclose that the gathered data would include sensitive tax return information, such as health savings account contributions, college tuition, grants, scholarships, tax credits and deductions, sources of income, etc.

64. Nor would consumers be expected to know or assume these disclosures may occur, as such disclosures of tax return information are prohibited by law.

65. The Internal Revenue Code provides that unless “specifically authorized” by 28 U.S.C. §7216 or 26 CFR 301.7216-2, “a tax return preparer may not disclose or use a taxpayer’s tax return information prior to obtaining a written consent from the taxpayer” 26 CFR § 301.7216-3(a). Further, such consent must be “knowing and voluntary.” *Id.*

66. H&R Block is a “tax return preparer.” A “tax return preparer” includes “[a]ny person who is engaged in the business of preparing or assisting in preparing tax returns” or “develops software that is used to prepare or file a tax return.” 26 CFR § 301.7216-1(b)(2)(A)-(B).

67. The information H&R Block disclosed to Meta through Meta Pixel is “tax return information.” The term “tax return information” is broadly defined to include “any information . . . which is furnished in any form or manner for, or in connection with, the preparation of a tax return of the taxpayer” as well as any “information the tax return preparer derives or generates from tax return information in connection with the preparation of a taxpayer's return.” 26 CFR § 301.7216-1(b)(3).

68. H&R Block’s disclosures of consumers’ tax return information were not “specifically authorized” by 28 U.S.C. §7216 or 26 CFR 301.7216-2.

69. Further, on information and belief, H&R Block did not obtain “knowing and voluntary” consent of consumers to disclose their tax return information to Meta via the Meta Pixel.

c. TaxSlayer

70. During the relevant time-frame, TaxSlayer’s publicly-facing privacy policies likewise lulled consumers into a false sense of data privacy while simultaneously deceiving consumers and omitting material information related to how TaxSlayer would use and disclose consumers’ information.

71. As an example of TaxSlayer’s unlawful representations, this Petition cites to TaxSlayer’s Privacy Policy on its website as of January 21,

2022, according to the Wayback Machine.⁶ On information and belief, during the relevant time-frame each of TaxSlayer’s then current privacy policies made similar misrepresentations, deceptions, omissions, suppression, and/or concealment of material facts.

72. In its Privacy Policy, TaxSlayer assured consumers that “we are committed to safeguarding customer information on our site www.taxslayer.com. Since your privacy is a priority to us, TaxSlayer will not share nonpublic information about you with third parties outside of the TaxSlayer corporate family without your consent, except as explained in our Privacy Policy.” Further, TaxSlayer represented that its “Privacy Policy explains TaxSlayer’s collection, use, retention and security of information about you. It also describes your choices regarding use, access and correction of your personal information.” But, TaxSlayer did not safeguard its customers’ information and the Privacy Policy did not faithfully disclose what information TaxSlayer collected or how it was used and disclosed.

73. For example, in the section describing “How and Why We Collect Information,” TaxSlayer represented that “[w]e use the information collected to develop, improve, enhance, and secure our websites, products, and services. Specifically, the technologies listed above, and possibly others, are used in

⁶ <https://web.archive.org/web/20220121171734/https://www.taxslayer.com/policies/privacy/>

administering the websites and application, analyzing trends, evaluate functionality of our websites and application on your device, tracking users' movements around the site and to gather demographic information about our user base as a whole." Absent from this section of the Privacy Policy is an indication that a specific reason why TaxSlayer collected consumer information through the Meta Pixel was for disclosure to third parties for purposes of marketing.

74. This representation is likely to lead consumers to believe that the information collected in using TaxSlayer's site is used specifically for carrying out TaxSlayer's online tax return preparation services and improving user experience, and not for purposes such as development of a comprehensive data dossier by third parties to power their targeted online advertising algorithms.

75. Other representations in the Privacy Policy regarding data that was automatically collected both downplay and obscure the true scope of TaxSlayer's data collection and sharing practices.

76. For example, in discussing information that was automatically collected through use of the TaxSlayer website, TaxSlayer's Privacy Policy stated, "when you use our site, products, services, and apps, we may collect information regarding the type of device, system and performance information, operating system used, and mobile network information. Analytics software may record information such as how often you use the sites or application, the

events that occur on the sites or within the application, aggregated usage, performance data, and where the sites or application originated. Typically, we do not link the information we store within the analytics software to any personally identifiable information you submit on the sites or within the mobile app.”

77. This representation obscures the full scope of TaxSlayer’s employment of automatic data collection and sharing. In doing so it omits, suppresses, and/or conceals the material fact that TaxSlayer would employ pixel technology to automatically collect and send to third parties the sensitive information described earlier, such as consumers’ names, phone numbers, names of dependents, and which pages/forms the consumer used.

78. This representation is also false and/or deceptive in that TaxSlayer’s use of the Meta Pixel not only linked consumers’ data to personally identifiable information such as names, phone numbers, and names of dependents, but did so on a regular basis.

79. Nor does TaxSlayer’s Privacy Policy adequately disclose that such sensitive information would be automatically disclosed to third parties generally, much less that such information may be disclosed to those third parties for their own use and the use of other’s marketing purposes. In fact, TaxSlayer’s representations would lead consumers to believe the opposite.

80. For example, TaxSlayer’s Privacy Policy represents that “The privacy and security of your information is important to us. We do not sell or rent your information. As indicated below, we may share your information to support the products and services you request, or provide your information to third parties, upon your specific consent, for products and services that may benefit you.”

81. This representation suggests to consumers that TaxSlayer would disclose consumers’ information to third parties *only* upon: (1) the consumers’ specific consent; and (2) to the extent such disclosure pertained to marketing, the disclosure would *only* be used for the marketing of TaxSlayer’s products to the consumer. However, neither of these were true.

82. On information and belief, TaxSlayer never obtained consumers’ specific consent to disclose their information to Meta via the Meta Pixel.

83. Further, TaxSlayer shared consumers’ personal information with Meta. And, as alleged previously, Meta retains Meta Pixel data and can use it for its own purposes and for the advertising purposes of other parties.

84. TaxSlayer also misrepresented to consumers how it would disclose consumers’ tax return information. Specifically, TaxSlayer represented that “[w]e disclose Tax Return Information only in accordance with your requests, such as when filing a tax return with the IRS or state revenue authority.” This was false.

85. The information TaxSlayer disclosed to Meta and to Google through Meta Pixel and Google Analytics, including the consumers' names, phone numbers, names of dependents, and which pages/forms in the tax preparation were applicable to the consumer, is all "tax return information." The term "tax return information" is broadly defined to include "any information . . . which is furnished in any form or manner for, or in connection with, the preparation of a tax return of the taxpayer" as well as any "information the tax return preparer derives or generates from tax return information in connection with the preparation of a taxpayer's return." 26 CFR § 301.7216-1(b)(3).

86. On information and belief, no consumers requested that TaxSlayer disclose their tax return information to Meta or Google.

D. The Missouri Merchandising Practices Act

87. Section 407.020 of the Missouri Merchandising Practices Act provides in pertinent part:

"The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice... Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before,

during or after the sale, advertisement, or solicitation.”

88. “Person” is defined as “any natural person or his legal representative, partnership, firm, for-profit or not-for-profit corporation, whether domestic or foreign, company, foundation, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.”

89. “Merchandise” is defined as “any objects, wares, goods, commodities, intangibles, real estate, or services.” § 407.010(4).

90. “Trade” or “commerce” are defined as “the advertising, offering for sale, sale, or distribution, or any combination thereof, of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated. The terms ‘trade’ and ‘commerce’ include any trade or commerce directly or indirectly affecting the people of this state.” § 407.010(7).

91. Defendants have advertised and sold merchandise in trade or commerce within the meaning of § 407.010.

92. The Attorney General has promulgated rules explaining and defining terms used in §§ 407.010 to 407.145 of the Merchandising Practices Act. Said rules are contained in the Missouri Code of State Regulations (“CSR”).

93. From those regulations, and pertinent to this petition, a false promise is defined as “any statement or representation which is false or misleading as to the maker’s intention or ability to perform a promise, or likelihood the promise will be performed.” 15 CSR 60-9.060.

94. “A misrepresentation is an assertion that is not in accord with the facts.” 15 CSR 60-9.070.

95. “Concealment of a material fact is any method, act, use or practice which operates to hide or keep material facts from consumers.” 15 CSR 60-9.110(1).

96. “Suppression of a material fact is any method, act, use or practice which is likely to curtail or reduce the ability of consumers to take notice of material facts which are stated.” 15 CSR 60-9.110(2)

97. “Omission of a material fact is any failure by a person to disclose material facts known to him/her, or upon reasonable inquiry would be known to him/her.” 15 CSR 60-9.110(3)

98. “Deception is any method, act, use, practice, advertisement or solicitation that has the tendency or capacity to mislead, deceive or cheat, or that tends to create a false impression.” 15 CSR 60-9.020.

99. “It is an unfair practice for any person in connection with the advertisement or sale of merchandise to engage in any method, use or practice

which—(A) Violates state or federal law intended to protect the public; and (B) Presents a risk of, or causes substantial injury to consumers.” CSR 60-8.090.

VIOLATIONS

COUNT I – MISREPRESENTATION

100. Plaintiff incorporates the preceding paragraphs as if fully stated herein.

101. Defendants TaxAct, H&R Block, and TaxSlayer violated the Missouri Merchandising Practices Act by engaging in misrepresentations in connection with the advertisement and sale of merchandise.

102. Defendants’ statements were not in accord with the facts as Defendants shared consumers’ sensitive personal, financial, and tax return information in contravention of applicable law and without specific knowing, voluntary, and written consent.

COUNT II – OMISSION, CONCEALMENT, OR SUPPRESSION

103. Plaintiff incorporates the preceding paragraphs as if fully stated herein.

104. Defendants TaxAct, H&R Block, and TaxSlayer violated the Missouri Merchandising Practices Act by engaging in the omission, concealment, or suppression of material facts in connection with the advertisement and sale of merchandise.

COUNT III – DECEPTION

105. Plaintiff incorporates the preceding paragraphs as if fully stated herein.

106. Defendants TaxAct, H&R Block, and TaxSlayer violated the Missouri Merchandising Practices Act by engaging in deception in connection with the advertisement and sale of merchandise.

COUNT IV – UNFAIR PRACTICE

107. Plaintiff incorporates the preceding paragraphs as if fully stated herein.

108. Defendants TaxAct, H&R Block, and TaxSlayer violated the Missouri Merchandising Practices Act by engaging in an unfair practice in connection with the advertisement and sale of merchandise.

109. Defendants' disclosure of sensitive consumer tax return information to unauthorized third parties presented a risk of substantial injury to consumers whose information was improperly disclosed.

110. Defendants' conduct was undertaken in connection with its advertisement and sale of merchandise and constitutes an unfair practice in violation of the Missouri Merchandising Practices Act.

RELIEF

WHEREFORE, the State prays this Court enter judgment:

A. Finding Defendants have violated the provisions of § 407.020, RSMo.

B. Issuing a permanent injunction pursuant to § 407.100.1, RSMo., enjoining and prohibiting all three Defendants and their agents, servants, employees, representatives, and other individuals acting on their behalf from, among other things:

- i. gathering sensitive consumers data to third parties without clear and conspicuous disclosures as to the types of data gathered, the specific purposes for which it is gathered, and the specific methods of such gathering;
- ii. using sensitive consumers data to third parties without clear and conspicuous disclosures as to the types of data used, the specific purposes for which it is used, and the specific methods in which it is used;
- iii. disclosing sensitive consumers data to third parties without clear and conspicuous disclosures as to the types of data disclosed, the specific purposes for which it is disclosed, and the specific methods of such disclosure.

C. Requiring Defendants provide full restitution to all consumers who suffered an ascertainable loss per § 407.100.4, RSMo.

D. Requiring Defendants pay the State an amount of money equal to 10% of the total restitution ordered against Defendants or such other amount as the court deems fair and equitable, pursuant to § 407.140.3, RSMo.

E. Requiring Defendants disgorge all profits and granting such other equitable relief as may be necessary to prevent Defendants from employing or continuing to employ, or to prevent the recurrence of, their unlawful acts, pursuant to § 407.100.3, RSMo.

F. Requiring Defendants pay all court, investigative, and prosecution costs of this case pursuant to § 407.130, RSMo.

G. Requiring Defendants pay to the State a civil penalty in such amounts as allowed by law per violation of Chapter 407 that the court finds to have occurred pursuant to § 407.100.6, RSMo.

H. Requiring Defendants pay prejudgment interest on all restitution amounts awarded by this court.

I. Granting any additional relief that this Court deems just and proper.

Respectfully submitted,

ANDREW BAILEY
Attorney General

/s/ Michael Schwalbert

Jeremiah J. Morgan, Mo. Bar. No. 50387

Deputy Attorney General – Civil

Michael Schwalbert, Mo. Bar. No. 63229

Assistant Attorney General

Scott Lucy, Mo. Bar. No. 67396

Assistant Attorney General

Missouri Attorney General's Office

P.O. Box 899

Jefferson City, MO 65102

(573) 751-1800

Jeremiah.Morgan@ago.mo.gov

Michael.Schwalbert@ago.mo.gov

Scott.Lucy@ago.mo.gov

ATTORNEYS FOR PLAINTIFF