

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

INTUIT INC.'S MOTION *IN LIMINE* TO EXCLUDE OUTDATED ADVERTISEMENTS

Intuit respectfully moves to exclude TurboTax advertisements that have no bearing on Intuit's recent or future advertising practices. Ads from Tax Year 2017 or earlier fall outside the applicable three-year statute of limitations, and ads predating Tax Year 2019 are otherwise irrelevant and immaterial. Apart from the statute of limitations, ads from Tax Years 2014-2018 have little relation to Intuit's more recent ads because their content, including visual and audio disclosures, differs substantially from the content of Intuit's recent, current, and future ads. The Court should exclude all outdated ads included on Complaint Counsel's (CC) exhibit list identified in Appendix A.

I. BACKGROUND

CC's exhibit list includes many ads from Tax Year 2018 and earlier. Over the last few years, however, Intuit has substantially revised its ads as part of changes in the tax law and as part of its continued attempts to improve the quality of its advertising. In Tax Year 2019 (calendar year 2020), for example, Intuit modified the title card in its free television ads to say "TurboTax Free Edition" in large font rather than "TurboTax Free." *See, e.g.*, RX15. And in Tax Year 2021, Intuit included voiceovers in its TV ads telling consumers to "[s]ee details at TurboTax.com." *See, e.g.*, RX202.

Moreover, shortly after this case was filed, Intuit agreed to a comprehensive consent order with the attorney generals of all 50 states and the District of Columbia (the “Consent Order”) that mandated additional changes to Intuit’s free ads. *See* RX399. Specifically, the Consent Order—binding on Intuit and enforceable by the chief law-enforcement officer of every state as well as by a California court (among others)—prohibits Intuit from running any of the challenged ads ever again. Intuit is prohibited from: “publish[ing], or caus[ing] to be published, in any medium (1) its ‘free, free, free’ Video Advertisements ... and (2) Video Advertisements that are substantially similar in their repetition of the word free.” *Id.* §III.G. The Consent Order also requires that all non-space-constrained ads (*i.e.*, ads without space or time restrictions that limit the ability to make disclosures, *see id.* at 5-6) that appear anywhere other than the TurboTax website—including 15- or 30-second TV ads—disclose “the existence and category of material limitations” on the offer as well as that “not all taxpayers qualify.” *Id.* §III.A. It further requires all space-constrained video ads to include specific written disclosures, and, if the ads are longer than 8 seconds, a verbal disclosure. *Id.* §III.C. Finally, it mandates that all space-constrained non-video ads include a link to the TurboTax website where full eligibility disclosure for the free offer is provided. *Id.* §III.B.

Despite the significant changes to TurboTax ads, CC appears poised to rely on many ads that ran long ago and have no bearing on Intuit’s current or future practices. For example, CC’s final exhibit list includes two ads that aired in Tax Years 2014 and 2015. Both ads referred to “Absolute Zero”—an offer that allowed consumers to file both their federal and state taxes for free for a limited time during the tax year. Intuit has not had that offer since Tax Year 2017, over five years ago, and it cannot and will not offer it again now that Free Edition always allows consumers to file both their federal and state taxes for free. Those ads also included a written

disclosure (“TurboTax Federal Free Edition is for simple U.S. returns only”) that Intuit stopped using after Tax Year 2016, when the free TurboTax product name changed from “TurboTax Federal Free Edition” to “TurboTax Free Edition.” *Compare* GX321 (TY14 SuperBowl ad), *and* GX323 (TY15 SuperBowl Ad), *with* GX324 (TY17 “Fish” Ad).

CC’s exhibit list also includes video ads from Tax Year 2017 and email ads from Tax Years 2015-2017—all ads that are no longer running and will not run again. Like the Super Bowl ads above, these ads referred to “Absolute Zero” and contained disclosures that have not been used for years. Indeed, the email ads mentioned tax forms (Forms 1040EZ and 1040A) that were eliminated after changes to tax laws before Tax Year 2018. *See, e.g.*, GX375 (using the disclaimer “Forms 1040EZ and 1040-A”); GX376 (same). The IRS replaced those basic forms with current Form 1040 (which had previously covered more complex tax situations), requiring Intuit to use different disclosures starting in Tax Year 2018. *See, e.g.*, RX202 (TY21 Auctioneer Ad).

Finally, CC’s exhibit list includes television and email ads, as well as one display ad, from Tax Year 2018 that differ significantly from ads that have been running for each of the last four years, as Intuit responded to somewhat last-minute changes in the tax code and unveiled a new ad campaign. For example, the Tax Year 2018 television ads used a different title card than recent ads (“TurboTax Free” versus “TurboTax Free Edition”). *Compare, e.g.*, GX329 (TY18 Lawyer Ad), *with* RX202 (TY21 Auctioneer Ad). And although the Tax Year 2018 television ads (unlike some earlier ads) included written disclosures in white font on a solid blue background at the end of the ad, the disclosure’s color and font were changed starting in Tax Year 2019 to make the language more prominent and easier to read. *Compare, e.g.*, GX329, *with* RX202. The Tax Year 2018 email and display ads similarly included disclosures with outdated

language and different formatting than more recent communications. For example, a Tax Year 2018 email ad contained the disclosure “For simple tax returns,” GX379, and a Tax Year 2018 display ad included “Free Edition product only. For simple U.S. returns. ... See offer details at turbotax.com.” at the bottom of the advertisements in dark gray on a light gray background, GX334. By contrast, a Tax Year 2021 marketing email contained multiple disclosures stating “TurboTax Free Edition, for simple tax returns only” in larger white font on a solid blue background, along with a detailed description of Free Edition’s qualifications. *See* GX477. And a Tax Year 2021 display ad prominently stated in black font on a white background that “TurboTax is FREE for simple tax returns only.” GX197; *see also* GX556 (stating in black font on a white background “Simple tax returns only”).

II. ARGUMENT

Only evidence that is “[r]elevant, material, and reliable” is admissible. 16 C.F.R. §3.43(b). And even relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or if the evidence would be misleading. *Id.* Here, many of the advertisements that CC apparently intend to offer as evidence ran outside the statute of limitations and are otherwise irrelevant and immaterial because they do not reflect Intuit’s current or future advertising.

A. Advertisements Predating the Three-Year Statute of Limitations Should Be Excluded

In recently denying CC’s summary-decision motion, the Commission did not reject (or even reach) Intuit’s statute-of-limitations defense. That defense thus remains in the case, and it requires excluding from evidence ads that fall outside the three-year limitations period. Although section 5 of the FTC Act does not include an express statute of limitations, “courts ‘do not ordinarily assume that [the absence of an explicit statutory limitations period means]

Congress intended that there be no time limit on actions at all.” *DelCostello v. Int’l Brotherhood of Teamsters*, 462 U.S. 151, 159 (1983); *see also FTC v. Centro Nat. Corp.*, No. 14-23879-CIV, 2014 WL 7525697, at *7-8 (S.D. Fla. Dec. 10, 2014) (noting that the FTC cites many cases supporting its argument but that fail to consider *DelCostello*). Instead, courts “borrow” a limitation period from an analogous state law. *Id.* Here, looking to analogous state law dictates a three-year limitation period and logic likewise compels the existence of *some* limit on the FTC’s ability to challenge advertisements that have not run for almost a decade like the 2014 “super bowl” ad that CC will no doubt play for the Court repeatedly if given the choice.

In California, where Intuit maintains its principal place of business, the statute of limitations for the use of allegedly unfair or deceptive practices in violation of the state’s consumer-protection law is three years. *See* Cal. Civ. Code §1783. A three-year statute of limitations also applies to similar statutes in other jurisdictions. *See, e.g.*, D.C. Code §28-3904 (three-year limitation period under the Consumer Protection Act); N.Y. C.P.L.R. 214(2) (same period for false-advertising claims). Even analogous federal law—here, section 19 of the FTC Act—imposes a three-year statute of limitations period. *See* 15 U.S.C. §57b(d). Stated simply, a three-year limitation period is appropriate.

Here, many advertisements on CC’s exhibit list (*see* Appendix A for the full list) fall outside (often well outside) that three-year limitation period, and thus should be excluded. The FTC filed its Complaint on March 28, 2022, and before that, Intuit and the FTC entered into a tolling agreement beginning January 5, 2022. *See* Ex. A. As a result, claims based on ads from before January 5, 2019, are time-barred—any ads that ran in Tax Year 2017 and before cannot be considered. Yet many such ads are on CC’s exhibit list, including: (1) advertisements from Tax Years 2014 and 2015, *see* GX321 and GX323; (2) television ads from Tax Years 2017, *see, e.g.*,

GX344-347; and (3) email marketing from Tax Years 2015-2017, *see, e.g.*, GX379; *see also* Appendix A (providing a complete list of ads). Because CC's claim is limited to the three-year period before January 5, 2022, none of the advertisements are relevant or material to that claim. *See Babin v. Plaquemines Par.*, No. CV 18-7378-WBV-DMD, 2019 WL 5540245, at *3 (E.D. La. Oct. 25, 2019) (excluding evidence from outside the three-year statute of limitations period). That is especially true where, as here, the outdated advertisements have not run in recent years and cannot run again in the future. *See* RX399.

Moreover, none of those ads are relevant to establish facts related to Intuit's liability. In a deceptive-advertising case, the relevant elements are (1) the claims conveyed by the ads, (2) whether reasonable consumers were deceived by them, and (3) materiality. *See ECM BioFilms, Inc.*, 2015 WL 13021972, at *152 (F.T.C. 2015). The statute of limitations precludes considering ads from Tax Year 2017 and earlier for any of those propositions.

B. Outdated Advertisements Are Irrelevant and Immaterial

Regardless of the statute of limitations period, years-old ads that were not challenged close in time to their running, that differ materially from any ad that has run in recent years, or that do not even reflect TurboTax's current product offerings, are irrelevant and immaterial. *See* 16 C.F.R. §3.43(b). CC are seeking a cease-and-desist order—and cease-and-desist orders “are not intended to impose criminal punishment or exact compensatory damages for past acts, but to prevent illegal practices in the future.” *FTC v. Ruberoid Co.*, 343 U.S. 470, 473 (1952). The FTC accordingly has the burden to show that “there exists some cognizable danger of recurrent violation.” *TRW, Inc. v. FTC*, 647 F.2d 942, 954 (9th Cir. 1981) (emphasis altered).

Here, because the challenged ads from Tax Years 2014-2018 are not reflective of recent advertising practices or the danger of future violations, the outdated ads have little, if any, probative value and should be excluded. *First*, Intuit has changed its advertising significantly

since Tax Year 2018, including the disclosures that are a focal point of this proceeding. *See supra* pp. 1-4 (describing the changes to advertising content and disclosures). To summarize, the email and TV ads from Tax Years 2014-2017 relate to the long-discontinued “Absolute Zero” offer. *See supra* pp. 2-3. And those ads include outdated disclosures that have not been used in years—most of which refer to IRS forms (1040EZ and 1040-A) that the IRS eliminated in Tax Year 2018 after changes to the tax laws. *See, e.g.*, GX375. Absent further action by Congress, it is not even possible for Intuit to use many of the disclosures predating Tax year 2018 again. The Tax Year 2018 ads are likewise markedly different from recent TurboTax ads, with the 2018 television ads using a different title card (stating “TurboTax Free,” whereas recent ads emphasize “TurboTax Free Edition”), different disclosure formatting, and a different voiceover than their current counterparts, *see, e.g.*, GX329, and the email and display ads using different written disclaimers, *see, e.g.*, GX379. As such, the outdated ads do not reflect Intuit’s current practices, its recent practices, or even its not-so-recent practices. *Cf. Consumers Union of United States, Inc. v. Gen. Signal Corp.*, 724 F.2d 1044, 1052 & n.11 (2d Cir. 1983) (injunctive relief claim based on misleading ad moot because defendant “changed the commercial”); *Am. Exp. Travel Related Servs. Co. v. MasterCard Int’l Inc.*, 776 F. Supp. 787, 791 (S.D.N.Y. 1991) (“When a defendant revises an allegedly infringing commercial and represents that the original commercial will not be broadcast in the future, the need for injunctive relief as to the original commercial is moot.”).

Admitting Tax Year 2014 ads would be especially improper because the Complaint does not even purport to address alleged misconduct from Tax Year 2014, instead limiting the allegations to advertising “since ... 2016.” Compl. ¶21. As a result, it would violate the Commission’s rules, the Administrative Procedure Act, and due process to find a violation for

conduct not encompassed by the Complaint. *See* 16 C.F.R. §3.11(b)(2); 5 U.S.C. §554(b) (“[p]ersons entitled to notice of an agency hearing shall be timely informed of ... the matters of fact and law asserted”); *In re Ruffalo*, 390 U.S. 544, 551-552 (1968) (holding that “absence of fair notice as to ... the precise nature of the charges” deprived party of due process).

Second, as explained, Intuit entered into a consent order with all 50 states and the District of Columbia that prohibits certain types of ads Intuit ran in previous tax years and imposes requirements on *all* of Intuit’s advertisements going forward. *See* RX399. Those requirements mean that Intuit cannot, and it will not, use any of the ads from Tax Years 2014-2018 going forward. As such, those ads and others that predate the Consent Order are not relevant to whether “there exists some cognizable danger of recurring violation.” *TRW*, 647 F.2d at 954 (emphasis omitted).

Put simply, given the significant changes to Intuit’s ads over the years and the requirements imposed by the Consent Order, Intuit’s older ads have no bearing on whether Intuit’s recent advertising was deceptive or whether there is danger that Intuit will engage in recurrent violations. *See TRW*, 647 F.2d at 954. Considering those ads would contravene the purpose of cease-and-desist orders, which as noted is to “prevent illegal practices *in the future*,” *Ruberoid*, 343 U.S. at 473.

CONCLUSION

The outdated ads identified in Appendix A should be excluded from evidence.

Dated: February 10, 2023

Respectfully submitted,

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Attorneys for Respondent Intuit Inc.

Appendix A

Government Exhibit (GX) Number	Description	Tax Year
320	2015 Super Bowl ad “Boston Tea Party” (adage.com) Article	TY 14
321	2015 Super Bowl ad “Boston Tea Party” (adage.com) 60-second Video (Video)	TY 14
384	Screenshot of adage.com “Tea Party” ad (2022) (Shiller Admin Dec. [GX 342] ¶ 22)	TY 14
322	2016 Super Bowl ad “Never A Sellout” (adage.com) Article	TY 15
323	2016 Super Bowl ad “Never A Sellout” (adage.com) 30-second Video (Video)	TY 15
385	Screenshot of adage.com “Never a sellout” (2022) (Shiller Admin Dec. [GX 342] ¶ 26)	TY 15
388	TY16 Email Absolutely Free (Adamson Depo)	TY 16
389	TY16 Email Absolute Zero (Adamson Depo)	TY 16
390	TY16 Email Refund in Pocket Free (Adamson Depo)	TY 16
162	ISpot “Pez Espada” Screenshot (Shiller Admin Dec. [GX 342] ¶ 33)	TY 17
324	30-second “Fish” [INTUIT-FFA-FTC-000169116]	TY 17
325	15-second “Fish” ad [INTUIT-FFA-FTC-000528212]	TY 17
344	15-second “Guzman” ad (INTUIT-FFA-FTC-000528209)	TY 17
345	30-second “Cruise” ad (INTUIT-FFA-FTC-000169117)	TY 17
346	15-second “Baby” ad (INTUIT-FFA-FTC-000528210)	TY 17
347	45-second “Anthem Launch” ad (INTUIT-FFA-FTC-000528211)	TY 17
371	TY17 “File Your Taxes for \$0” (Bansal Depo)	TY 17
372	TY17 “User ID Enclosed” Email (Schulte Depo)	TY 17
374	TY17 Email Absolute Zero (Schulte Depo)	TY 17
375	TY17 Email Absolute Zero (Schulte Depo)	TY 17
376	TY17 Email File Free Today (Schulte Depo)	TY 17
668	1208_GUZMAN_15_01_16_18_540pm.mov	TY 17

59	TY18/19 “Game Show” advertisement (Video)	TY 18 ¹
299	2019 “Credits” Advertisement (Video)	TY 18
300	2020 “Courtroom/Lawyer” Advertisement (Video)	TY 18
326	TY 2018 Crossword Kantar (Video) (20577093_TV_Everything is Free_Legalese)	TY 18
327	TY 2018 Big Kick Kantar (Video) (20480082_TV_Time to Get Free)	TY 18
328	60-second “Lawyer” ad [INTUIT-FFA-FTC-000169120]	TY 18
329	30-second “Lawyer” ad [INTUIT-FFA-FTC-000528222]	TY 18
330	30-second “Movie Credits” ad volume 2 [INTUIT-FFA-FTC-000528226]	TY 18
331	15-second “Movie Credits” ad [INTUIT-FFA-FTC-000528225]	TY 18
332	TY 2018 Spelling Bee Kantar (Video) (File Name)	TY 18
334	“Wieden + Kennedy Keeps the ‘Free’ Going With New One-Word TurboTax Ads” https://www.adweek.com/agencyspy/wieden-kennedy-keeps-the-free-going-with-new-one-word-turbotax-ads/152797/	TY 18
348	15-second “Court Reporter” ad (INTUIT-FFA-FTC-000528219)	TY 18
349	60-second “Big Kick” ad (INTUIT-FFA-FTC-000169119)	TY 18
350	30-second “Spelling Bee” ad (INTUIT-FFA-FTC-000169122)	TY 18
351	30-second “Spelling Bee” ad (INTUIT-FFA-FTC-000528221)	TY 18
356	15-second “Game Show” ad (INTUIT-FFA-FTC- 000528223)	TY 18
373	TY18 “Your W-2 is Now Available. File Free Today!” Email (Schulte Depo)	TY 18
377	TY18 Email Free Guaranteed (Schulte Depo)	TY 18
378	TY 18 December Email Free Guaranteed (Schulte Depo)	TY 18
379	TY18 Jan Email Free Guaranteed (Schulte Depo)	TY 18
380	TY18 Feb Email Free Guaranteed (Schulte Depo)	TY 18
381	TY18 Email Free Guaranteed (Schulte Depo)	TY 18

¹ Complaint Counsel identified several ads as airing in both TY18 and TY19, *see* GX 59, 326, 330, 331, 332, 348, 350, 351, 356, but this is incorrect. As explained in the motion, Intuit made several changes to their ads between TY18 and TY19. GX 59, 326, 330, 331, 332, 348, 350, 351, 356 are ads that aired in TY 2018 only.

387	TY18 Email Free Guaranteed (Adamson Depo)	TY 18
459	Screenshot of article appearing at GX 344 ("Crossword") (Shiller Admin Dec. [GX 342] ¶ 77)	TY 18
499	Screenshot of "Spelling Bee" ad from iSpot.tv (Shiller Admin Dec. [GX 342] ¶ 53)	TY 18
500	January 26, 2019 Email re: (2018 Filing Information Enclosed) Refund Processing Starts Soon. Details Inside. (Derscha Depo)	TY 18
669	QTTX12353HFreeGameShow30sHD2019.mp4	TY 18
670	QTTX12233H_Free_Big_Kick_HD_30_1920x1080.mp4	TY 18
671	QTTX12335H_Free_Spelling_Bee_HD_15_1920x1080.mp4	TY 18
672	QTTX12455H_Free_Crossword_HD_15.mp4	TY 18

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**STATEMENT PURSUANT TO
ADDITIONAL PROVISION 4 OF THE SCHEDULING ORDER**

Pursuant to Additional Provision No. 4 of the April 27, 2022 Scheduling Order, as adopted in the September 12, 2022 First Revised Scheduling Order, Respondent Intuit Inc. respectfully submits this Statement representing that Counsel for Respondent has conferred with Complaint Counsel in a good faith effort to resolve the issues raised by this motion. The parties corresponded by email on February 8 and 9, 2023, concerning this motion but were unable to reach an agreement.

Dated: February 10, 2023

Respectfully submitted,

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Attorneys for Respondent Intuit Inc.

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

[PROPOSED] ORDER GRANTING INTUIT INC.’S MOTION *IN LIMINE* TO EXCLUDE OUTDATED ADVERTISEMENTS

Upon consideration of Respondent Intuit Inc.’s February 10, 2023 Motion *In Limine* to Exclude Outdated Advertisements,

IT IS ORDERED that the motion is GRANTED.

IT IS FURTHER ORDERED that the exhibits identified in Appendix A to the motion are excluded from evidence in this proceeding.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: _____

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**DECLARATION OF DEREK WOODMAN IN SUPPORT OF
INTUIT'S MOTION *IN LIMINE* TO EXCLUDE OUTDATED ADVERTISEMENTS**

I, Derek A. Woodman, declare as follows:

1. I am a counsel at Wilmer Cutler Pickering Hale and Dorr LLP. I represent Intuit Inc. in the above-captioned proceeding.

2. I submit this declaration in support Intuit's Motion *in Limine* to Exclude Outdated Advertisements.

I. EVIDENCE CITED IN SUPPORT OF THE MOTION

3. A true and correct copy of the January 6, 2022 Tolling Agreement entered into by Intuit and the Federal Trade Commission is attached as Exhibit A.

4. True and correct copies of Intuit's RX15 and 202 are attached.

5. Intuit's RX 399 is a compilation of the agreements and consent orders that Intuit entered into with the attorney generals of all 50 states and the District of Columbia. A true and correct copy of the slip sheet identifying those documents is attached, along with two examples of those agreements: (1) the consent order entered into with California, filed in Superior Court of the State of California, County of Los Angeles, and (2) the Assurance of Voluntary Compliance entered into with New York.

II. EVIDENCE SOUGHT TO BE EXCLUDED**A. OUTDATED ADS FROM TAX YEAR 2014**

6. Provided with the motion are true and correct courtesy copies of Complaint Counsel's GX 320, 321, and 384.

B. OUTDATED ADS FROM TAX YEAR 2015

7. Provided with the motion are true and correct courtesy copies of Complaint Counsel's GX 322, 323, and 385.

C. OUTDATED ADS FROM TAX YEAR 2016

8. Provided with the motion are true and correct courtesy copies of Complaint Counsel's GX 388, 389, and 390.

D. OUTDATED ADS FROM TAX YEAR 2017

9. Provided with the motion are true and correct courtesy copies of Complaint Counsel's GX 162, 324, 325, 344-47, 371-72, 374-76, and 668.

E. OUTDATED ADS FROM TAX YEAR 2018

10. Provided with the motion are true and correct courtesy copies of Complaint Counsel's GX 59, 299, 300, 326-32, 334, 348-51, 356, 373, 377-81, 387, 459, 499-500, 669-72.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 10th day of February, 2023.

By: /s/ Derek Woodman

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EXHIBIT A

TOLLING AGREEMENT

This Tolling Agreement (“Agreement”) is entered into by the Federal Trade Commission (“FTC”) and **Intuit Inc.**

Definitions

“Timeliness Defense(s)” includes any defense to liability based on: (a) applicable statutes of limitations; (b) laches; (c) waiver; (d) estoppel; or (e) any other defense based on the timeliness of asserted claims.

“Tolling Date” is **January 5, 2022**.

“Termination Date” is the date defined in Paragraph 3 of this agreement.

Agreement

1. The FTC may allege claims against Intuit Inc. under the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 41 *et seq.*, regarding deceptive or unfair acts or practices with respect to the marketing or advertising of online tax preparation products. (“Potential Claims”).

2. Intuit Inc. agrees that any Timeliness Defense that it may assert with respect to any Potential Claim will be tolled from the Tolling Date until the Termination Date and that the period between the Tolling Date and the Termination Date will not be included in determining the validity of any Timeliness Defense that Intuit Inc. may assert to any Potential Claim.

3. The Termination Date shall be the earliest of the following dates:

- (a) the date the FTC files a complaint asserting Potential Claims;
- (b) the date the FTC provides written notice to Intuit Inc. that the FTC does not intend to bring a complaint asserting any Potential Claims;

- (c) thirty (30) days following written notice from the FTC to Intuit Inc. that the FTC has terminated negotiations with Intuit Inc. regarding settlement of the Potential Claims;
- (d) thirty (30) days following written notice from Intuit Inc. to the FTC that Intuit Inc. has terminated further negotiations with the FTC regarding settlement of the Potential Claims; or
- (e) February 1, 2022, subject to extension by agreement of the FTC and Intuit Inc.

4. If Intuit Inc. raises any Timeliness Defense that existed on or before the Tolling Date with respect to any Potential Claim, the FTC reserves the right to challenge those defenses. Nothing in this Agreement shall be construed as an admission by the FTC that any Timeliness Defense bars any Potential Claim, whether in whole or in part.

5. Nothing in this Agreement shall be construed as a waiver by Intuit Inc. of its right to assert any Timeliness Defense or any other defense with respect to any Potential Claim, except that it may not cite the period from the Tolling Date to the Termination Date in support of any Timeliness Defense. At the Termination Date, Intuit will have the same defenses—including any Timeliness Defense—available to it as it had on the Tolling Date.

6. Any written notice by the FTC as set forth in Paragraph 3 of this Agreement shall be sent by email to David Gringer at David.Gringer@wilmerhale.com. Any written notice by Intuit Inc. as set forth in Paragraph 3 of this Agreement shall be sent by email to Lois Greisman at LGreisman@ftc.gov. Notice under Paragraph 3 shall be deemed given as of the date that the email is sent.

7. No provision of this Agreement, nor any right or obligation hereunder, may be waived, modified, altered, or amended without an instrument in writing signed by all parties or their attorneys.

8. All attorneys signing this Agreement represent and warrant that they are authorized to do so; that this Agreement is a legal, valid, and binding obligation of their respective clients; and that any necessary approvals, resolutions, or other necessary authority to enter into this Agreement on behalf of their respective clients has been obtained.

9. This Agreement may be executed in any number of counterparts.

10. This Agreement shall be governed by the substantive law of the United States.

FOR THE FEDERAL TRADE COMMISSION:

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Attorney for Intuit Inc.

Dated: 1-6-2022

Dated: 1-6-2022

Exhibit
RX 15
exhibitster.com



intuit
turbotax[®]
Free Edition

TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.



RX 202

**“Auctioneer” advertisement that aired
on television during Tax Year 2021**

(Electronic Filename: RX 202 - 5278628.MP4)



Respondent Exhibit 399

Assurances of Voluntary Compliance
with the Attorney Generals of the 50
states and Washington, D.C.

INTUIT-FTC-PART3-000614004 -
INTUIT-FTC-PART3-000616731

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

TURBOTAX FREE FILING CASES
Included Actions:
THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
INTUIT INC., a Delaware Corporation; and
DOES 1-50, inclusive,
Defendants.

JCCP No. 5067
Included Action Case No. 19STCV15644

FILED
Superior Court of California
County of Los Angeles
06/25/2022
Sherri R. Carter, Executive Officer / Clerk of Court
By: M. Mata Deputy

PEOPLE OF THE STATE OF CALIFORNIA,
acting by and through Santa Clara County
Counsel James R. Williams,
Plaintiff,
v.
INTUIT INC., and DOES 1-50, inclusive,
Defendants.

Included Action Case No. 19CV354178
~~PROPOSED~~ **FINAL JUDGMENT AND
PERMANENT INJUNCTION**
Assigned for All Purposes to
The Hon. Maren Nelson
Dept.: 17
Complaints filed: May 6, 2019; Sept. 5, 2019
Trial Date: None Set

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1 The People of the State of California (“People”), acting by and through, Rob Bonta,
2 Attorney General of the State of California; Michael N. Feuer, the Los Angeles City Attorney;
3 and James R. Williams, the County of Santa Clara County Counsel; and Intuit Inc. (“Intuit” or
4 “Defendant”), appearing through its attorney, David Z. Gringer of Wilmer Cutler Pickering Hale
5 and Dorr LLP, having stipulated to the entry of this Judgment by the Court without the taking of
6 proof and without trial or adjudication of any fact or law, without this Judgment constituting
7 evidence of or an admission by Defendant regarding any issue of law or fact alleged in the
8 People’s Complaints, without Defendant admitting any liability regarding allegations of
9 violations that occurred prior to entry of this Judgment, and with all parties having waived their
10 right to appeal, and the Court having considered the matter and good cause appearing:

11 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

12 1. This Court has jurisdiction over the allegations and subject matter of the People’s
13 Complaints filed in these coordinated cases and the parties to these cases; venue is proper in this
14 County; and this Court has jurisdiction to enter this Judgment.

15 2. Nothing in this Judgment alters the requirements of federal or state law to the
16 extent they offer greater protection to consumers.

17 **DEFINITIONS**

18 3. For the purpose of this Judgment, the following definitions apply:

19 A. “**Advertisement**” or “**Advertising**” means any written or verbal statement,
20 illustration, or depiction that promotes the sale or use of a consumer good or service, or is
21 designed to increase consumer interest in a brand, good, or service. Advertising media includes,
22 but is not limited to promotional materials; print; television; radio; and Internet, Paid Display
23 Advertisements, Paid Search Advertisements, display, social media, and other digital content.

24 B. “**Clearly and Conspicuously**” means that a required disclosure is difficult
25 to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all
26 of the following ways.

27 1) In any communication that is solely visual or solely audible, the disclosure
28 must be made through the same means through which the communication

- 1 is presented. In any communication made through both visual and audible
2 means, such as a television Advertisement, the disclosure must be
3 presented in both the visual and audible portions of the communication
4 even if the representation requiring the disclosure is made in only one
5 means (the disclosures in the visual and audible portions of the
6 communication in Space-Constrained Video Advertisements are not
7 required to be identical).
- 8 2) A visual disclosure, by its size, contrast, location, the length of time it
9 appears, and other characteristics, must stand out from any accompanying
10 text or other visual elements so that it is easily noticed, read, and
11 understood.
- 12 3) An audible disclosure, including by telephone or streaming video, must be
13 delivered in a volume, speed, and cadence sufficient for ordinary
14 consumers to easily hear and understand it.
- 15 4) In any communication using an interactive electronic medium, such as the
16 Internet or software, the disclosure must be unavoidable.
- 17 5) The disclosure must use diction and syntax understandable to ordinary
18 consumers and must appear in each language in which the representation
19 that requires disclosure appears.
- 20 6) The disclosure must comply with these requirements in each medium
21 through which it is received, including all electronic devices and face-to-
22 face communications.
- 23 7) The disclosure must not be contradicted or mitigated by, or inconsistent
24 with, anything else in the communication.
- 25 8) When the representation or sales practice targets a specific audience, such
26 as children, the elderly, or the terminally ill, “ordinary consumers” includes
27 reasonable members of that group.
- 28 C. “**Close Proximity**” means that the disclosure is very near the triggering

1 representation and that the disclosure is made simultaneously with the triggering representation
2 and remains or is repeated throughout the duration of the Advertisement. For example, a
3 disclosure made through a hyperlink, pop-up, interstitial, or other similar technique is not in Close
4 Proximity to the triggering representation.

5 D. **“Effective Date”** means the date on which the Court enters this Judgment.

6 E. **“Intuit IRS Free File Product”** means Intuit’s TurboTax Free File
7 Program, TurboTax Freedom Edition, IRS Free File Program delivered by TurboTax or any other
8 Intuit product or service that was or in the future may be provided pursuant to a memorandum of
9 understanding or an agreement between Free File, Inc. (or any successor entity) and the IRS for
10 the provision of free online tax preparation and e-filing services.

11 F. **“Oversight Committee”** shall mean the following Attorneys General:
12 Florida, Illinois, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, and
13 Washington.

14 G. **“Paid Display Advertisement”** means an online Advertisement in which
15 Intuit pays, or causes another to pay, to have an Advertisement displayed on a website and pays
16 for the Advertisement, regardless of whether consumers click on the Advertisement.

17 H. **“Paid Search Advertisement”** means an online Advertisement in which
18 Intuit pays, or causes another to pay, to have an Advertisement displayed with search engine
19 results for a particular search term and pays for the Advertisement only when consumers click on
20 the Advertisement.

21 I. **“Covered Consumer”** means any individual, or individuals if a joint return
22 was filed, who in Tax Years 2016, 2017, or 2018 was (1) eligible to use an Intuit IRS Free File
23 Product; (2) began his or her tax returns using a TurboTax Free Edition Product; (3) was
24 informed that he or she was ineligible to use a TurboTax Free Edition Product; (4) subsequently
25 paid to use a TurboTax Paid Product, and (5) had not used the Intuit IRS Free File Product in a
26 previous tax year.

27 J. **“Space-Constrained Advertisement”** means any online Advertisement
28 (including but not limited to Paid Display Advertisements and Paid Search Advertisements) or

1 any Video Advertisement that has space, time, format, size, or technological restrictions that limit
2 Intuit from being able to make the disclosures required by this Judgment. Intuit bears the burden
3 of showing that there is a constraint or insufficient space and time to make a required disclosure
4 that is Clear and Conspicuous and in Close Proximity to the triggering term. Space-Constrained
5 Advertisements do not include Advertisements on a TurboTax Website.

6 K. **“TurboTax Free Edition Product”** means any online software product
7 offered by Intuit that allows consumers, without paying a fee, to prepare and file federal tax
8 returns, state tax returns, or both, including but not limited to “TurboTax Free Edition” and
9 “Federal Free Edition.” “TurboTax Free Edition Product” does not include any Intuit IRS Free
10 File Product, any TurboTax Paid Product, TurboTax Live, or any products sold or offered within
11 the TurboTax Free Edition Product, such as Audit Defense.

12 L. **“TurboTax Paid Product”** means the online tax preparation software
13 products offered by Intuit that allow consumers, for a fee, to prepare and file federal tax returns,
14 state tax returns, or both, for themselves. “TurboTax Paid Product” does not include products sold
15 or offered in addition to a TurboTax Paid Product.

16 M. **“TurboTax Website”** means turbotax.intuit.com, any subdomain of
17 turbotax.intuit.com, and any other website owned, operated, or controlled partially or wholly by
18 Intuit that provides or offers TurboTax Paid Products or TurboTax Free Edition Products.

19 N. **“Upgrade Screen”** means any display within the product flow of the
20 TurboTax Free Edition Product that appears when consumers using that product indicate they
21 have income, credits, deductions, or other tax situations not covered by the TurboTax Free
22 Edition Product, and offers consumers the option of using a TurboTax Paid Product to prepare
23 and file their federal and/or state tax returns.

24 O. **“Video Advertisement”** means any Advertisement made via television or
25 made online using video.

26 INJUNCTION

27 4. The injunctive provisions of this Judgment are imposed under Business and
28 Professions Code section 17203 and shall apply to Defendant as well as its subsidiaries,

1 successors, and the assigns of all or substantially all of the assets of its business, and, their
2 directors, officers, employees, agents, independent contractors, partners, associates, and
3 representatives of each of them.

4 **I. GENERAL COMPLIANCE**

5 5. Intuit shall comply with California's consumer-protection laws, including the
6 Unfair Competition Law, Business and Professions Code section 17200 et seq., and the False
7 Advertising Law, Business and Professions Code section 17500.

8 **II. PROHIBITION AGAINST MISREPRESENTATIONS**

9 6. Intuit, Intuit's officers, agents, employees, and attorneys, and all other persons in
10 active concert or participation with any of them, who receive actual notice of this Judgment,
11 whether acting directly or indirectly, in connection with promoting or offering any online tax
12 preparation products, must not misrepresent, expressly or by implication:

13 A. That consumers can only file their taxes online accurately if they use a
14 TurboTax Paid Product or TurboTax Free Edition Product.

15 B. That consumers can only claim a tax credit or tax deduction if they use a
16 TurboTax Paid Product or TurboTax Free Edition Product.

17 C. That consumers must upgrade to a TurboTax Paid Product to file their
18 taxes online if they are eligible to use the TurboTax Free Edition Product.

19 D. That consumers can continue using and file their taxes for free with the
20 TurboTax Free Edition Product when that is not the case, including by stating expressly or
21 impliedly to consumers on an Upgrade Screen that they can continue using the TurboTax Free
22 Edition Product through a "keep free" button or another button using similar language. Intuit may
23 give consumers the option of continuing to use the TurboTax Free Edition Product on an Upgrade
24 Screen, so long as a disclosure is made, Clearly and Conspicuously on the Upgrade Screen and in
25 Close Proximity to any button, link, or option on the Upgrade Screen that permits the consumer to
26 exercise the option of continuing to use the TurboTax Free Edition Product, that the current tax
27 information entered by the consumer indicates that the consumer will need to upgrade to a
28 TurboTax Paid Product to file his or her taxes.

1 E. Any other fact material to consumers concerning any tax preparation
2 product or service, such as the price; total cost; any material restrictions, limitations, or
3 conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

4 **III. REQUIRED DISCLOSURES AND BUSINESS PRACTICES FOR ADVERTISING AND**
5 **MARKETING OF FREE PRODUCTS**

6 7. As soon as reasonably practicable, but no later than August 1, 2022, in connection
7 with advertising, marketing, promoting, offering, naming, or describing, or assisting in the
8 advertising, marketing, promotion, offering, naming, or describing of any tax preparation
9 products as free, whether directly or indirectly, Intuit must make the following disclosures about
10 taxpayer eligibility for such free products and comply with the following terms:

11 A. In any non-Space-Constrained Advertisement of free tax preparation
12 products other than on a TurboTax Website, Intuit must disclose, Clearly and Conspicuously, and
13 in Close Proximity to the representation that the product is free: (1) the existence and category of
14 material limitations on a consumer's ability to use that free product; and (2) that not all taxpayers
15 qualify for the free product.

16 B. In any Space-Constrained Advertisement of free tax preparation products
17 other than Space-Constrained Video Advertisements, Intuit must disclose that eligibility
18 requirements apply. If made online, Intuit must also (1) Clearly and Conspicuously include a
19 hyperlink to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously
20 contains full disclosure of all material eligibility restrictions or (2) link by clicking on the
21 Advertisement itself to a landing page or webpage on a TurboTax Website that Clearly and
22 Conspicuously sets forth full disclosure of all material eligibility restrictions.

23 C. For a period of ten (10) years, in any Space-Constrained Video
24 Advertisements of free tax preparation products, Intuit must visually disclose, Clearly and
25 Conspicuously, and in Close Proximity to the representation that the product is free: (1) the
26 existence and category of material limitations on a consumer's ability to use that free product; and
27 (2) that not all taxpayers qualify for the free product. In addition, for a period of ten (10) years, in
28 any Space-Constrained Video Advertisements of free tax preparation products except for such

1 Advertisements that are 8 seconds or shorter, Intuit must verbally disclose, Clearly and
2 Conspicuously and in Close Proximity to the representation that the product is free, that not all
3 taxpayers qualify.

4 D. In any Advertisement of free tax preparation products on a TurboTax
5 Website, and any space on a TurboTax Website listing, describing, offering, or promoting such
6 free products, Intuit must disclose (1) Clearly and Conspicuously and very near to the
7 representation all material limitations on a consumer's ability to use that free product, including,
8 but not limited to, eligibility criteria for that free product, or (2) through a hyperlink (i) that is
9 very near to the representation, (ii) that indicates that there are material limitations on a
10 consumer's ability to use that free product, and (iii) that links to a landing page or webpage that
11 Clearly and Conspicuously sets forth all material limitations on a consumer's ability to use that
12 free product, including, but not limited to, eligibility criteria for that free product.

13 E. Intuit must disclose Clearly and Conspicuously to consumers, at the
14 earliest point at which it is reasonably possible to determine, that they do not qualify to file a tax
15 return for free with the TurboTax Free Edition Product.

16 F. Intuit must take reasonable steps to design all TurboTax products to
17 inform, at the earliest point it is reasonably possible, consumers using the TurboTax Free Edition
18 Product whether they will or will not be able to file for free using that product.

19 G. Intuit must not publish, or cause to be published, in any medium (1) its
20 "free, free, free" Video Advertisements (see Appendix A for a list of such advertisements) and (2)
21 Video Advertisements that are substantially similar in their repetition of the word free. Intuit must
22 comply with this Subparagraph immediately upon the Effective Date, notwithstanding any
23 contradictory language in the introduction to Section III above.

24 **IV. PROHIBITION AGAINST DATA-CLEARING PRACTICES**

25 8. Effective December 1, 2022, Intuit must permit consumers who enter a TurboTax
26 Paid Product through an Upgrade Screen to return to the TurboTax Free Edition Product without
27 being required to re-enter the data they provided when using the TurboTax Free Edition Product.

28

1 **V. VOLUNTARY WITHDRAWAL FROM AND INJUNCTION AGAINST REJOINING THE IRS**
2 **FREE FILE PROGRAM**

3 9. In recognition of Intuit's voluntary withdrawal from the IRS Free File Program
4 effective October 2021 and Intuit's representation and commitment that it will not rejoin the IRS
5 Free File Program, and in lieu of this Judgment containing specific injunctive provisions
6 concerning Intuit's potential future participation in the IRS Free File Program and conduct related
7 thereto:

- 8 A. Intuit must not seek to rejoin or participate in the IRS Free File Program.
9 B. This term may only be modified by amending this Judgment.

10 **VI. PAYMENT TO THE SETTLEMENT FUND AND ADMINISTRATION FUND**

11 10. Within thirty (30) days of the Effective Date, Intuit shall pay the total sum of One
12 Hundred Forty-One Million Dollars (\$141,000,000)¹ (the "Required Payment") as described
13 herein. The Required Payment shall be made in two installments: (1) the first payment, in the
14 amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Administration
15 Fund"), shall be made by Intuit to an account for the payment of costs and expenses incurred or
16 charged by the Fund Administrator in administering the Settlement Fund; (2) the second payment,
17 in the amount of One Hundred Thirty-Eight Million Two Hundred and Fifty Thousand Dollars
18 (\$138,250,000) (the "Settlement Fund"), shall be made by Intuit to an account for the use of the
19 fund administrator selected by the Oversight Committee (the "Fund Administrator"), for the
20 purpose of providing restitution to Covered Consumers as described hereunder, who shall be
21 responsible for the administration of the Settlement Fund. The Required Payment installments
22 shall be made by wire transfer in accordance with instructions provided by the Oversight
23 Committee. After transfer of the Required Payment, Intuit shall have no right, title, interest, or
24 other legal claim in the transferred funds.

25 11. This Judgment does not provide this Court with jurisdiction or authority over the
26 Oversight Committee, the Fund Administrator, or the administration or distribution of the

27 ¹ From this amount, a total of Two Hundred and Fifty Thousand Dollars (\$250,000) will
28 be allocated for fees and costs to a certain previously designated State. This Two Hundred and
Fifty Thousand Dollars (\$250,000) will be paid into the Settlement Fund by Intuit and will be
distributed by the Oversight Committee.

1 Settlement Fund. The Oversight Committee shall have sole discretion concerning the
2 administration and distribution of the Settlement Fund, which may include determining the
3 Covered Consumers who are entitled to payments from the Settlement Fund; the nature, timing,
4 and amount of such payment; directing the Fund Administrator to make payments to these
5 consumers; the timing and content of communications from the Fund Administrator to Covered
6 Consumers concerning the Settlement Fund; directing the Fund Administrator to make payments
7 of fees or costs from the Settlement Fund to one or more Attorneys General; and transferring
8 funds from the Settlement Fund to the Administration Fund. Attached for informational purposes
9 only as Appendix C is a preliminary calculation of each States' percentage of the total population
10 of Covered Consumers; the Oversight Committee is not required to distribute the Settlement Fund
11 according to these preliminary percentages. If the Oversight Committee directs the Fund
12 Administrator to make a payment of fees or costs to a State, that payment shall be deducted from
13 the share of the Settlement Fund that is allocated to that State. Any payment of fees or costs to
14 California shall be deposited in the Attorney General's Litigation Deposit Fund and used at the
15 sole discretion of the Attorney General.

16 12. All costs and expenses incurred or charged by the Fund Administrator in
17 administering the Settlement Fund shall be paid out of the Administration Fund. The Oversight
18 Committee shall have sole discretion concerning the administration and distribution of any money
19 that remains in the Administration Fund after payment of all costs and expenses incurred or
20 charged by the Fund Administrator in administering the Settlement Fund. In no event shall the
21 Attorneys General be liable for any costs associated with administering the Settlement Fund. The
22 administration of the Settlement Fund shall, include, but not be limited to, the following:

23 A. Identifying the current mailing address of each Covered Consumer, which
24 shall be provided by Intuit and/or through the use of publicly-available databases, commercially-
25 available databases, and public records;

26 B. Preparing and sending, by mail and email, communications to Covered
27 Consumers relating to the settlement, including notice of the settlement and reminder notices to
28 all Covered Consumers who had been sent a check but not yet cashed it;

1 C. Distributing restitution to each Covered Consumer by check, and reissuing
2 checks as necessary, including for checks that have been returned;

3 D. Establishing a process by which Covered Consumers may elect to receive
4 their payments through an electronic payment processor such as Venmo, PayPal, or Zelle instead
5 of by check;

6 E. Maintaining a website that contain the terms and conditions of the
7 settlement;

8 F. Providing and hosting a toll free number to provide information to Covered
9 Consumers relating to the settlement during distribution of the restitution;

10 G. Contacting, by mail, email, or phone, Covered Consumers regarding
11 uncashed checks;

12 H. Reporting to the Oversight Committee on the status of the administration
13 of the Settlement Fund and responding to requests by the Oversight Committee for documentation
14 and information necessary to confirm the proper administration of the Settlement Fund; and

15 I. Providing all other services necessary for the proper administration of the
16 Settlement Fund.

17 13. Within sixty (60) days of the Effective Date, Intuit must submit to the Oversight
18 Committee for review and non-objection its proposed contract with the Fund Administrator that
19 includes a comprehensive Statement of Work consistent with Section VI.12 and all other terms of
20 this Judgment. The Oversight Committee will have the discretion to make a determination of non-
21 objection to the Statement of Work or direct Intuit to revise it. If the Oversight Committee directs
22 Intuit to revise the Statement of Work, Intuit must revise and resubmit the contract to the
23 Oversight Committee within thirty (30) days. After receiving notification that the Oversight
24 Committee has made a determination of non-objection to the Statement of Work, Intuit and the
25 Settlement Administrator must implement and adhere to the steps, recommendations, deadlines,
26 and timeframes outlined in the Statement of Work.

27 14. Intuit shall promptly provide the Fund Administrator (and the Oversight
28 Committee, if requested by the Oversight Committee) with all information the Oversight

1 Committee deems necessary to permit the Fund Administrator to distribute funds to Covered
2 Consumers as directed by the Oversight Committee, including, but not limited to, the following
3 for each consumer: full name; last known and prior mailing addresses, email addresses, and
4 telephone numbers; and for each of Tax Years 2016, 2017, and 2018, the TurboTax Paid Product
5 used by the consumer, if any, the amount the consumer paid to Intuit for said TurboTax Paid
6 Product, and the amount of any credits, chargebacks, or settlement amounts already paid by Intuit
7 or received by such consumer for the TurboTax Paid Product. In carrying out the foregoing, Intuit
8 agrees to provide such information as soon as possible but in no event more than thirty (30)
9 calendar days of the Oversight Committee's request.

10 15. Intuit shall warrant to the Oversight Committee at the time of supplying
11 information to the Fund Administrator that the information is complete and accurate to the best of
12 its knowledge and capability. Intuit's duty to provide complete and accurate information
13 regarding Covered Consumers shall continue throughout the administration process.

14 16. After the Fund Administrator has completed the administration of the Settlement
15 Fund (including making reasonable attempts to contact payees of uncashed checks and waiting a
16 reasonable period of time not less than ninety (90) calendar days), all uncashed checks may be
17 voided. Once such uncashed checks have been voided, these funds shall be distributed to state
18 unclaimed property funds, to any other fund or agency if so required by law, or to any other fund
19 or agency as lawfully directed by the Attorney General of the respective state, based on the last
20 known state residence of the payee. The Fund Administrator must distribute uncashed funds, or
21 any other remaining funds in the Settlement Fund, pursuant to instructions provided by the
22 Oversight Committee.

23 17. Covered Consumers who receive a payment from the Settlement Fund shall not be
24 required to return or discontinue the use of any Intuit goods or services, and receipt of any such
25 payment shall not be tied to any other commitment.

26 18. To the extent not already provided elsewhere, Intuit shall, upon request by the
27 Oversight Committee, provide all documentation and information necessary for the Oversight
28 Committee to confirm compliance with the Judgment. To the extent not already provided

1 elsewhere, Intuit shall ensure that all communications with the Fund Administrator regarding the
2 administration of the Settlement Fund shall include at least one representative of the Oversight
3 Committee.

4 19. The Attorneys General shall have no liability whatsoever to Intuit, the Fund
5 Administrator, or any Covered Consumer in connection with the administration of the Settlement
6 Fund or for any action by Intuit or the Claims Administrator with respect to the monies deposited.

7 **VII. ACKNOWLEDGMENTS**

8 20. Intuit, within seven (7) days of the Effective Date, (1) must submit to the
9 Oversight Committee an acknowledgment of receipt of this Judgment sworn under penalty of
10 perjury; and (2) must identify to the Oversight Committee the primary physical, postal, and email
11 address and telephone number, as designated points of contact, that the Oversight Committee may
12 use to communicate with Intuit.

13 21. For five (5) years after the Effective Date, Intuit must deliver a copy of this
14 Judgment to (1) all principals, officers, and directors; (2) all employees having managerial
15 responsibilities for Advertisements for any TurboTax Free Edition Product; the online search and
16 search engine optimization strategies and practices for any TurboTax Free Edition Product and
17 any TurboTax Paid Product; the representations made on the TurboTax Website regarding any
18 TurboTax Free Edition Product; and customer service inquiries regarding any TurboTax Free
19 Edition Product; and (3) any business entity resulting from any change in structure as set forth in
20 the Section titled Compliance Reporting. Delivery must occur within seven (7) days of the
21 Effective Date for current personnel. For all others, delivery must occur before they assume their
22 responsibilities.

23 22. From each individual or entity to which Intuit delivered a copy of this Judgment,
24 Intuit must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this
25 Judgment.

26 **VIII. COMPLIANCE REPORTING**

27 23. One (1) year after the Effective Date, Intuit must submit to the Oversight
28 Committee a compliance report, sworn under penalty of perjury, in which Intuit must identify all

1 of Intuit's tax preparation businesses by all of their names, telephone numbers, and physical,
2 postal, email, and Internet addresses and describe in detail whether and how Intuit is in
3 compliance with each Section of this Judgment.

4 24. For five (5) years after the Effective Date, Intuit must submit to the Oversight
5 Committee a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any
6 change in the following: (a) any designated point of contact; or (b) the structure of Intuit that may
7 affect compliance obligations arising under this Judgment, including: creation, merger, sale, or
8 dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices
9 subject to this Judgment.

10 25. Intuit must submit to the Oversight Committee notice of the filing of any
11 bankruptcy petition, insolvency proceeding, or similar proceeding by or against Intuit within
12 fourteen (14) days of its filing.

13 26. Any submission to the Oversight Committee required by this Judgment to be
14 sworn under penalty of perjury must be true and accurate, such as by concluding: "I declare under
15 penalty of perjury under the laws of the United States of America that the foregoing is true and
16 correct. Executed on: ____" and supplying the date, signatory's full name, title (if applicable),
17 and signature.

18 27. Unless otherwise directed by a representative of the Oversight Committee in
19 writing, all submissions to the Oversight Committee pursuant to this Judgment must be made in
20 accordance with the terms in Section XII. All submissions shall have a subject line that must
21 begin: Attorneys General v. Intuit Inc.

22 **IX. RECORDKEEPING**

23 28. Intuit must create certain records for ten (10) years after the Effective Date, and
24 retain each such record for five (5) years. Specifically, Intuit must create and retain the following
25 records:

26 A. Accounting records showing: (1) the revenues from all TurboTax Paid
27 Products and any add-on products such as Audit Defense; and (2) the revenues from all TurboTax
28 Paid Products and any add-on products such as Audit Defense that were received from consumers

1 who began the process of preparing their returns in any TurboTax Free Edition Product;

2 B. Records of all consumer complaints and refund requests concerning the
3 subject matter of this Judgment, whether received directly or indirectly, such as through a third
4 party, and any response;

5 C. All records necessary to demonstrate full compliance with each provision
6 of this Judgment, including all submissions to the Oversight Committee; and

7 D. To the fullest extent possible, a copy of each unique Advertisement or
8 other marketing material relating to any TurboTax Free Edition Product.

9 **X. COMPLIANCE MONITORING**

10 29. For a period of five (5) years, and for the purpose of monitoring Intuit's
11 compliance with this Judgment: Within thirty (30) days of receipt of a written request from the
12 Oversight Committee, Intuit must submit additional compliance reports or other requested
13 information, which must be sworn under penalty of perjury.

14 30. Nothing in this Judgment limits any State's lawful use of compulsory process,
15 pursuant to applicable state law.

16 **XI. RELEASE**

17 31. By entry of this Judgment, and upon Intuit's compliance with its terms including
18 the payments required in Section VI, the People release and forever discharge Intuit and its past
19 and present officers, directors, employees, agents, affiliates, parents, subsidiaries, operating
20 companies, predecessors, assigns, and successors from all civil consumer-protection or unfair-
21 trade-practices claims that the People are authorized by law to bring that arise from or relate to
22 the allegations in the Complaints.

23 32. Nothing contained in this Judgment shall be construed to limit the ability of the
24 People to enforce the obligations that Intuit has under this Judgment. Further, nothing in this
25 Judgment shall be construed to waive or limit any private rights of action.

26 33. Notwithstanding Paragraph 31, or any other term of this Judgment, the following
27 claims are specifically reserved: (1) claims based on violations of securities laws, including
28 claims based on the offer, sale, or purchase of securities; (2) claims of regulatory agencies having

1 specific regulatory jurisdiction that are separate and independent from the regulatory enforcement
2 of the Attorneys General; and (3) claims that arise from Intuit's actions that take place after the
3 Effective Date.

4 **XII. GENERAL PROVISIONS**

5 34. This Judgment shall not be construed as an approval or sanction by the People of
6 Intuit's business practices, nor shall Intuit represent that this Judgment constitutes an approval or
7 sanction of its business practices. Any failure by the People to take any action in response to
8 information submitted pursuant to this Judgment shall not be construed as an approval or sanction
9 of any representations, acts, or practices indicated by such information, nor shall it preclude
10 action thereon at a later date.

11 35. Nothing in this Judgment shall be construed as relieving Intuit of the obligation to
12 comply with all applicable state and federal laws, regulations, and rules, nor shall any of the
13 provisions of this Judgment be deemed to be permission to engage in any acts or practices
14 prohibited by such laws, regulations, and rules.

15 36. To the extent that there are any, Intuit shall pay all court costs associated with the
16 filing (if legally required) of this Judgment. No court costs, if any, shall be taxed against the
17 People.

18 37. If any clause, provision, or section of this Judgment shall, for any reason, be held
19 illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect
20 any other clause, provision, or section of this Judgment, which shall be construed and enforced as
21 if such illegal, invalid, or unenforceable clause, section, or provision had not been contained
22 herein.

23 38. Unless otherwise directed by the People, whenever Intuit shall provide notice to
24 the People under this Judgment, that requirement shall be satisfied by sending notice to the email
25 and postal address of the following individuals:

26 Nicklas A. Akers
27 Senior Assistant Attorney General
California Department of Justice
455 Golden Gate Ave, 11th Fl.
28 San Francisco, CA 94102

Bernard A. Eskandari
Supervising Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

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nicklas.akers@doj.ca.gov

bernard.eskandari@doj.ca.gov

39. All notices or other documents to be provided under this Judgment shall be sent by U.S. mail, certified mail return receipt requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the notice or document, and shall have been deemed to be sent upon mailing. Additionally, any notices or documents to be provided under this Judgment shall also be sent by electronic mail to the email addresses provided above or as directed by the People.

40. If a court of competent jurisdiction determines that Intuit has breached this Judgment, Intuit shall pay to the People the cost, if any, of obtaining such determination and of enforcing this Judgment, including without limitation legal fees, expenses, and court costs.

41. Defendant shall cooperate fully with the People as necessary to achieve the goals and carry out the requirements of this Judgment.

42. This Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Judgment; provided however, this Judgment shall not provide the Court with continuing jurisdiction over the Oversight Committee, the Fund Administrator, or the administration or distribution of the Settlement Fund.

43. The clerk is ordered to enter this Judgment forthwith.

ORDERED AND ADJUDGED at Los Angeles, California.

DATED: 06/25/2022

Mark E. Adams
JUDGE OF THE SUPERIOR COURT

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APPENDIX A – “FREE, FREE, FREE” ADVERTISEMENTS²

- “Big Kick”
 - The “Big Kick” advertisement depicts a high school football placekicker and his supportive father. In the moments before an important kick, the son flashes back to a memory from his youth of his father encouraging him; returning to the present, the son converts the field goal attempt while his father looks on. However, instead of featuring conventional dialogue, the characters in “Big Kick” repeat only the word “free” throughout the ad.



- “Credits”
 - In the “Credits” advertisement, a John McClane-type action hero utters a wisecrack (here, the word “free” several times) as he drops a lighter onto a streak of gasoline, which triggers the explosion of a batter white van. As flames explode into the air, the action hero strides towards the camera in slow motion, prompting the credits to roll on screen, with every actor and role consisting of one or more uses of the word “free.”

² This Appendix addresses all versions of the listed advertisements, *i.e.*, 15-second, 30-second, and 60-second versions of the advertisements, to the extent they exist.

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- “Crossword”

- In “Crossword,” a white-haired couple completes a crossword puzzle in which every clue and every answer is one or more uses of the word “free.”



- “Game Show”

- The “Game Show” advertisement depicts a 70s-era game show in which a woman must guess what activity or concept her male partner is miming. Every one of the woman’s answers is correct and consists of one or more uses of the word “free.”

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- “Lawyer”
 - In “Lawyer,” an attorney delivers an impassioned closing argument to the jury as dramatic music swells, with every word of the attorney’s argument being “free.” After he finishes, a member of the jury leads a standing ovation, as various jurors repeat the word “free” several times.



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- “Spelling Bee”

- The “Spelling Bee” advertisement shows a middle school-aged boy correctly spelling the word “free” in a spelling bee. Aside from the boy’s spelling out the letters “F-R-E-E,” every line dialogue spoken by the boy and by the judge of the spelling bee consists entirely of the word “free.”



- “Echo”

- In “Echo,” a hiker shouts “free” from the top of a mountain, with the word “free” reverberating back to her as a result.

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- “Auctioneer”

- In “Auctioneer,” a fleet-tongued auctioneer rattles off prices and bids to a collection of ranchers and cowboys. Instead of conventional dialogue, the auctioneer repeatedly utters the word “free.”



And free, and free, and free,
and free free free and free.

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- “Dance Workout”
 - The “Dance Workout” advertisement depicts an instructor leading an enthusiastic dance workout class. Instead of conventional words of encouragement and instruction, the instructor repeats the word “free.”



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APPENDIX B

[INTENTIONALLY LEFT BLANK]

APPENDIX C – PRELIMINARY STATE PERCENTAGES OF COVERED CONSUMERS

State	Number of Covered Consumers	Percentage of Covered Consumers
AK	14,135	0.32
AL	53,656	1.20
AR	34,487	0.77
AZ	100,213	2.24
CA	371,403	8.30
CO	82,967	1.85
CT	39,078	0.87
DC	9,356	0.21
DE	13,247	0.30
FL	335,246	7.50
GA	134,480	3.01
HI	14,521	0.32
IA	33,167	0.74
ID	27,237	0.61
IL	133,990	3.00
IN	94,163	2.11
KS	38,075	0.85
KY	54,406	1.22
LA	55,578	1.24
MA	75,091	1.68
MD	66,669	1.49
ME	22,650	0.51
MI	115,565	2.58
MN	60,322	1.35
MO	81,427	1.82
MS	35,053	0.78
MT	16,072	0.36
NC	139,028	3.11
ND	9,270	0.21
NE	25,780	0.58
NH	22,074	0.49
NJ	70,164	1.57
NM	28,535	0.64
NV	49,883	1.12
NY	176,712	3.95
OH	163,367	3.65
OK	52,399	1.17
OR	68,253	1.53

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PA	158,779	3.55
RI	13,577	0.30
SC	67,238	1.50
SD	13,455	0.30
TN	111,658	2.50
TX	465,793	10.41
UT	44,289	0.99
VA	111,613	2.50
VT	9,361	0.21
WA	121,102	2.71
WI	76,682	1.71
WV	23,533	0.53
WY	8,790	0.20
Other*	329,199	7.36
Totals	4,472,788	100.00

* The "Other" category includes Covered Consumers for whom there currently is no information available on their state affiliation and consumers in U.S. territories and foreign countries, including U.S. military mail codes.

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TURBOTAX FREE FILING CASES
Lead Case No. JCCP No. 5067
Included Action Case No. 19CV354178
ELECTRONIC PROOF OF SERVICE

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member’s direction this service is made. I am 18 years of age or older and not a party to this matter.

On June 16, 2022, I served a true copy of the foregoing document described as:

- 1. Intuit Proposed Final Judgment (FINAL) (REVISED); and**
- 2. Intuit Proposed Final Judgment (FINAL) (REVISED) REDLINE**

on the interested parties in this action pursuant to the most recent Omnibus Service List by submitting an electronic version of the document via file transfer protocol (FTP) to CaseAnywhere through the upload feature at www.caseanywhere.com.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on June 16, 2022, at Los Angeles, California.

J.F. Aguins
Declarant

/s/ J.F. Aguins
Signature

ASSURANCE OF VOLUNTARY COMPLIANCE

This Assurance of Voluntary Compliance¹ (the “Assurance”) is entered into by the Attorneys General of the States and Commonwealths of Alaska, Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Idaho, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey,

¹ This Assurance of Voluntary Compliance shall, for all necessary purposes, also be considered an Assurance of Discontinuance. The Attorneys General have authority to execute this Assurance. *See generally* N.Y. EXEC. LAW § 63(15); TENN. CODE ANN. § 47-18-107; FLORIDA STATUTES SECTION 501.207(6); ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS 505/6.1; N.J.S.A. 56:8-1 to -227; P.A. UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW 73 P.S. § 201-5; TEX. BUS. & COM. CODE § 17.58; RCW 19.86.100; ALASKA STAT. § 45.50.511; ALA. CODE § 8-19-4; ARKANSAS CODE ANNOTATED § 4-88-114; ARIZ. REV. STAT. § 44-1530; C.R.S. § 6-1-110(2); CONN. GEN. STAT. § 42-110j; D.C. CODE 28-3909(c)(6); 29 DEL. C. § 2525(a) (authorizing cease and desist orders by agreement); O.C.G.A. § 10-1-402; HAW. REV. STAT. SECT. 487-12; IOWA CODE § 714.16 ; IOWA ADMIN. CODE R. 61-38.1; IDAHO CODE § 48-610; IND. CODE § 24-5-0.5-7; KENTUCKY REVISED STATUTES 367.230; UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, LA. R.S. § LA. R.S. 51:1410; M.G.L. c. 93A, SEC. 5.; MD. CODE ANN., COM. LAW § 13-402; 5 M.R.S.A. § 210; MICH. COMP. LAWS § 445.906; MINN. STAT. § 8.31, SUBD. 2B; §407.030 RSMo; MISSISSIPPI CONSUMER PROTECTION ACT, MS CODE ANN. §75-24-27(1)(g) ; MONT. CODE ANN. § 30-14-112; N.D.C.C. 51-15-06.1; NEB. REV. STAT. § 59-1610 AND NEB. REV. STAT. § 87-202.05(2); N.H. REV. STAT. ANN. § 358-A:1-7; NEW MEXICO UNFAIR PRACTICES ACT NMSA 1978, §57-12-9 (1971); NEV. REV. STAT. 598.0995; OHIO REVISED CODE 1345.06(F); 15 O.S. § 756.1; ORS 646.632; R.I. GEN. LAWS § 6-13.1-6 ; SOUTH CAROLINA CODE § 39-5-60; SDCL 37-24-19; UTAH CODE § 13-2-1, *et seq.*; VA. CODE ANN. § 59.1-202; 9 V.S.A. § 2459; WIS. STAT. § 100.18(11)(e); W. VA. CODE § 46A-7-107; and WYO. STAT. ANN. § 40-12-107.

This Assurance of Voluntary Compliance is a Settlement Agreement for the purposes of the North Carolina Unfair and Deceptive Practices Act, N.C. GEN. STAT. § 75-1.1 *et seq.*

The State of California is simultaneously entering into a settlement in a form consistent with the requirements of California law. That settlement incorporates the substantive terms of this Assurance and any differences between California’s settlement and this Assurance arise from the differences as to form.

The State of Connecticut is represented by the Connecticut Attorney General, acting at the request of the Commissioner of Consumer Protection. CONN. GEN. STAT. §§ 42-110j and 42-110m.

Hawaii is represented on this matter by its Office of Consumer Protection, an agency which is not part of the state Attorney General’s Office, but which is statutorily authorized to undertake consumer protection functions, including legal representation of the State of Hawaii. For simplicity purposes, the entire group will be referred to as the “Attorneys General” or individually as “Attorney General” and the designations, as they pertain to Hawaii, refer to the Executive Director of the State of Hawaii’s Office of Consumer Protection.

Maryland is represented by the Consumer Protection Division of the Office of the Attorney General of Maryland. For simplicity purposes, the entire group will be referred to as the “Attorneys General” or individually as “Attorney General” and the designations, as they pertain to Maryland, refer to the Consumer Protection Division of the Office of the Attorney General of Maryland. The Consumer Protection Division has authority to enter into this Assurance pursuant to MD. CODE ANN., COM. LAW § 13-402.

Herein, no state-specific language or provision included in a footnote or appendix, or any state-specific portion thereof, shall affect the interpretation, construction, or enforcement of the Assurance with respect to any signatory State not referenced in such footnote or appendix, or any state-specific portion thereof.

Intuit understands each State may conform the form of the Assurance in accordance with statute, rule, or practice and may add a cover page, caption, or appendix to the document.

New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, Wisconsin, West Virginia, and Wyoming, the District of Columbia, and the Executive Director of the State of Hawaii Office of Consumer Protection (the “Attorneys General” or the “States”) and Intuit Inc. (“Intuit”; together with the “Attorneys General,” the “Parties”) to resolve an investigation of the Attorneys General into Intuit’s marketing, advertising, promotion, and sale of certain online tax preparation products and whether Intuit’s conduct constituted deceptive or unfair business acts or practices in violation of the States’ consumer protection laws.² In consideration of their mutual agreements to the terms of this Assurance, and such other consideration as described herein, the sufficiency of which is hereby acknowledged, the Parties hereby enter into this Assurance and agree as follows:

DEFINITIONS

For the purpose of this Assurance, the following definitions apply:

² See generally N.Y. EXEC. LAW § 63(12); N.Y. GEN. BUS. LAW §§ 349-50; TENN. CODE ANN. §§ 47-18-104; FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT, CHAPTER 501, PART II, FLORIDA STATUTES; ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS 505/1, *et seq.*; N.C.G.S. § 75-1.1; N.J.S.A. 56:8-2; P.A. UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, 73 P.S. §§ 201-1 – 201-9.2; TEX. BUS. & COM. CODE ANN. §§ 17.41 through 17.63; RCW 19.86.020; ALASKA STAT. § 45.50.471; ALA. CODE § 8-19-1 *et seq.*; ARKANSAS CODE ANNOTATED § 4-88-107(A); ARIZ. REV. STAT. §§ 44-1521 TO 1534; CAL. BUS. & PROF. CODE § 17200 *et seq.*, § 17500 *et seq.*; C.R.S. § 6-1-101 *et seq.*; C.R.S. § 6-1-105(1); CONN. GEN. STAT. § 42-110b (a); D.C. CODE 28-3904; 6 DEL. C. § 2513; O.C.G.A. § 10-1-390 *et seq.*; HAW. REV. STAT. CHPTS. 480 AND 481A; IOWA CODE § 714.16; IDAHO CONSUMER PROTECTION ACT, TITLE 48, CHAPTER 6, IDAHO CODE; IND. CODE § 24-5-0.5-0.1, *et seq.*; K.S.A. § 50-623 *et seq.*; KENTUCKY REVISED STATUTES 367.170; UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, LA. R.S. §§ 51:1401 *et seq.*; M.G.L. C. 93A, SECS 2 & 4.; MD. CODE ANN., COM. LAW §§ 13-101 through 13-501; 5 M.R.S.A. § 205-A ET SEQ; MICH. COMP. LAWS § 445.903; MICH. COMP. LAWS § 445.901 *et seq.*; MINN. STAT. §§ 325D.44; 325F.69, SUBD. 1; §407.020 RSMO; MISSISSIPPI CONSUMER PROTECTION ACT, MS CODE ANN. §75-24-1 *et seq.*; MONT. CODE ANN. § 30-14-103; N.D. CENT. CODE § 51-15-01 *et seq.*; NEB. REV. STAT. §§ 59-1601 to 59-1622 AND NEB. REV. STAT. §§ 87-301 to 87-306.; N.H. REV. STAT. ANN. § 358-A:1-7; NEW MEXICO UNFAIR PRACTICES ACT NMSA 1978, §57-12-1 *et seq.* (1967); NRS 598.0903 *et al.*; OHIO CONSUMER SALES PRACTICES ACT (“CSPA”), OHIO REVISED CODE 1345.01 *et seq.*, AND ITS SUBSTANTIVE RULES, 109-4-3-01, *et seq.*; OKLAHOMA CONSUMER PROTECTION ACT, 15 O.S. §§ 751 *et seq.*; OREGON’S UNLAWFUL TRADE PRACTICES ACT, ORS 646.605 to 646.652; ORS 646.608(1)(b), (c), (e), and (s); R.I. GEN. LAWS § 6–13.1–1 *et seq.*; SOUTH CAROLINA CODE § 39-5-10 *et seq.*; SDCL CHAPTER 37-24; UTAH CODE § 13-11-4; VA. CODE ANN. §§ 59.1-196 to 59.1-207; 9 V.S.A. § 2453; FRAUDULENT REPRESENTATIONS. WIS. STAT. § 100.18(1); W. VA. CODE §§ 46A-1-101, *et seq.*; WYO. STAT. ANN. § 40-12-101 through -114 (the “Consumer Protection Acts”).

A. **“Advertisement”** or **“Advertising”** means any written or verbal statement, illustration, or depiction that promotes the sale or use of a consumer good or service, or is designed to increase consumer interest in a brand, good, or service. Advertising media includes, but is not limited to promotional materials; print; television; radio; and Internet, Paid Display Advertisements, Paid Search Advertisements, display, social media, and other digital content.

B. **“Clearly and Conspicuously”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

- 1) In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television Advertisement, the disclosure must be presented in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means (the disclosures in the visual and audible portions of the communication in Space-Constrained Video Advertisements are not required to be identical).
- 2) A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

- 3) An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
- 4) In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
- 5) The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires disclosure appears.
- 6) The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
- 7) The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
- 8) When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

C. “**Close Proximity**” means that the disclosure is very near the triggering representation and that the disclosure is made simultaneously with the triggering representation and remains or is repeated throughout the duration of the Advertisement. For example, a disclosure made through a hyperlink, pop-up, interstitial, or other similar technique is not in Close Proximity to the triggering representation.

D. “**Effective Date**” means the date on which all of the Parties have signed this Assurance.

E. **“Intuit IRS Free File Product”** means Intuit’s TurboTax Free File Program, TurboTax Freedom Edition, IRS Free File Program delivered by TurboTax or any other Intuit product or service that was or in the future may be provided pursuant to a memorandum of understanding or an agreement between Free File, Inc. (or any successor entity) and the IRS for the provision of free online tax preparation and e-filing services.

F. **“Oversight Committee”** shall mean the following Attorneys General: Florida, Illinois, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, and Washington.

G. **“Paid Display Advertisement”** means an online Advertisement in which Intuit pays, or causes another to pay, to have an Advertisement displayed on a website and pays for the Advertisement, regardless of whether consumers click on the Advertisement.

H. **“Paid Search Advertisement”** means an online Advertisement in which Intuit pays, or causes another to pay, to have an Advertisement displayed with search engine results for a particular search term and pays for the Advertisement only when consumers click on the Advertisement.

I. **“Covered Consumer”** means any individual, or individuals if a joint return was filed, who in Tax Years 2016, 2017, or 2018 was (1) eligible to use an Intuit IRS Free File Product; (2) began his or her tax returns using a TurboTax Free Edition Product; (3) was informed that he or she was ineligible to use a TurboTax Free Edition Product; (4) subsequently paid to use a TurboTax Paid Product, and (5) had not used the Intuit IRS Free File Product in a previous tax year.

J. **“Space-Constrained Advertisement”** means any online Advertisement (including but not limited to Paid Display Advertisements and Paid Search Advertisements) or

any Video Advertisement that has space, time, format, size, or technological restrictions that limit Intuit from being able to make the disclosures required by this Assurance. Intuit bears the burden of showing that there is a constraint or insufficient space and time to make a required disclosure that is Clear and Conspicuous and in Close Proximity to the triggering term. Space-Constrained Advertisements do not include Advertisements on a TurboTax Website.

K. **“TurboTax Free Edition Product”** means any online software product offered by Intuit that allows consumers, without paying a fee, to prepare and file federal tax returns, state tax returns, or both, including but not limited to “TurboTax Free Edition” and “Federal Free Edition.” “TurboTax Free Edition Product” does not include any Intuit IRS Free File Product, any TurboTax Paid Product, TurboTax Live, or any products sold or offered within the TurboTax Free Edition Product, such as Audit Defense.

L. **“TurboTax Paid Product”** means the online tax preparation software products offered by Intuit that allow consumers, for a fee, to prepare and file federal tax returns, state tax returns, or both, for themselves. “TurboTax Paid Product” does not include products sold or offered in addition to a TurboTax Paid Product.

M. **“TurboTax Website”** means turbotax.intuit.com, any subdomain of turbotax.intuit.com, and any other website owned, operated, or controlled partially or wholly by Intuit that provides or offers TurboTax Paid Products or TurboTax Free Edition Products.

N. **“Upgrade Screen”** means any display within the product flow of the TurboTax Free Edition Product that appears when consumers using that product indicate they have income, credits, deductions, or other tax situations not covered by the TurboTax Free Edition Product, and offers consumers the option of using a TurboTax Paid Product to prepare and file their federal and/or state tax returns.

O. **“Video Advertisement”** means any Advertisement made via television or made online using video.

FINDINGS

1. Intuit is a Delaware corporation with its principal place of business in Mountain View, California.

2. Intuit transacts or has transacted business in each State and throughout the United States. At all times relevant to this Assurance, acting alone or in concert with others, Intuit has advertised, marketed, distributed, or sold TurboTax, a tax preparation software that enables users to prepare and file their taxes through the internet, to consumers throughout the United States.

I. Intuit’s Free TurboTax Products

3. From at least 2016 to October 2021, Intuit offered two TurboTax online tax filing products that were available for free to consumers who met certain eligibility requirements. Each of these products had different eligibility requirements.

A. TurboTax’s “Freemium” Product: TurboTax Free Edition

4. Since at least 2016, Intuit has engaged in what it calls a “freemium” business strategy that monetizes free products.

5. This “freemium” business strategy involves, in part, growing Intuit’s customer base by offering free products to consumers to whom Intuit sells separate add-on products and inducing customers to upgrade to paid versions of TurboTax.

6. Since at least 2017, Intuit has called its “freemium” product “TurboTax Free Edition.” In 2016, Intuit called its “freemium” product “Federal Free Edition.”

7. This TurboTax “freemium” product is only available to consumers with “simple” tax returns, as defined by Intuit; other consumers are required to upgrade to paid products to file through Intuit.

8. For consumers filing their 2016 and 2017 taxes, Intuit defined a “simple” tax return as a return that could be filed using a 1040A or 1040EZ tax form.

9. Since 2019, when consumers filed tax returns for Tax Year (“TY”) 2018 income, Intuit has defined a “simple” tax return as a return that could be filed on a Form 1040, with no attached schedules, regardless of the consumer’s income.

B. Intuit’s Free File Product

10. From 2003 to October 2021, Intuit offered a free version of its online tax preparation products through its participation in the United States Internal Revenue Service (“IRS”) Free File Program, a public-private partnership formed in 2002 between a consortium of tax preparation software companies and the IRS pursuant to a Memorandum of Understanding (“MOU”). Under the MOU, participating companies offer free online tax preparation products to low- and middle-income Americans. In exchange, the IRS agreed not to compete with the participating companies in providing free, online tax return preparation and filing services to American consumers.

11. Historically, consumer participation in the IRS Free File Program has been low.

12. The IRS has set eligibility thresholds for participation in the Free File Program based on consumers’ adjusted gross income (“AGI”). Consumers with an AGI equal to or less than 70% of the U.S. consumer population are meant to be eligible for the program. The MOU, however, requires that no company offer its Free File product to more than 50%, or less than 10%, of eligible consumers. Each company is free to set its own eligibility requirements to stay within that range.

13. From 2017 (filings on TY 2016 income) to 2021 (filings on TY 2020 income), Intuit made its Free File product available to all consumers who were eligible for the earned income tax credit.

14. From 2017 to 2021, Intuit also made its Free File product available to all consumers with an AGI that does not exceed specified AGI thresholds:

Tax Year	Maximum AGI
2016 (returns filed in 2017)	\$33,000
2017 (returns filed in 2018)	\$33,000
2018 (returns filed in 2019)	\$34,000
2019 (returns filed in 2020)	\$36,000
2020 (returns filed in 2021)	\$39,000

15. From 2017 to 2021, Intuit also made its Free File product available to all active duty military service members with an AGI that does not exceed specified AGI thresholds:

Tax Year	Maximum AGI
2016 (returns filed in 2017)	\$64,000
2017 (returns filed in 2018)	\$66,000
2018 (returns filed in 2019)	\$66,000
2019 (returns filed in 2020)	\$69,000
2020 (returns filed in 2021)	\$72,000

16. Although consumers primarily accessed Intuit’s Free File product via IRS.gov, they have also accessed it directly via Intuit’s internet landing page for the product, which is different from the landing page for its “freemium” and paid products.

17. Intuit changed the name of its Free File product several times. Intuit also used different names for its Free File product at the same time, depending on where the product was being marketed.

18. Prior to TY 2018, Intuit called its Free File product “TurboTax Freedom Edition.”

19. For TY 2018, Intuit changed the name of its Free File product to “TurboTax Free File Program.”

20. From at least TY 2016 through and including TY 2018, Intuit used a different name to market its Free File product on the IRS.gov website. On the IRS.gov website, Intuit marketed its Free File product as “TurboTax All Free SM.”

21. For TY 2019 and 2020, Intuit changed the name of its Free File product to “IRS Free File Program Delivered by TurboTax.” This change was required by an amendment to the MOU between the IRS and the participating tax preparation companies that required uniform naming of all IRS Free File Program products.

C. The Tension Between Intuit’s Free File and “Freemium” Products and Related Consumer Confusion

22. Intuit’s Free File product yielded benefits to the company as part of its efforts to avoid government “encroachment” into the tax preparation industry.

23. Indeed, Intuit has acknowledged publicly the competitive threat of a government-run free e-filing system, including in Securities and Exchange Commission filings.

24. Intuit has recognized that high participation in the IRS Free File Program would dent its bottom line, but that, at the same time, it had to keep Free File enrollments above a certain level to prevent government “encroachment.”

25. For several years prior to TY 2018, Intuit employees tasked with overseeing the marketing strategy for both Intuit’s Free File and “freemium” products considered changing the name of Intuit’s Free File product.

26. Intuit knew that consumers were confused by the similarity of the names of these products. Intuit chose to name its commercial freemium product TurboTax “Free Edition,” even though it is only free for approximately one-third of taxpayers, while it named its Free File product “Freedom Edition,” which does not indicate that it is free despite being part of a program that is free for 70 percent of taxpayers.

27. In 2018, Intuit knew that consumers were still confused about the differences between its Free File and “freemium” products.

28. Although Intuit changed the name of its Free File product to TurboTax Free File Program for TY 2018, it continued to market its Free File product on the IRS.gov website using the trademarked name TurboTax All Free. Moreover, Intuit was aware that changing the name to TurboTax Free File Program would not create any additional clarity for its customers and that consumers would be confused between the Free File Program and TurboTax Free Edition, especially due to the company’s focus on the use of “free” in marketing its products.

29. In 2019, this time pursuant to the MOU with the IRS, Intuit again changed the name of its Free File product, renaming it to IRS Free File Program Delivered by TurboTax.

II. Online Search Practices

A. For TY 2018, Intuit Hid Its Free File Landing Page from Search Engines for Approximately Five Months During the Peak of Tax Season

30. In 2018, Intuit employees responsible for marketing strategy feared the name change of Intuit’s Free File product could negatively impact the ranking of the company’s “freemium” product in online search engine results, leading to a loss in revenue.

31. For TY 2018, Intuit blocked the landing page for its newly named Free File product so that it would not be indexed (listed) by internet search engines. That block was in place from November 13, 2018, to April 26, 2019. This timeframe covered the vast majority of Intuit’s 2019 tax filing season, which is the time it received revenue from consumers using TurboTax products to file tax returns for TY 2018.

32. For TY 2019, Intuit stopped blocking its Free File product landing page from online search engines, and 2,070,778 consumers filed their federal tax returns using Intuit’s Free File product, representing growth of 73% over TY 2018.

B. Intuit Used Paid Search Terms to Direct Consumers Searching for the IRS Free File Program to Intuit’s “Freemium” and Paid Products

33. As part of its advertising and marketing practices, Intuit has bid on paid search terms with search engines such as Google and Bing. When a consumer queried a search engine for a search term and Intuit won the search engine’s instant auction for that paid search term, the consumer would be served an ad selected by Intuit that included a hyperlink directing the consumer to a specific website.

34. For many years, including TY 2018 while Intuit had blocked the landing page for its Free File product from appearing in online search results, Intuit bid on search terms relevant to the IRS Free File Program.

35. In many instances, these search terms indicated consumers were likely searching for information about, or links to reach the website for, the IRS Free File Program. For example, Intuit bid on the following 13 search terms:

- free file
- free file irs
- free file taxes
- free file taxes online
- free file turbotax
- free file turbo tax
- irs free file
- irs.gov/freefile
- irs.gov/freefile.
- irs.gov free file
- irs.gov/free file
- turbo tax free file
- turbotax free file program

36. For each of the 13 search terms referenced in paragraph 35, during TY 2018—while Intuit had blocked the landing page for its Free File product from appearing in search results—Intuit’s online ads directed consumers to Intuit’s commercial website with its “freemium” product, rather than the IRS.gov website for the IRS Free File Program or the landing page for Intuit’s Free File product.

37. During TY 2018, Intuit directed consumers towards the website for “freemium” and paid products when consumers searched for its Free File product by its exact name: Turbo Tax Free File Program.

38. If a taxpayer knew to type “TurboTax Freedom” in a search engine, she would receive a paid advertisement which, during the 2019 filing season, would direct her to a landing page with a button link that said “See If You Qualify” that eventually lead to the Freedom Edition website. However, the landing page also included a prominent link that said “Start for Free,” which directed the user to TurboTax’s commercial and paid products.

39. Intuit knew that some of its customers were misled by these practices.

III. Advertising Practices: Intuit’s Advertisements Misrepresented that Consumers Were Eligible for a Free Version of Its Products

40. Since at least 2016, Intuit has extensively promoted its TurboTax products through advertising in a variety of mediums touting that it offers a free service.

41. Among its “do-it-yourself” online software products, Intuit used ads, including television and social media ads, to promote its “freemium” TurboTax product.

42. Intuit also has engaged in an ad campaign it calls “Free, Free, Free” in which “free” is essentially the only word spoken by the actors in the commercials, until the voice over at the end of the advertisement. Intuit used at least six different advertisements in this campaign.

43. Many of Intuit’s ads contain a fine print disclaimer at the end of the commercial informing consumers that the offer is limited to consumers with “simple tax returns” or “simple U.S. returns only.” This fine print disclaimer was not conveyed audibly.

44. The disclaimers are inadequate to cure the express representation that the advertised products are free.

45. A reasonable consumer could believe that the products Intuit advertises as free are free for them, given that online products in many industries, including in online tax preparation, are routinely offered to consumers completely free of any charge.

46. Intuit's false statements or representations that TurboTax is free, without adequately disclosing the limitations of its free offer, have induced consumers to begin using TurboTax and, after discovering they are not eligible for Intuit's "freemium" product (as described below), to pay for paid TurboTax products.

IV. Website Practices

A. Intuit's TurboTax Home Page Misled Consumers into Believing They Were Eligible for Its "Freemium" Product

47. When consumers who saw Intuit's advertisements visited the TurboTax website, the website's home page failed to adequately disclose the limitations on eligibility for Intuit's "freemium" product.

48. For example, for TY 2018, the TurboTax home page contained a screen that mimicked the "free, free free free" ad campaign.

49. The screen failed to disclose adequately the limitations on eligibility.

50. Consumers who proceeded with the "freemium" product would be brought to a login screen and then start an online, automated "interview" to begin entering information to file their taxes. Consumers who were not eligible for Intuit's "freemium" TurboTax product would not learn they were ineligible until they had already invested significant time and effort creating an account and inputting their personal tax information into the TurboTax product.

51. For TY 2019, the TurboTax home page used a similar screen, with an even greater emphasis that consumers were "guaranteed" a free product. Again, consumers who were not eligible for Intuit's "freemium" TurboTax product would not learn they were ineligible until they

had already invested significant time and effort creating an account and inputting their personal tax information into the TurboTax product.

52. For TY 2020 and 2021, Intuit has continued to employ a customer interview model in which consumers who were not eligible for Intuit's "freemium" TurboTax product would not learn they were ineligible until they had already invested significant time and effort creating an account and inputting their personal tax information into the TurboTax product.

B. Intuit's TurboTax Products and Pricing Screen Failed to Disclose Intuit's Free File Product, Further Impeding Consumers from Learning of Its Existence

53. Intuit's TurboTax website has featured a screen Intuit calls its "Products and Pricing" screen. For TY 2018, the headline on this screen informed consumers: "Tell us about you – we'll recommend the right tax solution."

54. When consumers clicked on one of the options on this screen, the TurboTax website would then recommend one of four products: (1) its "freemium" product, marketed as Free Edition; (2) Deluxe; (3) Premier; or (4) Self-Employed—the latter three being Intuit's paid do-it-yourself tax products. At the bottom of the screen, all four products were displayed, with the recommended product highlighted.

55. This screen never displayed or recommended the TurboTax Free File product to consumers, even when they were ineligible for the "freemium" product, TurboTax Free Edition.

56. In fact, in TY 2019, the TurboTax website had a site index at the bottom of the home page with a link to "All online tax preparation software." That link brought consumers to the Products and Pricing screen, which did not disclose Intuit's Free File product. Likewise, during TY 2020, the TurboTax app contained a similar list of "all products" that did not include Intuit's Free File product.

57. For eligible consumers based on their AGI, Intuit's former Free File product covered all tax situations, forms, and deductions, thus providing coverage equal to Intuit's most expensive TurboTax online product, Self-Employed.

C. The TurboTax Interview Process Used "Hard Stops" to Induce Consumers to Upgrade from Free to Paid Products

58. Intuit represented to consumers who are not eligible for the "freemium" product that they must provide their payment information and pay Intuit in order to file their tax returns online with TurboTax, even if the consumer was eligible to file for free through Intuit's former Free File product. Intuit informed consumers of these required upgrades using screens its employees call "Hard Stops." Intuit still employs Hard Stops in its "freemium" product.

59. When consumers use the TurboTax "freemium" product, Intuit's software asks them a series of questions on successive webpages about their financial situation. These questions enable Intuit to determine whether consumers are eligible for the "freemium" product and include, among other things, whether the consumer paid student loan interest or was self-employed.

60. After supplying the information, consumers are prompted to input their income by category. When consumers indicate that they need to report income on a Form 1099-MISC (for example, because entities that paid them classified them as independent contractors), the TurboTax "freemium" product displays a Hard Stop informing them that they cannot proceed for free. For example, Intuit's TY 2019 "Business Income Upgrade" Hard Stop told consumers: "To accurately report this income, you'll need to upgrade."

61. Hard Stop screens then offer consumers the option to upgrade and pay for a paid TurboTax product, such as TurboTax Deluxe or TurboTax Self-Employed. At various times

during TY 2018 and 2017, Intuit charged \$59.99 for TurboTax Deluxe and \$119.99 for TurboTax Self-Employed.

62. The Business Income Hard Stop was likely to deceive or mislead consumers who were eligible for Intuit's former Free File product.

63. The headline in the Business Income Hard Stop states that consumers must upgrade to a paid product to "accurately report this income." That statement was false at the time for a large percentage of TurboTax customers—those who were eligible for Intuit's Free File product.

64. The Business Income Hard Stop was also misleading because it included a button that says "keep free" below the column for TurboTax Free Edition, even though the consumer could not actually continue using TurboTax Free Edition and report all of her income to the IRS.

65. Upon clicking on the "keep free" button, consumers were put into a feedback loop that ended only if they upgraded to a paid product or chose not to report their 1099 income.

66. Intuit has used and is using many other Hard Stops to induce consumers to upgrade based on certain types of income, such as income from a farm, farm rental or farm equipment; selling a home; a prior year state tax refund; or investments. All of these Hard Stops misled consumers eligible for Intuit's former Free File product to provide their payment information and buy paid TurboTax products.

67. Overall, for all Hard Stops from TY 2016 through TY 2018, millions of consumers started in "freemium," encountered a Hard Stop, and then upgraded to and filed in a paid product. Many of those who were shown a Hard Stop were eligible at the time for Intuit's Free File product. These Free File-eligible consumers who upgraded in response to a Hard Stop paid Intuit more than \$100 million to file their federal tax returns.

68. From at least 2017 to October 2021, when consumers encountered these Hard Stops, Intuit failed to disclose to consumers that they may have been or were eligible to use Intuit's Free File product to accurately report their income or claim certain tax deductions.

V. Conclusion

69. Based on these Findings, the Attorneys General have reason to believe that Intuit has engaged in deceptive and unfair acts and practices in violation of the States' Consumer Protection Acts, in the marketing, advertising, promotion, and sale of online tax preparation products.

70. Intuit voluntarily withdrew from the IRS Free File Program effective October 2021 and would be able to seek to rejoin the IRS Free File Program at any time but for the provisions of this Assurance. Intuit could not rejoin the IRS Free File Program without approval of the IRS and the Director of the Free File Alliance.

71. Solely for purposes of this Assurance, Intuit neither admits nor denies any of the Findings in paragraphs 3 through 70 of this Section.

INJUNCTIVE RELIEF

I. General Compliance

Intuit shall comply with the Consumer Protection Acts and any amendments to those laws, regulations, and rules that may be adopted by the States subsequent to the Effective Date of this Assurance.

II. Prohibition Against Misrepresentations

Intuit, Intuit's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Assurance, whether acting directly or indirectly, in connection with promoting or offering any online tax preparation products, must not misrepresent, expressly or by implication:

A. That consumers can only file their taxes online accurately if they use a TurboTax Paid Product or TurboTax Free Edition Product.

B. That consumers can only claim a tax credit or tax deduction if they use a TurboTax Paid Product or TurboTax Free Edition Product.

C. That consumers must upgrade to a TurboTax Paid Product to file their taxes online if they are eligible to use the TurboTax Free Edition Product.

D. That consumers can continue using and file their taxes for free with the TurboTax Free Edition Product when that is not the case, including by stating expressly or impliedly to consumers on an Upgrade Screen that they can continue using the TurboTax Free Edition Product through a “keep free” button or another button using similar language. Intuit may give consumers the option of continuing to use the TurboTax Free Edition Product on an Upgrade Screen, so long as a disclosure is made, Clearly and Conspicuously on the Upgrade Screen and in Close Proximity to any button, link, or option on the Upgrade Screen that permits the consumer to exercise the option of continuing to use the TurboTax Free Edition Product, that the current tax information entered by the consumer indicates that the consumer will need to upgrade to a TurboTax Paid Product to file his or her taxes.

E. Any other fact material to consumers concerning any tax preparation product or service, such as the price; total cost; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

III. Required Disclosures and Business Practices for Advertising and Marketing of Free Products

As soon as reasonably practicable, but no later than August 1, 2022, in connection with advertising, marketing, promoting, offering, naming, or describing, or assisting in the advertising, marketing, promotion, offering, naming, or describing of any tax preparation

products as free, whether directly or indirectly, Intuit must make the following disclosures about taxpayer eligibility for such free products and comply with the following terms:

A. In any non-Space-Constrained Advertisement of free tax preparation products other than on a TurboTax Website, Intuit must disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer's ability to use that free product; and (2) that not all taxpayers qualify for the free product.

B. In any Space-Constrained Advertisement of free tax preparation products other than Space-Constrained Video Advertisements, Intuit must disclose that eligibility requirements apply. If made online, Intuit must also (1) Clearly and Conspicuously include a hyperlink to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously contains full disclosure of all material eligibility restrictions or (2) link by clicking on the Advertisement itself to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously sets forth full disclosure of all material eligibility restrictions.

C. For a period of ten (10) years, in any Space-Constrained Video Advertisements of free tax preparation products, Intuit must visually disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer's ability to use that free product; and (2) that not all taxpayers qualify for the free product. In addition, for a period of ten (10) years, in any Space-Constrained Video Advertisements of free tax preparation products except for such Advertisements that are 8 seconds or shorter, Intuit must verbally disclose, Clearly and Conspicuously and in Close Proximity to the representation that the product is free, that not all taxpayers qualify.

D. In any Advertisement of free tax preparation products on a TurboTax Website, and any space on a TurboTax Website listing, describing, offering, or promoting such free products, Intuit must disclose (1) Clearly and Conspicuously and very near to the representation all material limitations on a consumer's ability to use that free product, including, but not limited to, eligibility criteria for that free product, or (2) through a hyperlink (i) that is very near to the representation, (ii) that indicates that there are material limitations on a consumer's ability to use that free product, and (iii) that links to a landing page or webpage that Clearly and Conspicuously sets forth all material limitations on a consumer's ability to use that free product, including, but not limited to, eligibility criteria for that free product.

E. Intuit must disclose Clearly and Conspicuously to consumers, at the earliest point at which it is reasonably possible to determine, that they do not qualify to file a tax return for free with the TurboTax Free Edition Product.

F. Intuit must take reasonable steps to design all TurboTax products to inform, at the earliest point it is reasonably possible, consumers using the TurboTax Free Edition Product whether they will or will not be able to file for free using that product.

G. Intuit must not publish, or cause to be published, in any medium (1) its "free, free, free" Video Advertisements (see Appendix A for a list of such advertisements) and (2) Video Advertisements that are substantially similar in their repetition of the word free. Intuit must comply with this Section III.G immediately upon the Effective Date, notwithstanding any contradictory language in the introduction to Section III above.

IV. Prohibition Against Data-Clearing Practices

Effective December 1, 2022, Intuit must permit consumers who enter a TurboTax Paid Product through an Upgrade Screen to return to the TurboTax Free Edition Product without being required to re-enter the data they provided when using the TurboTax Free Edition Product.

V. Voluntary Withdrawal From and Injunction Against Rejoining the IRS Free File Program

In recognition of Intuit's voluntary withdrawal from the IRS Free File Program effective October 2021 and Intuit's representation and commitment that it will not rejoin the IRS Free File Program, and in lieu of this Assurance containing specific injunctive provisions concerning Intuit's potential future participation in the IRS Free File Program and conduct related thereto:

- A. Intuit must not seek to rejoin or participate in the IRS Free File Program.
- B. This term may only be modified by amending this Assurance pursuant to Section

XII(H).

VI. Payment to the Settlement Fund and Administration Fund

A. Within thirty (30) days of the Effective Date, Intuit shall pay the total sum of One Hundred Forty-One Million Dollars (\$141,000,000)³ (the "Required Payment") as described herein. The Required Payment shall be made in two installments: (1) the first payment, in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Administration Fund"), shall be made by Intuit to an account for the payment of costs and expenses incurred or charged by the Fund Administrator in administering the Settlement Fund; (2) the second payment, in the amount of One Hundred Thirty-Eight Million Two Hundred and Fifty Thousand Dollars (\$138,250,000) (the "Settlement Fund"), shall be made by Intuit to an account for the use of the fund administrator selected by the Oversight Committee (the "Fund Administrator"), for the purpose of providing restitution to Covered Consumers as described hereunder, who shall be responsible for the administration of the Settlement Fund. The Required Payment installments shall be made by wire transfer in accordance with instructions provided by the Oversight

³ From this amount, a total of Two Hundred and Fifty Thousand Dollars (\$250,000) will be allocated for fees and costs to a certain previously designated State. This Two Hundred and Fifty Thousand Dollars (\$250,000) will be paid into the Settlement Fund by Intuit and will be distributed by the Oversight Committee.

Committee. After transfer of the Required Payment, Intuit shall have no right, title, interest or other legal claim in the transferred funds.

B. The Oversight Committee shall have sole discretion concerning the administration and distribution of the Settlement Fund, which may include determining the Covered Consumers who are entitled to payments from the Settlement Fund; the nature, timing, and amount of such payment; directing the Fund Administrator to make payments to these consumers; the timing and content of communications from the Fund Administrator to Covered Consumers concerning the Settlement Fund; directing the Fund Administrator to make payments of fees or costs from the Settlement Fund to one or more Attorneys General; and transferring funds from the Settlement Fund to the Administration Fund. Attached for informational purposes only as Appendix C is a preliminary calculation of each States' percentage of the total population of Covered Consumers; the Oversight Committee is not required to distribute the Settlement Fund according to these preliminary percentages. If the Oversight Committee directs the Fund Administrator to make a payment of fees or costs to a State, that payment shall be deducted from the share of the Settlement Fund that is allocated to that State. Individual States may, at their discretion, append a State-specific appendix to their copy of this Assurance that sets forth the payment from the Settlement Fund that has been allocated to the Covered Consumers in that State and any payment of fees or costs to that State.

C. All costs and expenses incurred or charged by the Fund Administrator in administering the Settlement Fund shall be paid out of the Administration Fund. The Oversight Committee shall have sole discretion concerning the administration and distribution of any money that remains in the Administration Fund after payment of all costs and expenses incurred or charged by the Fund Administrator in administering the Settlement Fund. In no event shall the

Attorneys General be liable for any costs associated with administering the Settlement Fund. The administration of the Settlement Fund shall, include, but not be limited to, the following:

1. Identifying the current mailing address of each Covered Consumer, which shall be provided by Intuit and/or through the use of publicly-available databases, commercially-available databases, and public records;
2. Preparing and sending, by mail and email, communications to Covered Consumers relating to the settlement, including notice of the settlement and reminder notices to all Covered Consumers who had been sent a check but not yet cashed it;
3. Distributing restitution to each Covered Consumer by check, and reissuing checks as necessary, including for checks that have been returned;
4. Establishing a process by which Covered Consumers may elect to receive their payments through an electronic payment processor such as Venmo, PayPal, or Zelle instead of by check;
5. Maintaining a website that contain the terms and conditions of the settlement;
6. Providing and hosting a toll free number to provide information to Covered Consumers relating to the settlement during distribution of the restitution;
7. Contacting, by mail, email, or phone, Covered Consumers regarding uncashed checks;
8. Reporting to the Oversight Committee on the status of the administration of the Settlement Fund and responding to requests by the Oversight Committee for documentation and information necessary to confirm the proper administration of the Settlement Fund; and

9. Providing all other services necessary for the proper administration of the Settlement Fund.

D. Within sixty (60) days of the Effective Date, Intuit must submit to the Oversight Committee for review and non-objection its proposed contract with the Fund Administrator that includes a comprehensive Statement of Work consistent with Section VI.C and all other terms of this Assurance. The Oversight Committee will have the discretion to make a determination of non-objection to the Statement of Work or direct Intuit to revise it. If the Oversight Committee directs Intuit to revise the Statement of Work, Intuit must revise and resubmit the contract to the Oversight Committee within thirty (30) days. After receiving notification that the Oversight Committee has made a determination of non-objection to the Statement of Work, Intuit and the Settlement Administrator must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Statement of Work.

E. Intuit shall promptly provide the Fund Administrator (and the Oversight Committee, if requested by the Oversight Committee) with all information the Oversight Committee deems necessary to permit the Fund Administrator to distribute funds to Covered Consumers as directed by the Oversight Committee, including, but not limited to, the following for each consumer: full name; last known and prior mailing addresses, email addresses, and telephone numbers; and for each of Tax Years 2016, 2017, and 2018, the TurboTax Paid Product used by the consumer, if any, the amount the consumer paid to Intuit for said TurboTax Paid Product, and the amount of any credits, chargebacks, or settlement amounts already paid by Intuit or received by such consumer for the TurboTax Paid Product. In carrying out the foregoing, Intuit agrees to provide such information as soon as possible but in no event more than thirty (30) calendar days of the Oversight Committee's request.

F. Intuit shall warrant to the Oversight Committee at the time of supplying information to the Fund Administrator that the information is complete and accurate to the best of its knowledge and capability. Intuit's duty to provide complete and accurate information regarding Covered Consumers shall continue throughout the administration process.

G. After the Fund Administrator has completed the administration of the Settlement Fund (including making reasonable attempts to contact payees of uncashed checks and waiting a reasonable period of time not less than ninety (90) calendar days), all uncashed checks may be voided. Once such uncashed checks have been voided, these funds shall be distributed to state unclaimed property funds, to any other fund or agency if so required by law, or to any other fund or agency as lawfully directed by the Attorney General of the respective state,⁴ based on the last

⁴ For Arizona: Any funds distributed to the Arizona Attorney General's Office shall be deposited into the Consumer Restitution and Remediation Revolving Fund, pursuant to A.R.S. § 44-1531.02(B). The Arizona Attorney General's Office will have sole discretion as to how and when restitution funds are distributed to consumers. In the event that any portion of those funds is not distributed to eligible consumers, such portion will be deposited by the Arizona Attorney General's Office into the Consumer Protection-Consumer Fraud Revolving Fund, pursuant to A.R.S. § 44-1531.02(B), and used for the purposes specified in A.R.S. § 44-1531.01.

For Colorado: Intuit shall pay to the Colorado Attorney General the total amount of any and all refund amounts that remain outstanding, whether because they were returned as undeliverable, unclaimed, uncashed, undeposited, or otherwise. For any such payments to the Colorado Attorney General, they shall be in the form of a certified check, cashier's check, or money order made payable to the "Colorado Department of Law," shall reference "Intuit-TurboTax" and shall be delivered to: Emily Lujan, Program Assistant, Consumer Protection Section, Colorado Department of Law, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Such payments shall be held, along with any interest thereon, in trust by the Colorado Attorney General to be used in the Colorado Attorney General's sole discretion for reimbursement of attorneys' fees and costs, the payment of consumer restitution, if any, and for consumer or creditor educational purposes, for future consumer credit or consumer protection enforcement, or public welfare purposes.

For Delaware: All payments to the Delaware Attorney General pursuant to this Assurance shall be made to the Consumer Protection Unit of the Delaware Department of Justice ("CPU"). The CPU shall place all funds received in the State of Delaware's Consumer Protection Fund, and such funds may be utilized for any lawful purpose.

For New Mexico: For those funds allocated to New Mexico, such funds shall be directed to the New Mexico Office of the Attorney General's ("NMOAG's") consumer settlement fund. The funds shall be expended, at the sole discretion of the NMOAG, (i) to enhance the NMOAG's law enforcement efforts to prevent and prosecute elder fraud, consumer fraud, and/or other unfair or deceptive acts or practices, (ii) to investigate, enforce, and prosecute other illegal conduct related to deceptive online advertising, deceptive use of "dark patterns," and/or violations of other consumer protection laws, and/or (iii) for any other lawful purpose, at the sole discretion of the NMOAG.

For Ohio: After the Fund Administrator has completed the administration of the Settlement Fund (including making reasonable attempts to contact payees of uncashed checks and waiting a reasonable period of time not less than ninety (90) calendar days), all uncashed checks may be voided. Once such uncashed checks have been voided, these funds shall be distributed and delivered to the office of the Ohio Attorney General. The money received by the

known state residence of the payee. The Fund Administrator must distribute uncashed funds, or any other remaining funds in the Settlement Fund, pursuant to instructions provided by the Oversight Committee.

H. Covered Consumers who receive a payment from the Settlement Fund shall not be required to return or discontinue the use of any Intuit goods or services, and receipt of any such payment shall not be tied to any other commitment.

I. To the extent not already provided elsewhere, Intuit shall, upon request by the Oversight Committee, provide all documentation and information necessary for the Oversight Committee to confirm compliance with the Assurance. To the extent not already provided elsewhere, Intuit shall ensure that all communications with the Fund Administrator regarding the administration of the Settlement Fund shall include at least one representative of the Oversight Committee.

J. The Attorneys General shall have no liability whatsoever to Intuit, the Fund Administrator, or any Covered Consumer in connection with the administration of the Settlement Fund or for any action by Intuit or the Claims Administrator with respect to the monies deposited.

office of the Ohio Attorney General pursuant to this paragraph may be used by the office of the Ohio Attorney General for purposes that may include, but are not limited to, attorney's fees and other costs of investigation and litigation, or may be placed in, or applied to, any consumer protection law enforcement fund, consumer education, litigation or local consumer aid fund, or for such other uses permitted by Ohio law, at the sole discretion of the Ohio Attorney General.

For Washington: The total amount of any and all uncashed checks that had been direct to a payee whose last known residence was in the State of Washington that remain outstanding shall be paid to the Washington Attorney General's Office. For any such payments to the Washington Attorney General, they shall be made in good funds by wire transfer or valid check payable to "State of Washington Attorney General's Office," delivered to the Office of the Attorney General, Attention: Margaret Farmer, Litigation Support Manager, 800 Fifth Avenue, Suite 2000, Seattle, WA 981104. Such payments shall be used for recovery of the state's fees and costs in investigating this matter, monitoring compliance with this Assurance of Discontinuance, future enforcement of the Consumer Protection Act, or for any lawful purpose in the discharge of the state's Attorney General's duties at the sole discretion of the Attorney General.

K. The Attorney General of the State of New York shall satisfy the reporting obligations of the States under Section 6050X of the Internal Revenue Code of 1986, as amended, with respect to Intuit's payments hereunder. Intuit is fully responsible for the payment of its taxes, including in the event any deductions for amounts paid under this settlement agreement are disallowed, as well as any fines or penalties imposed by the Internal Revenue Service with respect to such taxes.

VII. Assurance Acknowledgements

A. Intuit, within seven (7) days of the Effective Date, (1) must submit to the Oversight Committee an acknowledgment of receipt of this Assurance sworn under penalty of perjury; and (2) must identify to the Oversight Committee the primary physical, postal, and email address and telephone number, as designated points of contact, that the Oversight Committee may use to communicate with Intuit.

B. For five (5) years after the Effective Date, Intuit must deliver a copy of this Assurance to (1) all principals, officers, and directors; (2) all employees having managerial responsibilities for Advertisements for any TurboTax Free Edition Product; the online search and search engine optimization strategies and practices for any TurboTax Free Edition Product and any TurboTax Paid Product; the representations made on the TurboTax Website regarding any TurboTax Free Edition Product; and customer service inquiries regarding any TurboTax Free Edition Product; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of the Effective Date for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Intuit delivered a copy of this Assurance, Intuit must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Assurance.

VIII. Compliance Reporting

A. One (1) year after the Effective Date, Intuit must submit to the Oversight Committee a compliance report, sworn under penalty of perjury, in which Intuit must identify all of Intuit's tax preparation businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses and describe in detail whether and how Intuit is in compliance with each Section of this Assurance.

B. For five (5) years after the Effective Date, Intuit must submit to the Oversight Committee a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following: (a) any designated point of contact; or (b) the structure of Intuit that may affect compliance obligations arising under this Assurance, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Assurance.

C. Intuit must submit to the Oversight Committee notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Intuit within fourteen (14) days of its filing.

D. Any submission to the Oversight Committee required by this Assurance to be sworn under penalty of perjury must be true and accurate, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a representative of the Oversight Committee in writing, all submissions to the Oversight Committee pursuant to this Assurance must be made in accordance with the terms in Sections XII(L) and (M). All submissions shall have a subject line that must begin: Attorneys General v. Intuit Inc.

IX. Recordkeeping

Intuit must create certain records for ten (10) years after the Effective Date, and retain each such record for five (5) years. Specifically, Intuit must create and retain the following records:

A. Accounting records showing: (1) the revenues from all TurboTax Paid Products and any add-on products such as Audit Defense; and (2) the revenues from all TurboTax Paid Products and any add-on products such as Audit Defense that were received from consumers who began the process of preparing their returns in any TurboTax Free Edition Product;

B. Records of all consumer complaints and refund requests concerning the subject matter of this Assurance, whether received directly or indirectly, such as through a third party, and any response;

C. All records necessary to demonstrate full compliance with each provision of this Assurance, including all submissions to the Oversight Committee; and

D. To the fullest extent possible, a copy of each unique Advertisement or other marketing material relating to any TurboTax Free Edition Product.

X. Compliance Monitoring

A. For a period of five (5) years, and for the purpose of monitoring Intuit's compliance with this Assurance: Within thirty (30) days of receipt of a written request from the Oversight Committee, Intuit must submit additional compliance reports or other requested information, which must be sworn under penalty of perjury.

B. Nothing in this Assurance limits any State's lawful use of compulsory process, pursuant to applicable state law.

XI. Releases

A. By execution of this Assurance, and upon Intuit's compliance with its terms including the payments required in Section VI, the States release and forever discharge Intuit and its past and present officers, directors, employees, agents, affiliates, parents, subsidiaries, operating companies, predecessors, assigns, and successors from all civil consumer-protection or unfair-trade-practices claims each Attorneys General is authorized by law to bring that arise from or relate to the findings contained herein.

B. Nothing contained in this Assurance shall be construed to limit the ability of any Attorney General to enforce the obligations that Intuit has under this Assurance. Further, nothing in this Assurance shall be construed to waive or limit any private rights of action.

C. Notwithstanding the releases in Subsection A of this Section, or any other term of this Assurance, the following claims are specifically reserved and not released by this Assurance: (1) claims based on violations of securities laws, including claims based on the offer, sale, or purchase of securities; (2) claims of regulatory agencies having specific regulatory jurisdiction that are separate and independent from the regulatory enforcement of the Attorneys General; and (3) claims that arise from Intuit's actions that take place after the Effective Date.

XII. General Provisions

A. The Parties understand and agree that the Attorneys General have defined jurisdiction under the laws, or assert jurisdiction under the common law, of their respective States for the enforcement of state Consumer Protection Acts.

B. The Parties understand and agree that this Assurance shall not be construed as an approval or sanction by the Attorneys General of Intuit's business practices, nor shall Intuit

represent that this Assurance constitutes an approval or sanction of its business practices. The Parties further understand and agree that any failure by the Attorneys General to take any action in response to information submitted pursuant to this Assurance shall not be construed as an approval or sanction of any representations, acts, or practices indicated by such information, nor shall it preclude action thereon at a later date.

C. Nothing in this Assurance shall be construed as relieving Intuit of the obligation to comply with all applicable state and federal laws, regulations, and rules, nor shall any of the provisions of this Assurance be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, and rules.

D. To the extent that there are any, Intuit agrees to pay all court costs associated with the filing (if legally required) of this Assurance by any State. No court costs, if any, shall be taxed against any State.

E. This Assurance may be executed by any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart thereof and all of which together shall constitute one and the same document. One or more counterparts of this Assurance may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

F. This Assurance contains the complete agreement between the Parties. The Parties have made no promises, representations, or warranties other than what is contained in this Assurance. This Assurance supersedes any prior oral or written communications, discussions, or understandings.

G. For the purposes of construing the Assurance, this Assurance shall be deemed to have been drafted by all Parties.

H. This Assurance may not be amended except by an instrument in writing signed on behalf of all Parties to this Assurance.

I. This Assurance is entered into voluntarily and solely for the purpose of resolving the claims and causes of action against Intuit. Each Party and signatory to this Assurance represents that it freely and voluntarily enters into this Assurance without any degree of duress or compulsion.

J. Any failure by any Party to this Assurance to insist upon the strict performance by any other Party of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions of this Assurance, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Assurance.

K. If any clause, provision, or section of this Assurance shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Assurance, which shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or provision had not been contained herein.

L. Whenever Intuit shall provide notice to any Attorneys General under this Assurance, that requirement shall be satisfied by sending notice to the email and postal address for each respective Attorneys General identified in Appendix B in accordance with the following paragraph.

M. All notices or other documents to be provided under this Assurance shall be sent by U.S. mail, certified mail return receipt requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the notice

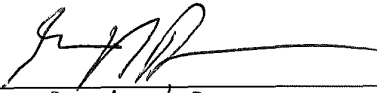
or document, and shall have been deemed to be sent upon mailing. Additionally, any notices or documents to be provided under this Assurance shall also be sent by electronic mail if an email address has been provided for notice. Any party may update its address by sending written notice to the other party.

N. If a court of competent jurisdiction determines that Intuit has breached this Assurance, Intuit shall pay to the Attorneys General the cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

IN WITNESS WHEREOF, this Assurance is executed by the Parties hereto on the dates set forth below:


[Parties' signature pages continued in the following pages]

For Intuit Inc.


By: 
Date: 28 April, 2022
Gregory N. Johnson
Executive Vice President and General Manager

For New York State Attorney General Letitia James

LETITIA JAMES
Attorney General of the State of New York
28 Liberty Street
New York, NY 10005

By: 

Date: May 4, 2022
Clark P. Russell
Deputy Bureau Chief
Bureau of Internet and Technology

By: 

Date: May 4, 2022
Joseph P. Mueller
Assistant Attorney General
Bureau of Consumer Frauds and Protection

APPENDIX A – “FREE, FREE, FREE” ADVERTISEMENTS⁵

- “Big Kick”
 - The “Big Kick” advertisement depicts a high school football placekicker and his supportive father. In the moments before an important kick, the son flashes back to a memory from his youth of his father encouraging him; returning to the present, the son converts the field goal attempt while his father looks on. However, instead of featuring conventional dialogue, the characters in “Big Kick” repeat only the word “free” throughout the ad.



- “Credits”
 - In the “Credits” advertisement, a John McClane-type action hero utters a wisecrack (here, the word “free” several times) as he drops a lighter onto a streak of gasoline, which triggers the explosion of a batter white van. As flames explode into the air, the action hero strides towards the camera in slow motion, prompting the credits to

⁵ This Appendix addresses all versions of the listed advertisements, *i.e.*, 15-second, 30-second, and 60-second versions of the advertisements, to the extent they exist.

- “Game Show”
 - The “Game Show” advertisement depicts a 70s-era game show in which a woman must guess what activity or concept her male partner is miming. Every one of the woman’s answers is correct and consists of one or more uses of the word “free.”



- “Lawyer”
 - In “Lawyer,” an attorney delivers an impassioned closing argument to the jury as dramatic music swells, with every word of the attorney’s argument being “free.”

After he finishes, a member of the jury leads a standing ovation, as various jurors repeat the word “free” several times.



- “Spelling Bee”
 - The “Spelling Bee” advertisement shows a middle school-aged boy correctly spelling the word “free” in a spelling bee. Aside from the boy’s spelling out the letters “F-R-E-E,” every line dialogue spoken by the boy and by the judge of the spelling bee consists entirely of the word “free.”



- “Echo”
 - In “Echo,” a hiker shouts “free” from the top of a mountain, with the word “free” reverberating back to her as a result.



- “Auctioneer”
 - In “Auctioneer,” a fleet-tongued auctioneer rattles off prices and bids to a collection of ranchers and cowboys. Instead of conventional dialogue, the auctioneer repeatedly utters the word “free.”



- “Dance Workout”
 - The “Dance Workout” advertisement depicts an instructor leading an enthusiastic dance workout class. Instead of conventional words of encouragement and instruction, the instructor repeats the word “free.”



APPENDIX B – STATE NOTICES

Alaska	1031 West 4th, Ave., Suite 200 Anchorage, AK 99501 consumerprotection@alsaka.gov
Alabama	501 Washington Avenue Montgomery, AL 36130 Olivia.Martin@AlabamaAG.gov
Arkansas	323 Center Street, Suite 200 Little Rock, AR 72201
Arizona	Alyse Meislik Consumer Protection & Advocacy Section 2005 N. Central Ave. Phoenix, AZ 85004 Alyse.Meislik@azag.gov consumer@azag.gov
California	300 South Spring Street, Suite 1702 Los Angeles, CA 90013 bernard.eskandari@doj.ca.gov
Colorado	1300 Broadway Denver, CO 80203 abigail.hinchcliff@coag.gov
Connecticut	Brendan T. Flynn, AAG Office of the Connecticut Attorney General 165 Capital Ave. Hartford, CT 06106 Brendan.Flynn@ct.gov
District of Columbia	Office of Consumer Protection Public Advocacy Division ATTN: Tim Shirey, Investigator D.C. Office of the Attorney General 400 6th Street NW Washington D.C. 20001 Timothy.Shirey@dc.gov
Delaware	820 N. French St., 5th Floor Wilmington, DE 19801 katherine.devaney@delaware.gov
Florida	Edward Moffitt

	Chief Investigator, MSPB & Cyber Fraud Bureau Office of the Florida Attorney General 135 West Central Boulevard, Suite 670 Orlando, FL 32801 Edward.Moffitt@myfloridalegal.com
Georgia	2 Martin Luther King, Jr. Drive, Suite 356E Atlanta, GA 30334 dzisook@law.ga.gov
Hawaii	235 S. Beretania Street #801 Honolulu, Hawaii 96813 ltong@dcca.hawaii.gov rtolenti@dcca.hawaii.gov
Illinois	100 W. Randolph St., 12th Fl. Chicago, IL 60601 Daniel.edelstein@ilag.gov
Iowa	William Pearson Iowa Department of Justice 1305 E. Walnut, 2nd Floor Des Moines, IA 50319 William.pearson@ag.iowa.gov
Idaho	P.O. Box 83720 Boise, ID 83720-0010 stephanie.guyon@ag.idaho.gov
Indiana	302 W. Washington St. IGCS, 5th Floor Indianapolis, IN 46204 Michelle.Alyca@atg.in.gov
Kansas	120 SW 10th Avenue, 2nd floor Topeka, KS 66612 sarah.dietz@ag.ks.gov
Kentucky	1024 Capital Center Drive, Suite 200 Frankfort, KY 40601 Christian.Lewis@ky.gov
Louisiana	1885 N 3rd Street Baton Rouge, LA 70802 MughalA@ag.louisiana.gov
Massachusetts	One Ashburton Place, 18th Floor

	Boston, MA 02108 Glenn.kaplan@mass.gov
Maryland	Consumer Protection Division of the Office of the Attorney General of Maryland Elizabeth Stern Assistant Attorney General 200 Saint Paul Place Baltimore, MD 21202 estern@oag.state.md.us With a copy to: Chief, Consumer Protection Division 200 Saint Paul Place Baltimore, MD 21202 consumer@oag.state.md.us
Maine	6 State House Station Augusta, Maine 04333-0006 christina.moylan@maine.gov
Michigan	525 W. Ottawa St. PO Box 30736 Lansing, MI 48909 Levina@michigan.gov
Minnesota	445 Minnesota Street, Suite 1200 Saint Paul, MN 55101 alex.baldwin@ag.state.mn.us
Missouri	815 Olive Street, Suite 200 St. Louis, MO 63101 Michael.Schwalbert@ago.mo.gov with an additional hard copy to: 207 W. High St. P.O. Box 899 Jefferson City, MO 65102
Mississippi	Post Office Box 220 Jackson, MS 39205 caleb.pracht@ago.ms.gov consumer@ago.ms.gov
Montana	215 N Sanders Street Helena, MT 59601

	ocpinvestigations@mt.gov
North Carolina	PO Box 629 Raleigh, NC 27602
North Dakota	1720 Burlington Drive, Suite C Bismarck, ND 58504-7736 pgrossman@nd.gov
Nebraska	2115 State Capitol Building Lincoln, NE 68509 michaela.hohwieler@nebraska.gov
New Hampshire	33 Capitol St. Concord, NH 03301
New Jersey	124 Halsey St. - 5th Floor P.O. Box 45029 Newark, NJ 07102 monica.finke@law.njoag.gov zeyad.assaf@law.njoag.gov
New Mexico	Lawrence Otero Brian McMath Assistant Attorneys General Consumer & Environmental Protection Division New Mexico Office of the Attorney General P.O. Box 1508 Santa Fe, New Mexico 87504 lotero@nmag.gov bmcmath@nmag.gov
Nevada	100 North Carson Street Carson City, NV 89701 MNewman@ag.nv.gov and 8945 W. Russell Road, Suite 204 Las Vegas NV 89148 Sforbes@ag.nv.gov
New York	28 Liberty St. New York, NY 10005 joseph.mueller@ag.ny.gov clark.russell@ag.ny.gov
Ohio	1 Government Center 640 Jackson St., Suite 1340

	Toledo, Ohio 43604 Timothy.Effler@OhioAGO.gov
Oklahoma	313 NE 21st St. Oklahoma City, OK 73105 Malisa.McPherson@oag.ok.gov
Oregon	Oregon Department of Justice Attn: Althea Cullen, AAG 100 SE Market Street Portland, OR 97201 Althea.d.cullen@doj.state.or.us
Pennsylvania	John Abel Assistant Director for Multistate and Special Litigation Pennsylvania Office of Attorney General 15th Floor, Strawberry Square Harrisburg, PA 17120 jabel@attorneygeneral.gov
Rhode Island	150 South Main St. Providence RI 02903 sprovazza@riag.ri.gov
South Carolina	P.O. Box 11549 Columbia, SC 29211 rhartner@scag.gov
South Dakota	1302 E. Hwy 14, Suite 1 Pierre, SD 57501 Consumerhelp@state.sd.us
Tennessee	PO Box 20207 Nashville, TN 37202-0207 Kelley.groover@ag.tn.gov
Texas	PO Box 12548 (MC-010) Austin, Texas 78711 patrick.abernethy@oag.texas.gov
Utah	160 East 300 South, 5th Floor PO Box 140872 Salt Lake City, UT 84114-0872 kmclean@agutah.gov
Virginia	202 N. 9th St. Richmond, VA 23219

	jscott@oag.state.va.us
Vermont	109 State St. Montpelier, VT 05609 james.layman@vermont.gov
Washington	Mina Shahin Washington State Attorney General's Office 800 Fifth Ave, Suite 200 Seattle, WA 98104 mina.shahin@atg.wa.gov
Wisconsin	17 West Main Street, PO Box 7857 Madison WI 53707 myszkowskiga@doj.state.wi.us
West Virginia	PO Box 1789 Charleston, WV 25326 Ann.L.Haight@wvago.gov
Wyoming	2320 Capitol Avenue Cheyenne, WY 82002 william.young@wyo.gov and 109 State Capitol Cheyenne, WY 82002 misha.westby@wyo.gov

APPENDIX C – PRELIMINARY STATE PERCENTAGES OF COVERED CONSUMERS

State	Number of Covered Consumers	Percentage of Covered Consumers
AK	14,135	0.32
AL	53,656	1.20
AR	34,487	0.77
AZ	100,213	2.24
CA	371,403	8.30
CO	82,967	1.85
CT	39,078	0.87
DC	9,356	0.21
DE	13,247	0.30
FL	335,246	7.50
GA	134,480	3.01
HI	14,521	0.32
IA	33,167	0.74
ID	27,237	0.61
IL	133,990	3.00
IN	94,163	2.11
KS	38,075	0.85
KY	54,406	1.22
LA	55,578	1.24
MA	75,091	1.68
MD	66,669	1.49
ME	22,650	0.51
MI	115,565	2.58
MN	60,322	1.35
MO	81,427	1.82
MS	35,053	0.78
MT	16,072	0.36
NC	139,028	3.11
ND	9,270	0.21
NE	25,780	0.58
NH	22,074	0.49
NJ	70,164	1.57
NM	28,535	0.64
NV	49,883	1.12
NY	176,712	3.95
OH	163,367	3.65
OK	52,399	1.17

OR	68,253	1.53
PA	158,779	3.55
RI	13,577	0.30
SC	67,238	1.50
SD	13,455	0.30
TN	111,658	2.50
TX	465,793	10.41
UT	44,289	0.99
VA	111,613	2.50
VT	9,361	0.21
WA	121,102	2.71
WI	76,682	1.71
WV	23,533	0.53
WY	8,790	0.20
Other*	329,199	7.36
Totals	4,472,788	100.00

* The “Other” category includes Covered Consumers for whom there currently is no information available on their state affiliation and consumers in U.S. territories and foreign countries, including U.S. military mail codes.

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2023, I caused the foregoing document to be filed electronically using the FTC's E-Filing system, which will send notification of such filing to:

April Tabor
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Suite CC-5610
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I further certify that on February 10, 2023, I caused the foregoing document to be served via email to:

Roberto Anguizola
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: ranguizola@ftc.gov
Tel: (202) 326-3284

Rebecca Plett
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: rplett@ftc.gov
Tel: (202) 326-3664

James Evans
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: jevans1@ftc.gov
Tel: (202) 326-2026

Sara Tonnesen
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: stonnesen@ftc.gov
Tel: (202) 326-2879

Counsel Supporting the Complaint

April Tabor
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Suite CC-5610
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

Dated: February 10, 2023

Respectfully submitted,

/s/ Derek Woodman
Derek Woodman
Counsel for Intuit Inc