NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

HARRISON TSOSIE
Attorney General

DANA L. BOBROFF
Deputy Attorney General

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NAVAJO NATION AND CONSUMER FINANCIAL PROTECTION BUREAU TAKE ACTION TO STOP AN ILLEGAL TAX REFUND SCHEME

Defendants Would Pay a Total of $438,000 in Redress and another $438,000 in Civil Penalties

WINDOW ROCK, NAVAJO NATION — Today, the Office of the Attorney General and the Department of Justice announced, together with the Consumer Financial Protection Bureau (CFPB), it is suing companies and individuals who operated an illegal tax-refund scheme. The scheme was based on tax-preparation franchises steering low-income consumers, including many citizens of the Navajo Nation, toward high-cost tax-refund-anticipation loans. A proposed order, if approved by the court, would result in roughly $438,000 in total consumer redress and require the defendants to pay $438,000 in civil penalties for their unfair, deceptive, and abusive practices.

"This scheme exploited vulnerable consumers by grossly understating loan rates and by deceiving them about the status of their tax refunds," said CFPB Director Richard Cordray. "Today's joint action with the Navajo Nation to police illegal and abusive practices is a milestone for the Bureau. Through our coordination and cooperation, we are putting an end to this sorry chapter."

"Today's action with the Consumer Bureau is the first time the Navajo Nation has sued a border town tax lending service," said Assistant Attorney General Paul Spruhan. "This action puts lenders on notice that the Navajo Nation is prepared to enforce federal laws against predatory lenders to protect its citizens."

The complaint names Jeffrey Scott Thomas, who through his company, J Thomas Development of NM, Inc., owned four H&R Block tax-preparation franchises in New Mexico. The Navajo Nation and the CFPB did not find that H&R Block participated in this scheme, and H&R Block terminated its relationship with those franchises, which closed in September 2014. Before they closed, the tax franchises catered largely to low-income citizens of the Navajo Nation who qualified for and relied upon the Earned Income Tax Credit, a federal anti-poverty program.

Thomas set up S/W Tax Loans, Inc. ("Southwest") to offer his tax-preparation clients refund-anticipation loans, which were typically very expensive with triple-digit annual percentage rates (APR). Thomas decided that his franchises would not offer a line of credit to their tax customers. Instead, he established Southwest to sell his tax clients refund-anticipation loans with APRs above 240 percent. Thomas installed his friend Dennis Gonzales as the owner and president of Southwest.

Thomas and his franchises violated the law in a number of ways: by illegally steering vulnerable consumers to high-cost products, by illegally and grossly understating the loans' APR, and by unfairly failing to disclose the availability of consumers' tax refunds.

The consumers targeted here were low-income with immediate cash needs. By failing to disclose their financial interests in the loan products to which they were steering their customers, Thomas and his franchises were taking advantage of consumers and engaging in abusive practices. The inflated loan-term estimate resulted in the APRs being significantly understated, misleading consumers into believing these loans were far less costly than they actually were. Additionally, Southwest did not disclose to more than 1,500 consumers that their tax refunds had been received from the IRS and were already being processed by the company. Instead, when these consumers inquired about the status of their refund, Southwest persuaded the consumers to take out a second refund-anticipation loan. As a result, many consumers were led to pay a finance charge for an unnecessary high-interest loan, which constitutes an abusive practice. Those consumers incurred over $254,000 in unnecessary interest and fees.

Enforcement Action

Under the Dodd-Frank Act, the Nation has the authority to take action against institutions violating federal consumer financial laws, including by engaging in unfair, deceptive, or abusive acts or practices. The proposed consent order would:

• **Ban Thomas and Gonzales from this market:** Thomas and Gonzales would be banned for five years from offering financial products associated with tax refunds and from investing, financing, or working for any entity that offers such products.

• **Provide full refunds of interest and fees:** The defendants would pay $254,267 in redress. This is enough to give full refunds of interest and fees to consumers who took out a second or third refund-anticipation loan because Southwest did not tell them their tax refund would soon be available. This is on top of the roughly $184,000 in refunds that Southwest has already provided consumers harmed by Southwest's deceptive APR disclosures.

• **Require the defendants to pay $438,000 in civil penalties**: For their conduct, the defendants would make a $438,000 payment to the CFPB's Civil Penalty Fund.

• **Require the return of personal documents:** The defendants would also be required to return personal identification documents they collected from consumers, such as birth certificates and Social Security cards.

The Navajo Nation Department of Justice will be coordinating with the Navajo Nation Human Rights Commission and other Navajo officials, as well as partner agencies of the State and Federal governments on future investigations and enforcement actions under Navajo and federal consumer protection laws.