



**For Immediate Release**  
April 12, 2010

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## **TAX PREPARERS ABUSE AND CONFUSE MYSTERY SHOPPERS IN ARKANSAS, NEW YORK AND NORTH CAROLINA**

*Testing Reveals Tax Fraud, Incompetence, and Violation of State Refund Anticipation Loan Laws*

The 80 million plus taxpayers who pay commercial businesses to prepare tax returns for them are at risk of abuse, fraud, and violations of their rights under state laws, according to a new report issued today. Advocacy groups released a report on mystery shopper testing, entitled *Tax Preparers Out of Compliance: Mystery Shopper Testing Exposes Violations of Refund Anticipation Loan Laws in Arkansas, New York and North Carolina*.

The mystery shopper tests portray an industry that imposes high costs on vulnerable low-income filers and fails to provide high quality tax preparation. Some preparers made serious errors or even encouraged tax fraud. In addition, many tax preparers failed to comply with state and local laws regulating refund anticipation loans (RALs). Testers also reported that preparers did not give clear price information about RALs, related products, and tax preparation fees, leaving testers confused and unable to comparison shop.

“Taxpayers put their trust, their financial health, and their liability for taxes in the hands of commercial preparers,” noted Chi Chi Wu, Staff Attorney at National Consumer Law Center “Unfortunately, that trust may not always be well placed.”

### **Mystery Shoppers Test a Variety of Tax Preparers**

RALs are one to two week loans made by banks and facilitated by commercial preparers, secured by the taxpayer’s refund. In 2008, RALs skimmed \$738 million from the refunds of 8.4 million American taxpayers. RALs can be expensive, with some lenders charging fees that translate into Annual Percentage Rates (APRs) of 50% to nearly 500%. They expose taxpayers to unmanageable debt if a problem with a refund results in the loan being unpaid.

Nineteen “mystery shopper” tests were conducted at H&R Block, Jackson Hewitt, Liberty Tax Service, and independent preparers by Arkansans Against Abusive Payday Lending (AAAPL) in Arkansas and Neighborhood Economic Development Advocacy Project (NEDAP) in New York City. In North Carolina, mystery shopper testing by the Community Reinvestment

Association of North Carolina (CRA-NC) focused on Mo Money Taxes, which had been recently fined by that state's Commissioner of Banks for failing to register as required by that state's law. The National Consumer Law Center (NCLC) analyzed test results for the report.

All of the testers had their taxes prepared by commercial preparers. Seventeen of these testers received RALs or a refund anticipation check (RAC),<sup>1</sup> or were offered one but declined it. The test results showed that some preparers made serious errors or encouraged outright tax fraud. The most disturbing example was a preparer who, when realizing the tester would only receive a \$1,000 federal refund with the standard deduction and owe state taxes, began making up deductions. A Mo Money Taxes preparer in Arkansas repeatedly suggested to a tester that she not include income from a second job, despite the fact the income had been reported to the IRS on a Form 1099. Another tester was forced to file an amended return and repay \$822 to the IRS due to a preparer's mistakes. In North Carolina, a preparer filed a consumer's tax return without her permission.

The mystery shopper tests reveal very spotty compliance with state and city RAL laws. Few preparers were in full compliance. For example, in Arkansas, six out of nine preparers charged fees that possibly violated that state's prohibition on RAL fees other than the fees charged by the lending bank, *i.e.*, "add-on" fees. Many of the preparers failed to make the written and oral disclosures required by state RAL laws, or only made partial disclosures. Some preparers also failed to have wall posters showing loan fees and warning statements as required by state and city laws. Mo Money Taxes in North Carolina did not give testers the Truth-in-Lending disclosures attached to the RAL checks until the testers proactively asked for them.

Noting the role of banks in making RALs, Peter Skillern, Executive Director of CRA-NC, stated: "Tax preparer abuses demonstrate the complicity of their bank partners. JP Morgan Chase's partners with Mo Money Taxes to make RALS. JP Morgan has been made aware of Mo Money's violations and still makes RALS. The sins of Mo Money Taxes are the sins of JP Morgan Chase. Without bank regulatory oversight, these consumer violations will continue."

In addition to legal violations, three testers in New York reported that preparers tried to convince them to obtain RALs or RACs, while a tester was discouraged by Jackson Hewitt from taking one, probably because Jackson Hewitt franchises in New York could not make RALs. Testers reported problems with preparers' failure to adequately inform them about fees for RALs or RACs, or how they worked. In some cases, murky disclosure or non-disclosure of RAL or RAC fees was compounded by the preparers' failure to disclose tax preparation fees. Testers were unable to obtain estimates of tax preparation fees, which sometimes were extremely high, sometimes over \$400.

A copy of the report *Tax Preparers Out of Compliance: Mystery Shopper Testing Exposes Violations of Refund Anticipation Loan Laws in Arkansas, New York and North Carolina* is available at [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/ral/mystery\\_ral\\_report.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/ral/mystery_ral_report.pdf).

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<sup>1</sup> With RACs, the bank opens a temporary bank account into which the IRS direct deposits the refund check. After the refund is deposited, the bank issues the consumer a check and closes the temporary account. Also, if a taxpayer's RAL application is rejected, she is automatically given a RAC at a cost of \$30 or so, even though the taxpayer may not have asked for it.

National Consumer Law Center® is a non-profit organization specializing in consumer issues on behalf of low-income people. NCLC works with thousands of legal services, government and private attorneys, as well as organizations, who represent low-income and elderly individuals on consumer issues.

The Community Reinvestment Association of North Carolina is a nonprofit agency that promotes and protects community wealth.